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TITLE 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 419—COTTON CROP INSURANCE

[Amdt. 2]

SUBPART—REGULATIONS FOR THE 1951 AND SUCCEEDING CROP YEARS

MISCELLANEOUS AMENDMENTS

The above-identified regulations, as amended, (15 F. R. 6740, 9033) are hereby amended as follows:

1. Section 419.1 is amended by adding the following paragraph:

(d) The counties for the 1951 crop year and the type(s) of coverage applicable in each county are as follows:

State and county	*Type(s) of coverage*
Alabama:	
Cherokee	Commodity.
Chilton	Monetary.
Cullman	Commodity.
DeKalb	Commodity.
Etowah	Commodity.
Houston	Commodity.
Jackson	Commodity.
Limestone	Commodity.
Madison	Commodity.
Marshall	Commodity.
Morgan	Commodity.
Tuscaloosa	Commodity.
Arizona:	
Pinal	Commodity.
Arkansas:	
Chicot	Monetary and commodity.
Crittenden	Monetary.
Desha	Monetary.
Faulkner	Monetary and commodity.
Hempstead	Monetary and commodity.
Lawrence	Monetary.
Lincoln	Monetary.
Monroe	Monetary.
Pulaski	Monetary.
Georgia:	
Bartow	Monetary.
Burke	Commodity.
Carroll	Monetary.
Dooly	Commodity.
Gordon	Monetary.
Jackson	Commodity.
Whitfield	Monetary.
Louisiana:	
Bienville	Commodity.
Caddo	Commodity.
Catahoula	Monetary.
East Carroll	Monetary.
Morehouse	Monetary.
Natchitoches	Commodity.
Richland	Commodity.
Washington	Monetary.
Mississippi:	
Attala	Commodity.
Bolivar	Commodity.
Coahoma	Commodity.
Covington	Commodity.
Holmes	Commodity.
Humphreys	Commodity.
Jefferson Davis	Commodity.
Lee	Commodity.
Marion	Commodity.
Quitman	Commodity.
Sharkey	Monetary.
Sunflower	Commodity.
Tallahatchie	Monetary.
Tunica	Commodity.
Walthall	Commodity.
Washington	Commodity.
New Mexico:	
Chaves	Commodity.
Dona Ana	Commodity.
Eddy	Commodity.
North Carolina:	
Cleveland	Monetary.
Gaston	Monetary.
Lincoln	Monetary.
Mecklenburg	Commodity and monetary.
Polk	Monetary.
Rutherford	Monetary.
Oklahoma:	
Bryan	Commodity.
Hughes	Commodity.
South Carolina:	
Anderson	Commodity.
Chesterfield	Commodity.
Greenville	Commodity.
Lee	Monetary.
Newberry	Commodity.
Orangeburg	Commodity.
Pickens	Commodity.
Spartanburg	Commodity.
York	Monetary.
Tennessee:	
Hardeman	Monetary.
Lake	Monetary.
Lauderdale	Monetary.
McNairy	Monetary.
Texas:	
Bell	Commodity.
Burleson	Monetary.
Collin	Commodity.
Crosby	Monetary.
Delta	Monetary.
Ellis	Commodity.
Falls	Monetary.

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such

CODIFICATION GUIDE—Con.

State and county	*Type(s) of coverage*
Texas—Continued	
Fannin	Monetary.
Floyd	Monetary.
Grayson	Monetary.
Hale	Monetary.
Hill	Commodity.
Hunt	Monetary.
Lamar	Monetary.
Lamb	Monetary.
Lubbock	Monetary.
Lynn	Monetary.
McLennan	Monetary.
Milam	Monetary.
Navarro	Monetary.
Red River	Monetary.
Runnels	Monetary.
Taylor	Monetary.
Williamson	Commodity.

2. Section 419.4 is amended to read as follows:

§ 419.4 *Application for insurance.* Application for insurance on a Corporation form entitled "Application for Crop Insurance on Cotton" may be made by any person to cover his interest as landlord, owner-operator, tenant or sharecropper in a cotton crop. For any crop year applications shall be submitted to the county office on or before the following applicable closing date preceding such crop year.

(a) January 31 for Crosby, Floyd, Hale, Lamb, Lubbock, and Lynn counties, Texas.

(b) February 28 for Taylor County, Texas.

(c) March 25 for all counties in Arizona and New Mexico.

(d) March 31 for Houston County, Alabama; Burke and Dooly Counties, Georgia; all parishes in Louisiana; Covington, Jefferson Davis, Marion, and Walthall Counties, Mississippi; Orangeburg County, South Carolina; and Bell, Burleson, Collin, Delta, Ellis, Falls, Fannin, Grayson, Hunt, Hill, Lamar, Milam, McLennan, Navarro, Red River, and Williamson Counties, Texas.

(e) April 10 for all other counties.

3. Section 419.15, *The monetary coverage policy*, as amended, is amended to change section 6 thereof to read:

6. *Predetermined price.* In determining any loss under the contract, production shall be evaluated at a predetermined price per pound which the Corporation shall establish annually. The predetermined price for the first crop year of the contract shall be that established by the Corporation for that year and shall be shown on the county actuarial table on file in the county office at the time the application for insurance is submitted. For each subsequent crop year, the predetermined price shall be shown on the county actuarial table on file in the county office at least 15 days prior to the applicable cancellation date preceding the crop year for which such price applies.

Adopted by the Board of Directors on April 25, 1951.

(Secs. 506, 516, 52 Stat. 73, 77; 7 U. S. C. 1506, 1516. Interpret or apply secs. 507, 508, 509, 52 Stat. 73-75, as amended; 7 U. S. C. 1507, 1508, 1509)

[SEAL] R. J. POSSON,
Secretary, Federal Crop Insurance Corporation.

Approved: May 2, 1951.

CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-5290; Filed, May 7, 1951; 8:48 a. m.]

Chapter VIII—Production and Marketing Administration (Sugar Branch), Department of Agriculture

Subchapter I—Determination of Prices

[Sugar Determination 871.4]

PART 871—SUGAR BEETS

1951 CROP

Pursuant to the provisions of section 301 (c) (2) of the Sugar Act of 1948 (herein referred to as "act"), after investigation, and due consideration of evidence presented at the several public hearings held in September 1950 (for southern Oregon, California and southwestern Arizona), and during January 1951 (for States other than those regions), the following determination is hereby issued:

§ 871.4 *Fair and reasonable prices for the 1951 crop of sugar beets.* A processor-producer of sugar beets who applies for a payment under the act shall be deemed to have complied with the provisions of section 301 (c) (2) of said act with respect to the 1951 crop of sugar beets, if such processor-producer shall have paid or contracted to pay for sugar beets purchased from other producers and processed by said processor-producer, prices not less than those provided for in the 1951 crop purchase contract between said parties: *Provided*, That the processor-producer shall not reduce returns to producers below those determined herein through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination establishes fair and reasonable prices which a processor-producer (i. e., a producer who is also, directly or indirectly, a processor of sugar beets—hereinafter referred to as "processor") must pay, as a minimum, for 1951 crop sugar beets purchased from other producers as one of the conditions for payment under the act. In this statement the foregoing determination, as well as determinations for prior years, will be referred to as "price determination," identified by the crop year for which effective.

(b) *Requirements of the act and standards employed.* (1) In determining fair and reasonable prices, the act requires that public hearings be held and investigations made. Accordingly, public hearings were held at Berkeley, California, on September 20, 1950; Detroit, Michigan, on January 3, 1951; St. Paul, Minnesota, on January 5, 1951; Billings, Montana, on January 8, 1951; Salt Lake City, Utah, on January 10, 1951; and Greeley, Colorado, on January 12, 1951.

(2) In the 1951 crop price determination, consideration has been given to such testimony as was presented at the public hearings, comparative returns, costs and profits of processors and producers, relative investments, contracts negotiated between the parties, and to other pertinent economic factors.

(c) *Background.* (1) Purchase contracts covering the terms and conditions of growing and purchasing sugar beet crops have been in use for many years. These contracts have been developed through negotiations between representatives of processors and producers. Many changes have been effected in the contracts throughout the years.

(2) Contracts used in the beet area are of two types, generally known as (i) percentage sharing contracts and (ii) scale type contracts. The former, used largely in the Great Lakes area and in a few other factory districts, provides, with some variations, that processors and producers shall share equally in the total net proceeds derived from the sale of sugar, beet pulp and molasses actually recovered from the beets. The second and more widely used type of contract provides a scale under which the effective price for sugar beets is determined from (*a*) the net proceeds (per one hundred pounds) derived from the sale of sugar produced, and (*b*) the percentage of sugar in the beets. Under scale type contracts, prices for sugar beets are customarily expressed in terms of fixed prices per ton and are calculated on the basis of assumed recoveries of sugar. The actual recovery of sugar from the crop is not used as a basis for payment. In general, the producers' share ranges from 50 to 60 percent of total net sugar proceeds per ton of beets delivered, depending upon sugar content and the level of net returns.

(3) Determinations of fair and reasonable prices for sugar beets have been issued each year since 1937, and except for the 1940 and 1941 crops in areas using scale type contracts, the prices payable in purchase contracts entered into between processors and producers have been determined to be fair and reasonable. The 1940 and 1941 price determinations established specific prices per ton of sugar beets at various levels of net returns and percentages of sugar in the beets; eliminated the clause contained in some contracts under which provision was made for an accelerating rate of reduction in payments to producers when net proceeds from sugar fell below $3.25 per 100 pounds; and eliminated the use of a net return, for settlement purposes, obtained by averaging the net proceeds from the sale of sugar by more than one processor.

(4) Although the 1948, 1949, and 1950 crop price determinations approved prices payable in purchase contracts, such approval did not constitute an evaluation of those provisions of the contracts applicable to net return levels resulting from sugar prices materially higher or lower than the prices prevailing at the time of issuance of such determinations. The prices provided in these purchase contracts for sugar beets differed significantly from previous years. Except for the war years when price support programs were in effect, prices in the scale type contracts generally were more favorable at net return levels of 6 cents or more per pound of sugar and generally less favorable at net return levels below six cents. In most of the percentage sharing contracts used in the Great Lakes area, contracts in 1948, 1949 and 1950 provided for an additional 15 percent of the sugar proceeds from net returns between 6.7 and 9 cents per pound.

(d) *1951 fair price determination.* (1). The 1951 price determination provides that processors shall be deemed to have complied with the fair price provisions of the act if they pay or contract to pay for sugar beets purchased from other producers prices not less than those provided for in 1951 crop purchase contracts.

(2) Most of the 1951 crop purchase contracts are the same as those used for the 1950 crop. The price scales are identical to those used last year with the exception of one company which has revised the prices payable per ton of sugar beets upward by a few cents at and above sugar net returns of $7.50 per 100 pounds. In three contracts of one company a change has been made in the settlement area used for determining net returns from sales of sugar. Heretofore, net returns had been based on sales of sugar produced by all districts of the company but in 1951 the net returns of one district will be based on sales of sugar produced in that district only and the other districts will constitute a separate settlement area. The net effect of this change on all districts is almost negligible, although producers in the district set apart will receive slightly more for beets inasmuch as a slightly higher net return is received on sugar sold from that district.

(3 Several of the 1951 purchase contracts contain minor changes in other respects. These include restrictions with respect to the use of mechanical beet toppers, a slight increase in the price of beet seed and a revision of that provision of the contracts wherein growers agree that all beets will be produced and delivered in accordance with applicable laws relating to the employment of minors. An examination of the 1951 contracts and available information on the changes which have been made indicates that the returns to producers will not be significantly affected by the modifications.

(4) At the fair price hearings neither processors nor producers made any recommendation with respect to this determination. In a brief presented by a producer representative following the hearings, however, it was suggested that the Department recommend to sugar processors that, for settlement purposes, net returns be calculated on the basis of the daily published base price of sugar less the customary sales expenses rather than on the basis of actual net returns. It is believed that continued study of this problem by the industry would be to the best interests of both processors and producers.

(5) In analyzing the 1951 crop purchase contracts careful consideration has been given to economic conditions, volume of production, and price levels which are likely to exist during the production and marketing of the 1951 crop of sugar beets. Also, consideration has been given to comparative operating results of processors and producers which, for this purpose, have been computed by restating data obtained in a study for a previous crop to reflect probable 1951 crop conditions. The analysis indicates that prices payable for sugar beets in 1951 crop purchase contracts are fair and reasonable at the present level of sugar prices (8.05 cents per pound, seaboard basis refined cane sugar) and at levels of sugar prices reasonably above and below the present levels. In accordance with the policy adopted in prior price determinations, no attempt has been made in this determination to evaluate prices payable for sugar beets at sugar prices materially higher or lower than those which now exist.

Accordingly, I hereby find and conclude that the foregoing price determination will effectuate the price provisions of the Sugar Act of 1948.

(Sec. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153. Interprets or applies sec. 301, 61 Stat. 929; 7 U. S. C. Sup., 1131)

Issued this 3d day of May 1951.

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

[F. R. Doc. 51-5321; Filed, May 7, 1951; 8:53 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 3-5]

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

STALLING REQUIREMENTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 30th day of April 1951.

Section 3.120 (e) of the current Civil Air Regulations contains stalling re-

quirements which are stated in more objective language than the previous stalling requirements. Certain specific values of the prior regulation were not retained in the current regulation, particularly those relating to the allowable roll of an airplane subsequent to the stall. Experience has shown that the current language is not susceptible to uniform interpretation and that the tests presently applied in implementing the regulation are more strict than was intended. This amendment is therefore, in the interest of clarity, intended to revert to the language of the prior regulation and to its application.

Since this regulation clarifies existing requirements and imposes no burden on anyone, notice and public procedure hereon are impracticable and contrary to the public interest, and the Board finds that good cause exists for making this regulation effective without prior notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 3 (14 CFR, Part 3, as amended) effective April 30, 1951:

By amending paragraph (e) of § 3.120 to read as follows:

§ 3.120 *Stalling demonstration.* * * *

(e) During the recovery portion of the maneuver, pitch shall not exceed 30° below level, there shall be no loss of altitude in excess of 100 feet, and not more than 15° roll or yaw shall occur when controls are not used for one second after pitch starts and are used thereafter only in a normal manner.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 603, 52 Stat. 1007, 1009; 49 U. S. C. 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 51-5275; Filed, May 7, 1951; 8:46 a. m.]

[Civil Air Regs., Amdt. 20-11]

PART 20—PILOT CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 30th day of April 1951.

No provisions of the currently effective Civil Air Regulations require the possession of positive identification data by certificated airmen while exercising the privileges of their airman certificates. This amendment provides for such identification and requires each holder of a pilot certificate, after September 1, 1951, to have in his possession an airman identification card (Form ACA 2135) issued by the Administrator.

This airman identification card shall contain, among other data, the airman's signature, picture, and one fingerprint. Each certificated airman shall complete an application for identification card (Form ACA 2134) and shall furnish documentary evidence of his personal identification, citizenship, place and date of birth, and the type of airman certificate held. It should be noted that an expired airman identification card (Form ACA 935) issued during World War II may serve as sufficient evidence in these matters. An applicant who has once possessed this expired identification card but is unable to produce it at the time of application may substitute a letter from the Airman Records Branch, Civil Aeronautics Administration, Washington 25, D. C., which, in effect, attests to the issuance and contents of the expired card.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented. For the reasons stated above the Board finds that good cause exists for making this regulation effective immediately.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 20 of the Civil Air Regulations (14 CFR Part 20, as amended) effective immediately, as follows:

By adding a new § 20.58 to read as follows:

§ 20.58 *Identification.* After September 1, 1951, the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has in his possession a current airman identification card which duly describes him. This identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 603, 52 Stat. 1007, 1009; 49 U. S. C. 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 51-5276; Filed, May 7, 1951; 8:46 a. m.]

[Civil Air Regs., Amdt. 22-5]

PART 22—LIGHTER-THAN-AIR PILOT CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 30th day of April 1951.

No provisions of the currently effective Civil Air Regulations require the possession of positive identification data by certificated airmen while exercising the privileges of their airman certificates. This amendment provides for such identification and requires each holder of a lighter-than-air pilot certificate, after September 1, 1951, to have in his possession an airman identification card (Form ACA 2135) issued by the Administrator.

This airman identification card shall contain, among other data, the airman's signature, picture, and one fingerprint. Each certificated airman shall complete an application for identification card (Form ACA 2134) and shall furnish documentary evidence of his personal identification, citizenship, place and date of birth, and the type of airman certificate held. It should be noted that an expired airman identification card (Form ACA 935) issued during World War II may serve as sufficient evidence in these matters. An applicant who has once possessed this expired identification card but is unable to produce it at the time of application may substitute a letter from the Airman Records Branch, Civil Aeronautics Administration, Washington 25, D. C., which, in effect, attests to the issuance and contents of the expired card.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented. For the reasons stated above the Board finds that good cause exists for making this regulation effective immediately.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 22 of the Civil Air Regulations (14 CFR Part 22, as amended) effective immediately, as follows:

By adding a new § 22.32 (g) to read as follows:

§ 22.32 *Miscellaneous.* * * *

(g) *Identification.* After September 1, 1951, the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has in his possession a current airman identification card which duly describes him. This identification card may be obtained from the Administrator who shall prescribe its form and manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 603, 52 Stat. 1007, 1009; 49 U. S. C. 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 51-5277; Filed, May 7, 1951; 8:47 a. m.]

[Civil Air Regs., Amdt. 24-4]

PART 24—MECHANIC CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 30th day of April 1951.

No provisions of the currently effective Civil Air Regulations require the possession of positive identification data by certificated airmen while exercising the privileges of their airman certificates. This amendment provides for such identification and requires each holder of a mechanic certificate, after September 1, 1951, to have in his possession an airman identification card (Form ACA 2135) issued by the Administrator.

This airman identification card shall contain, among other data, the airman's signature, picture, and one fingerprint. Each certificated airman shall complete an application for identification card (Form ACA 2134) and shall furnish documentary evidence of his personal identification, citizenship, place and date of birth, and the type of airman certificate held. It should be noted that an expired airman identification card (Form ACA 935) issued during World War II may serve as sufficient evidence in these mat-

ters. An applicant who has once possessed this expired identification card but is unable to produce it at the time of application may substitute a letter from the Airman Records Branch, Civil Aeronautics Administration, Washington 25, D. C., which, in effect, attests to the issuance and contents of the expired card.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented. For the reasons stated above the Board finds that good cause exists for making this regulation effective immediately.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 24 of the Civil Air Regulations (14 CFR Part 24, as amended) effective immediately, as follows:

By adding a new § 24.47 to read as follows:

§ 24.47 *Identification.* After September 1, 1951, the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has in his possession a current airman identification card which duly describes him. This identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 603, 52 Stat. 1007, 1009; 49 U. S. C. 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 51-5278; Filed, May 7, 1951; 8:47 a. m.]

[Civil Air Regs., Amdt. 25-1]

PART 25—PARACHUTE RIGGER CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 30th day of April 1951.

No provisions of the currently effective Civil Air Regulations require the possession of positive identification data by certificated airmen while exercising the privileges of their airman certificates. This amendment provides for such identification and requires each holder of a parachute rigger certificate, after September 1, 1951, to have in his possession an airman identification card (Form ACA 2135) issued by the Administrator.

The airman identification card shall contain, among other data, the airman's signature, picture, and one fingerprint. Each certificated airman shall complete an application for identification card (Form ACA 2134) and shall furnish documentary evidence of his personal identification, citizenship, place and date of birth, and the type of airman certificate held. It should be noted that an expired airman identification card (Form ACA 935) issued during World War II may serve as sufficient evidence in these matters. An applicant who has once possessed this expired identification card but is unable to produce it at the time of application may substitute a letter from the Airman Records Branch, Civil Aeronautics Administration, Washington 25, D. C., which, in effect, attests to the issuance and contents of the expired card.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented. For the reasons stated above the Board finds that good cause exists for making this regulation effective immediately.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 25 of the Civil Air Regulations (14 CFR Part 25) effective immediately, as follows:

By adding a new § 25.86 to read as follows:

§ 25.86 *Identification.* After September 1, 1951, the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has in his possession a current airman identification card which duly describes him. This identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 603, 52 Stat. 1007, 1009; 49 U. S. C. 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 51-5279; Filed, May 7, 1951; 8:47 a. m.]

[Civil Air Regs., Amdt. 26-4]

PART 26—AIR-TRAFFIC CONTROL-TOWER OPERATOR CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 30th day of April 1951.

No provisions of the currently effective Civil Air Regulations require the possession of positive identification data by certificated airmen while exercising the privileges of their airman certificates. This amendment provides for such identification and requires each holder of an air-traffic control-tower operator certificate, after September 1, 1951, to have in his possession an airman identification card (Form ACA 2135) issued by the Administrator.

The airman identification card shall contain, among other data, the airman's signature, picture, and one fingerprint. Each certificated airman shall complete an application for identification card (Form ACA 2134) and shall furnish documentary evidence of his personal identification, citizenship, place and date of birth, and the type of airman certificate held. It should be noted that an expired airman identification card (Form ACA 935) issued during World War II may serve as sufficient evidence in these matters. An applicant who has once possessed this expired identification card but is unable to produce it at the time of application may substitute a letter from the Airman Records Branch, Civil Aeronautics Administration, Washington 25, D. C., which, in effect, attests to the issuance and contents of the expired card.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented. For the reasons stated above the Board finds that good cause exists for making this regulation effective immediately.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 26 of the Civil Air Regulations (14 CFR Part 26, as amended) effective immediately, as follows:

By adding a new § 26.37 to read as follows:

§ 26.37 *Identification.* After September 1, 1951, the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has in his possession a current airman identification card which duly describes him. This identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 603, 52 Stat. 1007, 1009; 49 U. S. C. 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 51-5280; Filed, May 7, 1951; 8:47 a. m.]

[Civil Air Regs., Amdt. 51-2]

PART 51—GROUND INSTRUCTOR RATING

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 30th day of April 1951.

No provisions of the currently effective Civil Air Regulations require the possession of positive identification data by certificated airmen while exercising the privileges of their airman certificates. This amendment provides for such identification and requires each holder of a ground instructor certificate, after September 1, 1951, to have in his possession an airman identification card (Form ACA 2135) issued by the Administrator.

This airman identification card shall contain, among other data, the airman's signature, picture, and one fingerprint. Each certificated airman shall complete an application for identification card (Form ACA 2134) and shall furnish documentary evidence of his personal identification, citizenship, place and date of birth, and the type of airman certificate held. It should be noted that an expired airman identification card (Form ACA 935) issued during World War II may serve as sufficient evidence in these matters. An applicant who has once possessed this expired identifica-

tion card but is unable to produce it at the time of application may substitute a letter from the Airman Records Branch, Civil Aeronautics Administration, Washington, 25, D. C., which, in effect, attests to the issuance and contents of the expired card.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented. For the reasons stated above the Board finds that good cause exists for making this regulation effective immediately.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 51 of the Civil Air Regulations (14 CFR Part 51, as amended) effective immediately, as follows:

By adding a new § 51.6 to read as follows:

§ 51.6 *Identification.* After September 1, 1951, the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has in his possession a current airman identification card which duly describes him. This identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 603, 52 Stat. 1007, 1009; 49 U. S. C. 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 51-5281; Filed, May 7, 1951; 8:47 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter C—Loans, Purchases, and Other Operations

[1951 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Barley]

PART 601—GRAINS AND RELATED COMMODITIES

SUBPART—1951-CROP BARLEY LOAN AND PURCHASE AGREEMENT PROGRAM

A price support program has been announced for 1951-crop barley. The 1951 C. C. C. Grain Price Support Bulletin 1 (16 F. R. 1987) issued by the Commodity Credit Corporation and containing the general requirements with respect to price support operations for grains and related commodities produced in 1951, is supplemented as follows:

Sec.
601.701 Purpose.
601.702 Availability of price support.
601.703 Eligible barley.
601.704 Warehouse receipts.
601.705 Determination of quantity.
601.706 Determination of quality.
601.707 Maturity of loans.
601.708 Determination of support rates.
601.709 Warehouse charges.
601.710 Settlement.

AUTHORITY: §§ 601.701 to 601.710 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. Sup., 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 301, 401, 63 Stat. 1053; 15 U. S. C. Sup., 714, 7 U. S. C. Sup., 1447, 1421.

§ 601.701. *Purpose.* This supplement states additional specific requirements which, together with the general requirements contained in the 1951 C. C. C. Grain Price Support Bulletin 1, 16 F. R. 1987, apply to loans and purchase agreements under the 1951-Crop Barley Price Support Program.

§ 601.702 *Availability of price support*—(a) *Method of support.* Price support will be available through farm-storage and warehouse-storage loans and through purchase agreements.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available wherever barley is grown in the continental United States, except that farm-storage loans will not be available in areas where the PMA State committee determines that barley cannot be safely stored on the farm.

(c) *Where to apply.* Application for price support should be made at the office of the PMA county committee which keeps the farm-program records for the farm.

(d) *When to apply.* Loans and purchase agreements will be available from the time of harvest through January 31, 1952, and the applicable documents must be signed by the producer and delivered to the county committee not later than such date.

(e) *Eligible producer.* An eligible producer shall be an individual, partnership, association, corporation, or other legal entity producing barley in 1951, as landowner, landlord, tenant, or sharecropper.

§ 601.703 *Eligible barley.* Eligible barley must meet the following requirements:

(a) The barley must have been produced in the continental United States in 1951 by an eligible producer.

(b) The beneficial interest in the barley must be in the person tendering the barley for loan or for delivery under a purchase agreement and must always have been in him, or must have been in him and a former producer whom he succeeded before the barley was harvested.

(c) The barley must be of any class grading No. 5 or better (or No. 5 Garlicky, or better), except that Class III Western Barley, shall not have a test weight of less than 40 pounds per bushel.

(d) The barley must not grade weevily, tough, stained, blighted, bleached, ergoty, or smutty.

(e) If offered as security for a farm-storage loan, the barley must have been stored in the granary at least 30 days prior to its inspection for measurement, sampling, and sealing, unless otherwise approved by the PMA State committee.

§ 601.704 *Warehouse receipts.* Warehouse receipts representing barley in approved warehouse-storage to be placed under loan or delivered under a purchase agreement, must meet the following requirements:

(a) Warehouse receipts must indicate that the barley is insured, must be issued in the name of the producer, must be properly endorsed in blank so as to vest title in the holder, and must be issued by a warehouse approved by CCC under the Uniform Grain Storage Agreement (the barley must be insured by the warehouseman in accordance with the terms of the Uniform Grain Storage Agreement) or warehouses operated by eastern common carriers under tariffs approved by the Interstate Commerce Commission for which custodian agreements are in effect.

(b) Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate), properly identified with the warehouse receipt must show: (1) Gross weight or bushels, (2) class, (3) grade (including special grades), (4) test weight, (5) dockage, and (6) any other grading factor(s) when such factor(s), and not test weight, determine the grade. The warehouse receipt or the supplemental certificate must show whether the barley arrived by rail, truck or barge. In the case of warehouse receipts issued for barley delivered by rail or barge, the grading factors on the warehouse receipt must agree with the inbound inspection certificate for the car or barge when such certificate is issued.

(c) A separate warehouse receipt must be submitted for each grade and class of barley.

(d) The warehouse receipt may be subject to liens for warehouse charges only to the extent indicated in § 601.709.

(e) Warehouse receipts representing barley which has been shipped by rail or water from a country shipping point to a designated terminal point or shipped by rail or water from a country shipping point and stored in transit to a designated terminal point, must be accompanied by registered freight bills, or by (1) a statement as indicated below signed by the warehouseman, (2) a certificate of the warehouseman containing such information or (3) such form of certificate as may be approved by CCC.

FREIGHT CERTIFICATE

The _____ represented
(Name of commodity)
by attached warehouse receipt No. _____
issued by _____ on warehouse
located at _____ was received
by rail freight from _____
(Station) (County)
_____ point of origin as
(State)
evidenced by freight bill described as follows:

Way-bill, date_____
No. _____
Car Initials and No. _____
Freight bill, date_____
No. _____
Origin carrier_____
Full in-bound route and junction points_____
_____
_____
Transit weight_____
Freight rate in_____
Amount collected_____
Guaranteed transit balance, if any of through freight to _____ of _____ per 100 pounds_____
Number unused transit stops_____
Penalty, if any, to guarantee minimum proportional rate on out-bound billing of _____
cents per 100 pounds_____

Where paid-in freight is based on other than domestic interstate freight rate basis, the difference in rates between the freight paid (plus tax), and the domestic interstate freight rate (plus tax), is_____

The above-described paid freight bill has been officially registered for transit and will be held in accordance with the applicable provisions of the Uniform Grain-Storage Agreement.

_____
(Warehouseman's signature)

_____
(Address)

_____
(Date of signature)

§ 601.705 *Determination of quantity.* (a) The quantity of barley placed under farm-storage loan may be determined either by weight or by measurement. The quantity of barley placed under a warehouse-storage loan or delivered under a farm-storage loan or under a purchase agreement shall be determined by weight.

(b) When the quantity is determined by weight, a bushel shall be 48 pounds of clean barley free of dockage. In determining the quantity of sacked barley by weight, a deduction of ¾ of a pound for each sack shall be made.

(c) When the quantity of barley is determined by measurement, a bushel shall be 1.25 cubic feet of barley testing 48 pounds per bushel. The quantity determined shall be the following percentages of the quantity determined for 48-pound barley:

For barley testing	*Percent*
48 pounds or over	100
47 pounds or over, but less than 48 pounds	98
46 pounds or over, but less than 47 pounds	96
45 pounds, or over, but less than 46 pounds	94
44 pounds or over, but less than 45 pounds	92
43 pounds or over, but less than 44 pounds	90
42 pounds or over, but less than 43 pounds	88
41 pounds or over, but less than 42 pounds	85
40 pounds or over, but less than 41 pounds	83
39 pounds or over, but less than 40 pounds	81
38 pounds or over, but less than 39 pounds	79
37 pounds or over, but less than 38 pounds	77
36 pounds or over, but less than 37 pounds	75
35 pounds or over, but less than 36 pounds	73

(d) The percentage of dockage shall be detemined and the weight of such dockage shall be deducted from the gross weight of the barley in determining the net quantity available for loan or purchase.

§ 601.706 *Determination of quality.* The grade, class, grading factors, and all other quality factors shall be determined in accordance with the methods set forth in the Official Grain Standards of the United States for Barley, whether or not such determinations are made on the basis of an official inspection.

§ 601.707 *Maturity of loans.* Loans mature on demand but not later than April 30, 1952.

§ 601.708 *Determination of support rates.* Basic support rates for barley will be set forth in 1951 CCC Grain Price Support Bulletin 1, Supplement 2, Barley, and will be established for No. 1 barley, of the Classes I, II, and III. These support rates will be established for barley stored in approved warehouse storage at designated terminal markets, and for barley stored in approved country warehouses and in approved farm storage. The support rate for the quality of barley placed under a loan or delivered under a purchase agreement shall be the applicable basic support rate adjusted in accordance with the provisions of this section.

(a) *Support rates at designated terminal markets.* (1) Barley eligible for loan or purchase at the support rates established for designated terminal markets must have been shipped on a domestic interstate freight rate basis. On any barley shipped at other than the domestic interstate freight rate, the support rate at the designated terminal market shall be reduced by the difference between the freight paid (plus tax) and the domestic interstate freight rate (plus tax).

(2) The support rates established for designated terminal markets apply to barley which has been shipped by rail or water from a country shipping point to one of the designated terminal markets, as evidenced by paid freight bills duly registered for transit privileges: *Provided,* That in the event the amount of paid-in freight is insufficient to guarantee the minimum proportional domestic interstate freight rate from the terminal market, there shall be deducted from the applicable terminal support rate the difference between the amount of freight actually paid in and the amount required to be paid in to guarantee outbound movement at the minimum proportional domestic interstate freight rate.

(3) When shipped by rail or water and stored at any designated terminal market, barley for which neither registered freight bills nor freight certificates are presented to guarantee outbound movement at the minimum proportional domestic interstate freight rate, shall have a support rate equal to the terminal rate minus 7 cents per bushel.

(4) When received by truck and stored at any designated terminal market, the support rate shall be the terminal rate minus 10½ cents per bushel.

(b) *Support rates for barley in approved warehouse-storage at other than designated terminal markets.* The support rate for barley stored in approved warehouses (other than those situated in the designated terminal markets) which is shipped by rail or water, shall be determined by deducting from the appropriate designated terminal market rate an amount equal to the transit balance, if any (plus tax) of the through freight rate from point of origin for such barley to such terminal market: *Provided,* That in the case of barley stored at any railroad transit point, taking a penalty by reason of out-of-line movement, or for any other reason, to the appropriate designated market, there shall be added to such transit balance an amount equal to any out-of-line costs or other costs incurred in storing barley in such position.

(c) *Discounts.* The discount for barley which grades No. 2 shall be 2 cents per bushel; No. 3, 5 cents per bushel; No. 4, 8 cents per bushel; and No. 5, 12 cents per bushel. An additional discount of 10 cents per bushel shall be applied to barley grading "Garlicky." The support rates for "mixed barley" (Class IV) shall be 2 cents per bushel less than the support rates for barley of the Classes I, II, and III.

§ 601.709 *Warehouse charges.* (a) Warehouse receipts and the barley represented thereby stored in approved warehouses operating under the Uniform Grain Storage Agreement may be subject to liens for warehouse handling and storage charges at not to exceed the Uniform Grain Storage Agreement rates from the date the grain is deposited in the warehouse for storage.

(b) Where the date of deposit (the date of the warehouse receipt if the date of deposit is not shown) on warehouse receipts representing barley stored in warehouses operating under the Uniform Grain Storage Agreement is on or before April 30, 1952, the storage charges per bushel shown in the following table shall be deducted in computing the amount of the loan or purchase price.

Date of deposit:	*Amount of deduction (cents per bushel)*
Prior to Oct. 13, 1951	10
Oct. 13–Nov. 1, inclusive	9
Nov. 2–Nov. 21, inclusive	8
Nov. 22–Dec. 11, inclusive	7
Dec. 12–Dec. 31, inclusive	6
Jan. 1–Jan. 20, inclusive, 1952	5
Jan. 21–Feb. 9, inclusive	4
Feb. 10–Mar. 1, inclusive	3
Mar. 2–Mar. 21, inclusive	2
Mar. 22–Apr. 10, inclusive	1
Apr. 11–Apr. 30, inclusive	0

(c) Warehouse receipts and the barley represented thereby stored in approved warehouses operated by eastern common carriers may be subject to liens for warehouse elevation (receiving and delivering) and storage charges from the date of deposit at rates approved by the Interstate Commerce Commission.

(d) For barley stored in approved warehouses operated by eastern common carriers, there shall be deducted in computing the loan or purchase price the amount of the approved tariff rates for storage (not including elevation), which will accumulate from the date of deposit to the program maturity date. The county committee shall request the PMA commodity office to determine the amount of such charges. Where the producer presents evidence showing that the elevation has been prepaid, the amount of the storage charges to be deducted shall be reduced by the amount of the elevation charge prepaid by the producer.

§ 601.710 *Settlement*—(a) *Farm-storage loans.* (1) In the case of barley delivered to CCC from farm-storage under the loan program, settlement shall be made at the applicable support rate for the approved point of delivery. The support rate shall be applied to the grade

and quality of the total quantity of barley delivered.

(2) If the barley under farm-storage loan is, upon delivery, of a grade and/or quality for which no support rate has been established, the settlement value shall be the support rate established for the grade and/or quality of the barley placed under loan, less the difference, if any, at the time of delivery, between the market price for the grade and/or quality placed under loan and the market price of the barley delivered, as determined by CCC.

(3) In no event shall barley for which the grade and/or quality is lower than the lowest grade and/or quality for which settlement rates are established, have a settlement value in excess of the settlement value of the lowest grade and/or quality of such barley for which settlement rates are established.

(4) If farm-stored barley is delivered to CCC prior to April 30, 1952, upon request of the producer and with the approval of CCC, the loan settlement shall be reduced by the applicable rate of storage charges per bushel, determined according to the date of such delivery to CCC, as set forth in the table in § 601.709.

(b) *Purchase agreement.* Barley delivered to CCC under a purchase agreement must meet the requirements of barley eligible for loan. The purchase rate per bushel of eligible barley shall be the support rate established for the approved point of delivery, subject to deduction of warehouse charges in accordance with § 601.709.

(c) *Track-loading.* A track-loading payment of 2 cents per bushel shall be made to the producer on barley delivered to CCC on track at a country point.

Issued this 3d day of May 1951.

[SEAL] ELMER F. KRUSE,
Vice President,
Commodity Credit Corporation.

HAROLD K. HILL,
Acting President,
Commodity Credit Corporation.

[F. R. Doc. 51-5322; Filed, May 7, 1951; 8:53 a. m.]

[1951 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Grain Sorghums]

PART 601—GRAINS AND RELATED COMMODITIES

SUBPART—1951-CROP GRAIN SORGHUMS LOAN AND PURCHASE AGREEMENT PROGRAM

A price support program has been announced for the 1951 crop of grain sorghums. The 1951 C. C. C. Grain Price Support Bulletin 1 (16 F. R. 1987), issued by the Commodity Credit Corporation and containing the general requirements with respect to price support operations for grains and related commodities produced in 1951, is supplemented as follows:

Sec.
601.901 Purpose.
601.902 Availability of price support.
601.903 Eligible grain sorghums.
601.904 Warehouse receipts.
601.905 Determination of quantity.
601.906 Determination of quality.
601.907 Maturity of loans.
601.908 Determination of support rates.
601.909 Warehouse charges.
601.910 Settlement.

AUTHORITY: §§ 601.901 to 601.910 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. Sup. 714b. Interpret or apply sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1053; 15 U. S. C. Sup., 714, 7 U. S. C. Sup., 1447, 1421.

§ 601.901 *Purpose.* This supplement states additional specific requirements which, together with the general requirements contained in the 1951 C. C. C. Grain Price Support Bulletin 1 (16 F. R. 1987), apply to loans and purchase agreements under the 1951-Crop Grain Sorghums Price Support Program.

§ 601.902 *Availability of price support—*(a) *Method of support.* Price support will be made available through farm-storage and warehouse-storage loans and through purchase agreements.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available wherever grain sorghums are grown in the continental United States, except that farm-storage loans will not be available in areas where the PMA State committee determines that grain sorghums cannot be safely stored on the farm.

(c) *Where to apply.* Application for price support should be made at the office of the PMA county committee which keeps the farm-program records for the farm.

(d) *When to apply.* Loans and purchase agreements will be available from the time of harvest through January 31, 1952, and the applicable documents must be signed by the producer and delivered to the county committee not later than such date.

(e) *Eligible producer.* An eligible producer shall be an individual, partnership, association, corporation, or other legal entity producing grain sorghums in 1951 as landowner, landlord, tenant or sharecropper.

§ 601.903 *Eligible grain sorghums.* Eligible grain sorghums must meet the following requirements:

(a) The grain sorghums must have been produced in the continental United States in 1951 by an eligible producer.

(b) The beneficial interest in the grain sorghums must be in the person tendering the grain sorghums for loan or for delivery under a purchase agreement, and must always have been in him, or must have been in him and a former producer whom he succeeded before the grain sorghums were harvested.

(c) Grain sorghums of any class grading No. 4 or better, or No. 4 "Smutty" or better, and containing not in excess of 13 percent moisture shall be eligible.

(d) The grain sorghums must not grade discolored, or weevily.

(e) If offered as security for a farm-storage loan, the grain sorghums must have been stored in the bin or granary at least 30 days prior to inspection for measurement, sampling, and sealing unless otherwise approved by the PMA State committee.

§ 601.904 *Warehouse receipts.* Warehouse receipts, representing grain sorghums in approved warehouse storage to be placed under loan or delivered under a purchase agreement, must meet the requirements below:

(a) Warehouse receipts must indicate that the grain sorghums are insured, must be issued in the name of the producer, must be properly endorsed in blank so as to vest title in the holder and must be issued by a warehouse approved by CCC under the Uniform Grain Storage Agreement (the grain sorghums must be insured by the warehouseman in accordance with the terms of the Uniform Grain Storage Agreement), or warehouses operated by eastern common carriers under tariffs approved by the Interstate Commerce Commission for which custodian agreements are in effect.

(b) Each warehouse receipt or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show: (1) Gross weight, (2) class, (3) grade (including special grades), (4) test weight, (5) moisture, (6) dockage, and (7) any other grading factor(s) when such factor(s) and not test weight, determine the grade.

The warehouse receipt or the warehouseman's supplemental certificate must show whether the grain sorghums arrived by rail, truck or barge. In the case of warehouse receipts issued for grain sorghums delivered by rail or barge, the grading factors on the warehouse receipt must agree with the inbound inspection certificate for the car or barge when such certificate is issued.

(c) A separate warehouse receipt must be submitted for each grade, class, and subclass of grain sorghums.

(d) The warehouse receipt may be subject to liens for warehouse charges only to the extent indicated in § 601.909.

(e) Warehouse receipts representing grain sorghums which have been shipped by rail or water from a country shipping point to a designated terminal point, or shipped by rail or water from a country shipping point and stored in transit to a designated terminal point, must be accompanied by registered freight bills, or by (1) a statement as indicated below signed by the warehouseman, (2) a certificate of the warehouseman containing such information or (3) such form of certificates as may be approved by CCC.

FREIGHT CERTIFICATE

The grain sorghums represented by attached warehouse receipt No. _____ issued by _____ on warehouse located at _____ were received by rail freight from _____
(Station)
_____ _____
(County) (State)
point of origin as evidenced by freight bill described as follows:
Way-bill, date _____
No. _____
Car Initials and No. _____
Freight bill, date _____
No. _____
Origin carrier _____
Full inbound route and junction points _____
_____
_____
Transit weight _____

Freight rate in _____
Amount collected _____
Guaranteed transit balance, if any, of through freight to _____ of _____ per 100 pounds _____
Number unused transit stops_____
Penalty, if any, to guarantee minimum proportional rate on outbound billing of _____ cents per 100 pounds _____
Where paid-in freight is based on other than domestic interstate freight rate basis, the difference in rates between the freight paid (plus tax), and the domestic interstate freight rate (plus tax), is _____
_____

The above-described paid freight bill has been officially registered for transit and will be held in accordance with the applicable provisions of the Uniform Grain Storage Agreement.

_____
(Warehouseman's signature)
_____
(Address)
_____
(Date of signature)

§ 601.905 *Determination of quantity.* (a) The quantity of grain sorghums placed under farm-storage loan may be determined either by weight or by measurement. The quantity of grain sorghums placed under a warehouse-storage loan or delivered under a farm-storage loan or under a purchase agreement shall be determined by weight.

(b) When a quantity is determined by weight, a unit of 100 pounds shall be determined to be 100 pounds of grain sorghums free of dockage. In determining the quantity of sacked grain sorghums by weight, a deduction of ¾ of a pound for each sack shall be made.

(c) When the quantity of grain sorghums is determined by measurement, 100 pounds shall be 2.25 cubic feet of grain sorghums testing 56 pounds per bushel. The quantity determined by measurement of grain sorghums having a test weight of less than 56 pounds per bushel shall be adjusted by:

For grain sorghums testing	*Percent*
56 pounds or over	100
55 pounds or over, but less than 56 pounds	98
54 pounds or over, but less than 55 pounds	96
53 pounds or over, but less than 54 pounds	95
52 pounds or over, but less than 53 pounds	93
51 pounds or over, but less than 52 pounds	91
50 pounds or over, but less than 51 pounds	89
49 pounds or over, but less than 50 pounds	87

(d) The percentage of dockage shall be determined and the weight of such dockage shall be deducted from the gross weight of the grain sorghums in determining the net quantity available for loan or purchase.

§ 601.906 *Determination of quality.* The class, subclass, grade, grading factors, and all other quality factors shall be determined in accordance with the methods set forth in the Official Grain Standards of the United States for Grain Sorghums, whether or not such determinations are made on the basis of an official inspection.

§ 601.907 *Maturity of loans.* Loans mature on demand but not later than March 31, 1952.

§ 601.908 *Determination of support rates.* Basic support rates for grain sorghums will be set forth in 1951 C. C. C. Grain Price Support Bulletin 1, Supplement 2, Grain Sorghums. These support rates will be established for grain sorghums of the Classes I to IV, inclusive, grading No. 2 or better, and containing not in excess of 13 percent moisture. The support rates will be established for grain sorghums stored in approved warehouse storage at designated terminal markets, and for grain sorghums stored in approved country warehouses and in approved farm storage. The support rate for the quality of grain sorghums placed under a loan or delivered under a purchase agreement shall be the applicable basic support rate adjusted in accordance with the provisions of this section.

(a) *Basic support rates at designated terminal markets.* (1) Grain sorghums eligible for loan or purchase at the support rate established for designated terminal markets must have been shipped on a domestic interstate freight rate basis. On any grain sorghums shipped at other than the domestic interstate freight rate, the support rate at the designated terminal market shall be reduced by the difference between the freight paid (plus tax) and the domestic interstate freight rate (plus tax).

(2) The support rates established for designated terminal markets apply to grain sorghums which have been shipped by rail or water from a country shipping point to one of the designated terminal markets, as evidenced by paid freight bills duly registered for transit privileges: *Provided,* That in the event the amount of paid-in-freight is insufficient to guarantee the minimum proportional domestic interstate freight rate from the terminal market, there shall be deducted from the applicable terminal support rate the difference between the amount of freight actually paid in and the amount required to be paid in to guarantee outbound movement at the minimum proportional domestic interstate freight rate.

(3) When shipped by rail or water and stored at any designated terminal market, grain sorghums for which neither registered freight bills nor such freight certificates are presented to guarantee outbound movement at the minimum proportional domestic interstate freight rate, shall have a support rate equal to the terminal rate minus 14 cents per 100 pounds.

(4) For grain sorghums received by truck and stored at any designated terminal market, the support rate shall be determined by making a deduction from the terminal rate as follows:

Terminal located in—	*Amount of deduction (cents per 100 lb.)*
Area I: Arizona, California, Idaho, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Washington, Utah	22
Area II: Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, Wyoming, Wisconsin	23
Area III: Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia	25
Area IV: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas	25

(b) *Support rates for grain sorghums in approved warehouse-storage at other than designated terminal markets.* (1) The support rate for grain sorghums stored in approved warehouses (other than those situated in the designated terminal markets) which are shipped by rail shall be determined by deducting from the appropriate designated terminal market rate an amount equal to the transit balance, if any (plus tax), of the through-freight rate from point of origin for such grain sorghums to such terminal market: *Provided,* That in the case of grain sorghums stored at any railroad transit point, taking a penalty by reason of out-of-line movement, or for any other reason, to the appropriate designated market, there shall be added to such transit balance an amount equal to any out-of-line costs or other costs incurred in storing grain sorghums in such position.

(2) The warehouse receipts must be accompanied by the original paid freight bills or certificates of the warehouseman and other required documents as set forth in § 601.904.

(c) *Discounts.* (1) The discount for grain sorghums which grade No. 3 and containing not in excess of 13 percent moisture shall be 8 cents per 100 pounds; and for grain sorghums which grade No. 4 and containing not in excess of 13 percent moisture, 16 cents per 100 pounds.

(2) Grain sorghums which grade "smutty" shall be discounted 5 cents per 100 pounds.

(3) The support rates for mixed grain sorghums (Class V) shall be 3 cents per 100 pounds less than the support rates for grain sorghums of the classes I to IV, inclusive.

§ 601.909 *Warehouse charges.* (a) Warehouse receipts and the grain sorghums represented thereby stored in approved warehouses operating under the Uniform Grain Storage Agreement may be subject to liens for warehouse handling and storage charges at not to exceed the Uniform Grain Storage Agreement rates from the date the grain is deposited in the warehouse for storage.

(b) Where the date of deposit (the date of the warehouse receipt if the date of deposit is not shown) on warehouse receipts representing grain sorghums stored in warehouses operating under the Uniform Grain Storage Agreement is on or before March 31, 1952, the storage charges per 100 pounds shown in accordance with the following table shall be deducted in computing the amount of the loan or purchase price.

Date of deposit	Area I Ariz., Calif., Idaho, Minn., Mont., Nev., N. Dak., Oreg., S. Dak., Wash., Utah	Area II Colo., Ill., Iowa, Kans., Mo., Nebr., Wyo., Wis.	Area III Conn., Del., Ind., Ky., Maine, Md., Mass., Mich., N. H., N. J., N. Y., Ohio, Pa., R. I., Vt., Va., W. Va.	Area IV Ala., Ark., Fla., Ga., La., Miss., N. Mex., N. C., Okla., S. C., Tenn., Tex.
	Cents per 100 lb.	*Cents per 100 lb.*	*Cents per 100 lb.*	*Cents per 100 lb.*
Prior to Aug. 10, 1951	17.8	19.2	19.6	20.5
Aug. 10–Aug. 20, inclusive	17.8	19.2	19.6	20
Aug. 21–Aug. 31, inclusive	17.8	19	19	19
Sept. 1–Sept. 11, inclusive	17.8	18	18	18
Sept. 12–Sept. 22, inclusive	17	17	17	17
Sept. 23–Oct. 3, inclusive	16	16	16	16
Oct. 4–Oct. 14, inclusive	15	15	15	15
Oct. 15–Oct. 25, inclusive	14	14	14	14
Oct. 26–Nov. 5, inclusive	13	13	13	13
Nov. 6–Nov. 16, inclusive	12	12	12	12
Nov. 17–Nov. 27, inclusive	11	11	11	11
Nov. 28–Dec. 8, inclusive	10	10	10	10
Dec. 9–Dec. 19, inclusive	9	9	9	9
Dec. 20–Dec. 30, inclusive	8	8	8	8
Dec. 31–Jan. 10, 1952, inclusive	7	7	7	7
Jan. 11–Jan. 21, inclusive	6	6	6	6
Jan. 22–Feb. 1, inclusive	5	5	5	5
Feb. 2–Feb. 12, inclusive	4	4	4	4
Feb. 13–Feb. 23, inclusive	3	3	3	3
Feb. 24–Mar. 5, inclusive	2	2	2	2
Mar. 6–Mar. 16, inclusive	1	1	1	1
Mar. 17–Mar. 31, inclusive	0	0	0	0

(c) Warehouse receipts and the grain sorghums represented thereby stored in approved warehouses operated by eastern common carriers may be subject to liens for warehouse elevation (receiving and delivering) and storage charges from the date of deposit at rates approved by the Interstate Commerce Commission.

(d) For grain sorghums stored is approved warehouses operated by eastern common carriers, there shall be deducted in computing the loan or purchase price the amount of the approved tariff rate for storage (not including elevation), which will accumulate from the date of deposit to the program maturity date. The county committee shall request the PMA commodity office to determine the amount of such charges. Where the producer presents evidence showing that the elevation has been prepaid, the amount of the storage charges to be deducted shall be reduced by the amount of the elevation charge prepaid by the producer.

§ 601.910 *Settlement*—(a) *Farm-storage loans.* (1) In the case of grain sorghums delivered to CCC from farm storage under the loan program, settlement shall be made at the applicable support rate for the approved point of delivery. The support rate shall be applied to the grade and quality of the total quantity of grain sorghums delivered.

(2) If the grain sorghums under farm-storage loan are, upon delivery, of a grade and/or quality for which no support rate has been established, the settlement value shall be the support rate established for the grade and/or quality of the grain sorghums placed under loan, less the difference, if any, at the time of delivery, between the market price for the grade and/or quality placed under loan and the market price of the grain sorghums delivered, as determined by CCC.

(3) In no event shall grain sorghums for which the grade and/or quality is lower than the lowest grade and/or quality for which settlement rates are established, have a settlement value in excess of the settlement value of the lowest grade and/or quality of such grain sorghums for which settlement rates are established.

(4) If farm-stored grain sorghums are delivered to CCC prior to March 31, 1952, upon request of the producer and with the approval of CCC, the loan settlement shall be reduced by the applicable rate of storage charges per 100 pounds, determined according to the date of such delivery to CCC as set forth in § 601.909.

(b) *Purchase agreement.* Grain sorghums delivered to CCC under a purchase agreement must meet the requirements of grain sorghums eligible for loan. The purchase rate per 100 pounds of eligible grain sorghums shall be the support rate established for the approved point of delivery, subject to deduction of warehouse charges in accordance with § 601.909.

(c) *Track-loading.* A track-loading payment of 4 cents per 100 pounds will be made to the producer on grain sorghums delivered to CCC on track at a country point.

Issued this 3d day of May 1951.

[SEAL] ELMER F. KRUSE,
Vice President,
Commodity Credit Corporation.

HAROLD K. HILL,
Acting President,
Commodity Credit Corporation.

[F. R. Doc. 51-5323; Filed, May 7, 1951; 8:53 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[File No. 21-424]

PART 197—RELATING TO THE INSTALLMENT SALE AND FINANCING OF MOTOR VEHICLES

NOTICE OF FURTHER POSTPONEMENT OF EFFECTIVE DATE

In the matter of trade practice rules relating to the installment sale and financing of motor vehicles.

The Commission, after due consideration, has postponed the effective date of the trade practice rules on the above-entitled subject for a period of thirty (30) days from May 8, 1951.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46)

By direction of the Commission.

Issued: May 3, 1951.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 51-5299; Filed, May 7, 1951; 8:50 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 52717]

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

CLAIMS; UNPAID COMPENSATION OF DECEASED EMPLOYEES AND DEATH BENEFITS

The purpose of the following amendment is to inform interested persons of the proper manner of filing claims for unpaid compensation of a deceased customs officer or employee under Public Law 636, 81st Congress, which became effective December 1, 1950, and claims for death benefits either in the form of an annuity or a lump-sum payment of the amount to the credit of a deceased officer or employee in the Retirement and Disability Fund.

Section 24.32, Customs Regulations of 1943 (19 CFR 24.32), is amended to read as follows:

§ 24.32 *Claims; unpaid compensation of deceased employees and death benefits.* (a) A claim made by a designated beneficiary or a surviving spouse for unpaid compensation due an officer or employee at the time of his death shall be executed on standard Form 1153, Claim of Designated Beneficiary and/or Surviving Spouse for Unpaid Compensation of Deceased Civilian Employee. A claim made by anyone other than a designated beneficiary or surviving spouse for unpaid compensation due an officer or employee at the time of his death shall be executed on standard Form 1155, Claim for Unpaid Compensation of Deceased Civilian Employee. The claims shall be forwarded to the customs office where the deceased was employed.

(b) Claims for death benefits, either in the form of an annuity or lump-sum payment of the amount to the credit of the deceased officer or employee in the Retirement and Disability Fund shall be

executed on standard Form 100, Application for Death Benefit, and forwarded together with a certified copy of the public record of death directly to the Civil Service Commission, Washington 25, D. C.

(R. S. 161; 5 U. S. C. 22. Interprets or applies sec. 11, 41 Stat. 619, as amended; Pub. Law 636, 81st Cong.; 5 U. S. C. 724)

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

Approved: May 1, 1951.

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

[F. R. Doc. 51-5267; Filed, May 7, 1951; 8:45 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Federal Security Agency

PART 141—TESTS AND METHODS OF ASSAY FOR ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

AUREOMYCIN SURGICAL POWDER; BACITRACIN-POLYMYXIN OINTMENT

By virtue of the authority vested in the Federal Security Administrator by the provisions of section 507 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 1055, as amended by 59 Stat. 463, 61 Stat. 11, 63 Stat. 409; 21 U. S. C. and Sup., 357), the regulations for tests and methods of assay for antibiotic and antibiotic-containing drugs (21 CFR 141.1 et seq., and 1949 Supp.; 15 F. R. 9446) and certification of batches of antibiotic and antibiotic-containing drugs (21 CFR 146.1 et seq., and 1949 Supp.; 15 F. R. 9464) are amended as indicated below:

1. Section 141.112 (b) (1) (vi) is amended by changing the period at the end of the subdivision to a comma and by adding the following new clause: "except allow the agar for the secondary layer to cool to 48° C.–50° C. before adding the inoculum."

2. Part 141 is amended by adding the following new sections:

§ 141.211 *Aureomycin surgical powder*—(a) *Potency.* Proceed as directed in § 141.201 (a).

(b) *Sterility.* Proceed as directed in § 141.108 (c).

(c) *Moisture.* Proceed as directed in § 141.5 (a).

§ 141.409. *Bacitracin-polymyxin ointment*—(a) *Potency*—(1) *Bacitracin content.* Proceed as directed in § 141.402 (a). Its content of bacitracin is satisfactory if it contains not less than 85 percent of the number of units per gram that it is represented to contain.

(2) *Polymyxin content.* Proceed as directed in § 141.112 (b) (1), except in lieu of the directions in subdivision (vii) for the preparation of the sample, prepare the sample as follows: Accurately weigh approximately 5 grams and transfer to a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake with two 25-milliliter portions of the glycine buffer and combine the extracts. Its content of polymyxin is satisfactory if it contains not less than 85 percent of the number of units per gram that it is represented to contain.

(b) *Moisture.* Proceed as directed in § 141.8 (b).

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

3. Part 146 is amended by adding the following new sections:

§ 146.211 *Aureomycin surgical powder (aureomycin hydrochloride surgical powder)* — (a) *Standards of identity, strength, quality, and purity.* Aureomycin surgical powder is crystalline aureomycin, with or without suitable and harmless diluents and lubricants. Its content of aureomycin is not less than 200 milligrams per gram of powder. It is sterile. Its moisture content is not more than 2 percent. The aureomycin used conforms to the requirements of § 146.201 (a), except subparagraphs (4) and (5) of that paragraph. Each other substance used, if its name is recognized in the U. S. P. or N. F., conforms to the standards prescribed therefor by such official compendium.

(b) *Packaging.* In all cases the immediate containers shall be tight containers as defined by the U. S. P., shall be sterile at the time of filling and closing, shall be so sealed that the contents cannot be used without destroying the seal, and shall be of such composition as will not cause any change in the strength, quality, or purity thereof beyond any limit therefor in applicable standards, except that minor changes so caused which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded.

(c) *Labeling.* Each package of aureomycin surgical powder shall bear, on its label or labeling as hereinafter indicated, the following:

(1) On the outside wrapper or container and the immediate container:

(i) The batch mark;

(ii) The number of milligrams of aureomycin per gram of powder in the immediate container; and

(iii) The statement "Expiration date _____," the blank being filled in with the date which is 24 months after the month during which the batch was certified.

(2) On the outside wrapper or container:

(i) Unless it is intended solely for veterinary use and is conspicuously so labeled, the statement: "*Caution*: To be dispensed only by or on the prescription of a _____," the blank being filled in with the words "physician" or "dentist" or "veterinarian" or with any combination of two or all of these words, as the case may be.

(ii) Unless it is intended solely for veterinary use and is conspicuously so labeled, a reference specifically identifying a readily available medical publication containing directions and precautions (including contraindications and possible sensitization) adequate for the use of such aureomycin surgical powder; or a reference to a brochure or other printed matter containing such directions and precautions, and a statement that such brochure or printed matter will be sent on request.

(3) On the circular or other labeling within or attached to the package, if it is intended solely for veterinary use, directions and precautions adequate for the use of such aureomycin surgical powder, including:

(i) Clinical indications;

(ii) Dosage and administration;

(iii) Contraindications; and

(iv) Untoward effects that may accompany administration. If two or more such immediate containers are in such package, the number of such circulars or other labeling shall not be less than the number of such containers.

(d) *Request for certification; samples.* (1) In addition to complying with the requirements of § 146.2, a person who requests certification of a batch of aureomycin surgical powder shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless it was previously submitted) the date on which the latest assay of the aureomycin used in making such batch was completed, the number of milligrams of aureomycin in each immediate container, the date on which the latest assay of the drug comprising such batch was completed, the quantity of each ingredient used in making the batch, and a statement that each such ingredient conforms to the requirements prescribed therefor by this section.

(2) Except as otherwise provided in subparagraph (4) of this paragraph, such person shall submit in connection with his request results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(i) The batch; potency, sterility, moisture.

(ii) The aureomycin used in making the batch; potency, sterility, toxicity, moisture, pH, crystallinity.

(3) Except as otherwise provided by subparagraph (4) of this paragraph, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(i) The batch; one immediate container for each 5,000 immediate containers in the batch, but in no case less than 20 immediate containers or more than 100 immediate containers, collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The aureomycin used in making the batch; ten packages, each containing approximately equal portions of not less than 60 milligrams, packaged in accordance with the requirements of § 146.201 (b).

(iii) In case of an initial request for certification, each other substance used in making the batch; one package of each containing approximately 5 grams.

(4) No result referred to in subparagraph (2) (ii) of this paragraph, and no sample referred to in subparagraph (3) (ii) of this paragraph, is required if

such result or sample has been previously submitted.

(e) *Fees.* The fee for the services rendered with respect to each batch of aureomycin surgical powder under the regulations in this part shall be:

(1) $1.00 for each immediate container in the samples submitted in accordance with paragraph (d) (3) (i) of this section; $4.00 for each package in the sample submitted in accordance with paragraph (d) (3) (ii) and (iii) of this section; and

(2) If the Commissioner considers that investigations other than examination of such immediate containers are necessary to determine whether or not such batch complies with the requirements of § 146.3 for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fee is covered by an advance deposit maintained in accordance with § 146.8 (d).

§ 146.409 *Bacitracin-polymyxin ointment.* (a) Bacitracin-polymyxin ointment conforms to all requirements prescribed by § 146.402 for bacitracin ointment, and is subject to all procedures prescribed by § 146.402 for bacitracin ointment, except that:

(1) Its content of bacitracin is not less than 400 units per gram.

(2) It contains not less than 8,000 units of polymyxin B per gram. The polymyxin B used conforms to the requirements prescribed for polymyxin B by § 146.107 (a).

(3) Its moisture content is not more than 0.5 percent.

(4) In lieu of the labeling prescribed by § 146.402 (c) (1) (ii) and (iv), each package shall bear on the outside wrapper or container and the immediate container the number of units of bacitracin and the number of units of polymyxin B in each gram of the batch and the statement "Expiration date _____," the blank being filled in with the date which is 12 months after the month during which the batch was certified.

(5) In addition to complying with the requirements of § 146.402 (d), a person who requests certification of a batch of bacitracin - polymyxin ointment shall submit with his request a statement showing the batch mark and (unless it was previously submitted) the results and date of the latest tests and assays of the polymyxin used in making the batch for potency and toxicity. He shall also submit in connection with his request a sample consisting of not less than 6 packages of bacitracin-polymyxin ointment and (unless it was previously submitted) a sample consisting of 5 packages containing equal portions of not less than 0.5 gram each of the polymyxin used in making the batch.

(b) The fee for the services rendered with respect to each immediate container in the sample of polymyxin submitted in accordance with the requirements prescribed therefor by this section shall be $4.00.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

This order, which provides for a change in the method of assay for polymyxin used in the manufacture of streptomycin-polymyxin-bacitracin tablets and for tests and methods of assay and certification of two new antibiotic preparations, aureomycin surgical powder and bacitracin-polymyxin ointment, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industries will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industries and since it would be against public interest to delay providing for the modification of the method of assay for polymyxin used in the manufacture of streptomycin-polymyxin-bacitracin tablets and for tests and methods of assay and certification of aureomycin surgical powder and bacitracin-polymyxin ointment.

Dated: May 2, 1951.

[SEAL] OSCAR R. EWING,
Administrator.

[F. R. Doc. 51-5297; Filed, May 7, 1951; 8:49 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 24, Amendment 1]

CPR 24—CEILING PRICES OF BEEF SOLD AT WHOLESALE

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), Economic Stabilization Agency General Order 2 (16 F. R. 738), Delegation of Authority by the Secretary of Agriculture to the Economic Stabilization Agency with respect to the Allocation of Meat (16 F. R. 1272) and Economic Stabilization Agency General Order 5 (16 F. R. 1273) this Amendment 1 to Ceiling Price Regulation 24 is hereby issued.

STATEMENT OF CONSIDERATIONS

To permit sellers who bought ungrade-marked beef prior to May 7, 1951, an additional period of time within which to dispose of this beef, this amendment provides that such sellers shall sell and deliver such beef through May 11, 1951, at the prices established by the General Ceiling Price Regulation. Similarly, to permit sellers who bought grade-marked beef prior to May 7, 1951, an additional period of time to dispose of such beef at a price which may reflect higher costs than the price provided by Ceiling Price Regulation 24, this amendment provides that such sellers may sell and deliver such beef through May 11, 1951, either at the prices provided in Ceiling Price Regulation 24 or at their ceiling prices established by the General Ceiling Price Regulation.

AMENDATORY PROVISIONS

The "Effective date" paragraph of Ceiling Price Regulation 24 is amended by inserting, after the words "May 9, 1951", the following sentences. "However, through and including May 11, 1951, if (1) you sell and deliver a beef product for which a ceiling price is established by this regulation by grades (2) this beef product left the slaughtering plant prior to May 7, 1951, and (3) such beef product does not bear the grade mark provided for in Distribution Regulation 2 for such beef products leaving the slaughtering plant on and after May 7, 1951, then your ceiling price for such products shall be your ceiling price established by the General Ceiling Price Regulation. Moreover, through and including May 11, 1951, if (1) you sell and deliver a beef product for which a ceiling price is established by this regulation by grades and (2) such beef product bears the grade mark provided for in Distribution Regulation 2 for such beef products leaving the slaughtering plant after May 7, 1951, your ceiling prices for such of those products as are not derived from cattle you slaughtered shall be, at your option, the ceiling prices established by this regulation or your ceiling prices established by the General Ceiling Price Regulation."

(Sec. 704, Pub. Law 774, 81st Cong.)

Effective date. This amendment shall become effective on May 4, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

MAY 4, 1951.

[F. R. Doc. 51-5369; Filed, May 4, 1951; 3:53 p. m.]

[Ceiling Price Regulation 25, Corr.]

CPR 25—CEILING PRICES OF BEEF ITEMS SOLD AT RETAIL

CORRECTIONS

1. Due to an error, there was omitted from Zone 6 in Appendix 1 (f) of Ceiling Price Regulation 25 certain portions of Colorado and Wyoming. Accordingly, Zone 6, appearing in Appendix 1 (f) of Ceiling Price Regulation 25, is corrected as follows:

Omit the period following the words "St. Louis county." and add in lieu thereof the following: "; all that portion of Colorado north and east of and including the counties of Weld, Adams, Denver, Arapahoe, Douglas, El Paso, Pueblo, Otero, Bent and Prowers; and that portion of Wyoming included in the following counties: Platte, Goshen and Laramie."

2. Due to an additional error the number "23", appearing in sections 30 (a), 30 (b), 30 (c) and 30 (d) of Ceiling Price Regulation 25, was used instead of the number "30". Accordingly, sections 30 (a), 30 (b), 30 (c) and 30 (d) of Ceiling Price Regulation 25 are corrected as follows:

Wherever the words "except as provided in section 23 (e)" appear, substi-

tute therefor the words "except as provided in section 30 (e)".

(Sec. 704, Pub. Law 774, 81st Cong. Interprets or applies Titles I and IV, Pub. Law 774, 81st Cong., E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Supp.)

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

MAY 7, 1951.

[F. R. Doc. 51-5411; Filed, May 7, 1951; 11:21 a. m.]

[Ceiling Price Regulation 26, Corr.]

CPR 26—CEILING PRICES OF KOSHER BEEF ITEMS SOLD AT RETAIL

CORRECTION

Due to an error, there was omitted from Zone 6 in Appendix 1 (f) of Ceiling Price Regulation 26 certain portions of Colorado and Wyoming. Accordingly, Zone 6, appearing in Appendix 1 (f) of Ceiling Price Regulation 26, is corrected as follows:

Omit the period following the words "St. Louis county." and add in lieu thereof the following: "; all that portion of Colorado north and east of and including the counties of Weld, Adams, Denver, Arapahoe, Douglas, El Paso, Pueblo, Otero, Bent and Prowers; and that portion of Wyoming included in the following counties: Platte, Goshen and Laramie."

(Sec. 704, Pub. Law 774, 81st Cong. Interprets or applies Titles I and IV, Pub. Law 774, 81st Cong., E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Supp.)

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

MAY 7, 1951.

[F. R. Doc. 51-5412; Filed, May 7, 1951; 11:21 a. m.]

[Ceiling Price Regulation 31]

CPR 31—IMPORTS

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Ceiling Price Regulation 31 is hereby issued.

STATEMENT OF CONSIDERATIONS

It was anticipated when the General Ceiling Price Regulation was issued that subsequent regulations would be issued to deal more specifically with the pricing problems encountered in different segments of the United States economy. Foreign trade of the nation is a most important segment of our economy.

Although this country is well balanced economically, it has always been a large importer of foreign raw materials and goods, usually standing in either first or second place among the nations of the world where the total value of imports is concerned.

Control over prices in the import trade differs considerably from price control on sales of domestic articles and is much more difficult to achieve. Domestic price control, operating at the level of the manufacturer and at the level of the producer of raw material, serves as the basis for the establishment of ceiling prices for subsequent levels of distribution.

But the foreign manufacturer or producer of raw material is not subject to the jurisdiction of the United States Government. And the Director of the Office of Price Stabilization does not have access to the foreign seller's costs, sales and profits data which are governed by conditions that do not prevail in the United States as also are foreign transportation and insurance charges on ocean shipping.

Therefore, the usual standards of the Office of Price Stabilization in determining maximum prices at the manufacturer's level cannot be used in determining selling prices for imported goods and raw materials. Import price policies are therefore based on different considerations from those usually recognized by the Office of Price Stabilization in establishing maximum prices.

The basic considerations for pricing imported commodities are the continued flow of these commodities into the United States to meet the (1) strategic needs of the United States and (2) the demand in the civilian economy for certain essential imported commodities.

In determining prices for each of these import categories the basic consideration is to obtain such goods at the lowest price which will permit the importation and sale in sufficient quantity to meet our military demands, the needs of our war industries and the essential civilian requirements, as well as the needs of the economy in non-essentials.

During World War II in those cases where foreign supply prices rose to such an extent as to make impossible the importation and sale of essential commodities, the Office of Price Administration adjusted ceilings or utilized subsidy programs. Where subsidy programs were inaugurated, a government agency, such as the United States Commercial Company, bought strategic and essentially needed goods in foreign markets at whatever price was necessary to obtain an adequate supply of such commodities and resold them in the United States within the ceiling prices established by the Office of Price Administration.

The Office of Price Stabilization, together with related agencies of the executive branch, is currently formulating programs which will provide for specific ceilings for strategic materials and essential commodities and permit a flow of these commodities in sufficient quantity to meet our military demands, the needs of our war industries and the essential civilian requirements. This Ceiling Price Regulation provides a pricing formula for importers of other commodities to fulfill the needs of our economy.

It is clearly undesirable to eliminate imports by regulations which would make their entry impossible. First, the sale of these other commodities in the United States need not affect the cost of living. Secondly, it is desirable to maintain as far as possible the Nation's established foreign trade.

As the foreign seller's costs, sales and profits are governed by conditions that do not prevail in the United States, a marginal control for the import trade is the only fair and equitable method of control which can be effectively administered and will achieve results comparable to those obtained under controls on domestically produced goods. Furthermore, prices charged by foreign sellers and the costs of foreign transportation and insurance charges on ocean shipping are not subject to the jurisdiction of the United States Government. The application of certain of the provisions of the General Ceiling Price Regulation has interrupted the flow of these imported goods to the detriment of the American importers. For all these reasons, and in order to assure a continued flow, a marginal control is imposed upon these non-essential commodities.

The formulas in this order require sellers of imported commodities, in determining their ceiling prices, not to exceed the markup which they obtained on deliveries to the same class of buyers during the base period July 1, 1949 to June 30, 1950, inclusive. This base period does not reflect the inflationary pressures subsequent to the outbreak in Korea and the rearmament program. For importers such base period markup is to be added to the landed cost of the commodity. However, in recognition of the well established importing practice of selling goods prior to their arrival in this country, the regulation provides a procedure whereby the anticipated landed cost of the commodity, as estimated by the importer, may be used as a basis for computing a ceiling price in such cases. It is understood that this ceiling price regulation is issued as a temporary measure to encourage immediately the flow of imports to the greatest extent possible until conditions necessitate and permit the issuance of regulations tailored to the requirements of the different commodities.

From time to time, as the need arises, specific commodity price regulations will be issued to maintain the principle of stabilization and to prevent undue dislocation of American industrial economy. It has been the consistent policy of the United States to encourage the development of international trade. Consequently, where it can be established that any provision of this regulation threatens to impede the flow of imports, consideration will be given to the issuance of appropriate supplemental or amendatory regulations thereto.

Prior to the formulation of this regulation, the Director of Price Stabilization consulted with an industry committee established in accordance with the requirements of the Defense Production Act of 1950 (Public Law 774, 81st Cong.).

FINDINGS OF THE DIRECTOR OF PRICE STABILIZATION

In the judgment of the Director of Price Stabilization the ceiling prices established by this regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950.

So far as practicable the Director of Price Stabilization gave due considera-

tion to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950; to prices prevailing during the period from May 24, 1950, to June 24, 1950, inclusive; and to relevant factors of general applicability.

ARTICLE I—SCOPE OF REGULATION

Sec.
1. What this regulation does.
2. Applicability and prohibitions.

ARTICLE II—PRICING METHOD

3. Formula for sales by importers.
4. Formula for sales by wholesalers.
5. Formula for sales at retail.
6. Calculation of base period dollar and cents import markup.
7. Formula where no sales of the type being priced were made during the base period.
8. Processing.
9. Sale of imported commodities in a related range or line.

ARTICLE III—GENERAL PROVISIONS

10. Taxes.
11. Restrictions on multiple handling.
12. Transfer of business or stock in trade.
13. Records.
14. Exemptions.
15. Enforcement.
16. Evasion.
17. Petitions for amendment.
18. Definitions.
19. Appendix.

AUTHORITY: Sections 1 to 19 issued under sec. 704, Pub. Law 774, 81st Cong. Interpret or apply Title IV, Pub. Law 774, 81st Cong., E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Supp.

ARTICLE I—SCOPE OF REGULATION

SECTION 1. *What this regulation does.* This regulation provides a formula whereby importers, wholesalers, and retailers of imported commodities shall compute their ceiling prices for sales thereof on the basis of prices in effect during a base period extending from July 1, 1949, to June 30, 1950, inclusive. All of the provisions of the General Ceiling Price Regulation, except section 14, heretofore applicable to importers and to the sale of imported commodities are superseded hereby except with respect to the sale of the commodities listed in Appendix A. Sales of the commodities listed in Appendix A shall continue to be governed by the provisions of the General Ceiling Price Regulation unless or until otherwise covered by specific ceiling price regulations. With respect to the sale by other than importers of imported commodities at wholesale and retail levels, Ceiling Price Regulation 7 shall govern the pricing at the retail level of all imported non-food commodities specifically covered thereby, and Ceiling Price Regulations 14, 15, and 16 shall govern the pricing at the wholesale and retail level of all imported food commodities specifically covered thereby. Any imported commodity which does not specifically fall within the coverage of Ceiling Price Regulations 7, 14, 15, and 16 shall be priced for wholesale or retail sale under sections 4 and 5 of this regulation, respectively.

SEC. 2. *Applicability and prohibitions*—(a) *Applicability.* This regulation is applicable to the continental United States.

(b) *Prohibitions.* On and after the effective date of this regulation, regardless of any contract or other obligation, excepting as set forth in section 14 (c) of this regulation, (1) you shall not sell or deliver any imported commodities covered by this regulation at prices higher than the ceiling prices fixed by this regulation; (2) you shall not buy or receive in the course of trade or business any imported commodities covered by this regulation at prices higher than the ceiling prices fixed by this regulation; and (3) you shall not agree, offer, solicit, or attempt to do anything prohibited in this regulation.

Prices lower than the ceiling prices may be charged, demanded, paid, or offered.

SEC. 3. *Formula for sales by importers.* (a) If you are an importer, your ceiling price for the sale of any commodity covered by this regulation to any class of buyer (except retail customers) shall be the landed cost of the commodity, plus a dollar and cents markup based on sales by you of such commodity to that class of buyer during the base period, as calculated under section 6 of this regulation. If you made no sales of the commodity during the base period to buyers of that class, your markup shall be calculated under section 6 of this regulation but by reference to other sales as provided for in section 7 of this regulation.

(b) Where the commodity you are pricing is owned by you but has not arrived in the United States, you may estimate your landed cost of the commodity. Such estimated landed cost shall reflect your purchase contract cost and the costs of importation reasonably to be anticipated and not already included in the purchase contract cost. In the event such estimated costs exceed your actual costs, as finally determined, you shall either remit or credit the difference to your purchaser.

(c) You may not receive a commission from a foreign seller higher than that which you received during the base period, nor may you receive both a commission from a foreign seller and a markup on the same transaction, without prior application to and approval thereof by the Office of Price Stabilization, Exports-Imports Branch, Washington 25, D. C. In your application you must set forth in detail all of the facts relating to, as well as the historical background for, such a request.

SEC. 4. *Formula for sales by wholesalers.* If you are a wholesaler of imported commodities which you sell in essentially the same form in which imported, your ceiling price for the sale of any such commodity covered by this regulation, except food commodities specifically covered by name or category by Ceiling Price Regulation 14, to any class of buyer shall be your cost of acquisition plus a base period dollar and cents markup based on sales by you of such commodity to that class of buyer during the base period, as calculated under section 6 of this regulation. If you made no sales of the commodity during the base period to buyers of that class, your markup shall be calculated under section 6 of this regulation but by reference to other sales as provided for in section 7 of this regulation.

SEC. 5. *Formula for sales at retail*—(a) *Retailer.* If you are a retailer (but not the importer) of imported commodities which you sell in essentially the same form in which imported, your ceiling price for the sale of any such commodity, except imported non-food commodities specifically covered by name or category by Ceiling Price Regulation 7, and except imported food commodities specifically covered by name or category by Ceiling Prce Regulations 15 and 16, shall be as follows:

(1) For any sale to retail customers your ceiling price shall be your cost of acquisition plus a base period percentage markup calculated as follows:

You determine from your records all of the sales to retail customers which you made of the commodity being priced during a representative quarter of the base period of your choosing. You then determine your total dollar sales value of such sales and calculate the weighted average percentage markup per unit over the cost of acquisition of the commodity reflected in such sales. Such weighted average percentage markup per unit shall be determined by subtracting total costs of acquisition from total sales price, which gives you gross margin, and dividing that gross margin by total cost of acquisition. You may use the result of this calculation as your base period percentage markup for the commodity you are pricing.

(2) For any sale to wholesale customers your ceiling price shall be computed under the provisions of Section 4 of this regulation governing the computation of ceiling prices for sales by wholesalers.

(b) *Importer retailer.* If you are an importer and also sell at retail in essentially the same form in which imported the commodities you import, your ceiling price for the sale of any such commodity, except imported non-food commodities specifically covered by name or category by Ceiling Price Regulation 7, and except imported food commodities specifically covered by name or category by Ceiling Price Regulations 15 and 16, shall be as follows:

(1) For any sale to retail customers your ceiling price shall be the landed cost of the commodity plus a base period percentage markup calculated as follows:

You determine from your records all of the sales to retail customers which you made of the commodity being priced during a representative quarter of the base period of your choosing. You then determine your total dollar sales value of such sales and calculate the weighted average percentage markup per unit over the landed cost of the commodity reflected in such sales under the formula prescribed in Section 5 (a) (1). You may use the result of this calculation as your base period percentage markup for the commodity you are pricing.

(2) Your ceiling price for any such sale to customers other than retail customers shall be computed under the provisions of Section 3 of this regulation.

(c) If you are computing your ceiling price under the provisions of paragraph (a) (1) or (b) (1) of this section and

made no base period sales of the commodity you are pricing to the class of buyer for which you are pricing, your markup shall be calculated in accordance with the provisions of paragraph (a) (1) or (b) (1) of this section but such markup shall be based on other base period sales as provided for in section 7 of this regulation.

(d) In every case where you calculate for the first time the percentage markup per unit you are going to use or do use in the sale or offering of an imported commodity, unless the commodity be one that shall be priced under Ceiling Price Regulations 7, 15, or 16, you shall promptly furnish the Office of Price Stabilization, Exports-Imports Branch, Washington 25, D. C., with the following information in duplicate:

(1) The commodity
(2) The quantity
(3) The class of buyer
(4) The percentage markup per unit you are permitted to use under this regulation.

Once you have furnished such information for the sale of a particular commodity to a particular class of buyer, you need not again advise the Office of Price Stabilization with respect to your pricing of that type of sale.

SEC. 6. *Calculation of base period dollar and cents import markup.* (a) If you are an importer, wholesaler or a processor of imported commodities, unless you are a wholesaler pricing an imported food commodity under Ceiling Price Regulation 14, your base period dollar and cents markup for a commodity shall be calculated under this regulation as follows:

(1) You ascertain from your records all of your base period sales of the type upon which your base period markup is to be calculated, i. e., either base period sales of the commodity you are pricing to the class of buyer for which you are pricing, or base period sales of a kind you are permitted to use under the provisions of section 7 of this regulation.

(2) You then determine the total dollar sales value of all such base period sales.

(3) You then select, from such base period sales, any sale or sales which represent at least ten percent of the total dollar sales value of all such base period sales and calculate the weighted average dollars and cents markup per unit, over landed cost of the commodity, if you are an importer, or over your cost of acquisition, if you are a wholesaler or a processor, yielded by those selected sales. Such weighted average may be determined, as illustrated in the example below, by computing the total dollar and cents markup for those selected sales (total sales price minus total of landed costs for an importer, or total costs of acquisition, for a wholesaler or processor), and dividing that total markup by the total number of units. The result is your weighted average dollar and cents markup per unit for sales of the commodity you are pricing to the class of buyer involved. (If you selected a single sale, which accounts for ten percent of your total dollar sales value of such base period sales, you may use the dollar and cents markup yielded by that single sale.

(i) *Example:* Suppose your base period sales upon which you are calculating your markup under the provisions of this section were as follows:

Sale	Units	Sales price	Percentage of total sales	Cost of acquisition or landed cost	Dollars and cents markup	Dollars and cents markup per unit
#1	2,500	$250.00	5%	$225.25	$24.75	$0.0099
#2	4,000	400.00	8%	364.00	36.00	.009
#3	11,000	1,100.00	22%	1,012.00	88.00	.008
#4	12,500	1,250.00	25%	1,150.00	100.00	.008
#5	20,000	2,000.00	40%	1,850.00	150.00	.00755
			100%			

(ii) You may select sales #1 and #2 in order to determine the markup. You may not select either sale #1 or sale #2 alone, since neither sale alone accounts for ten percent of the total dollar sales value of base period sales. Taking the weighted average of the dollar and cents markups yielded by the two sales, you obtain a unit markup of $.009346 ($24.75+$36.00÷2,500+4,000=$.009346).

(b) In every case where you calculate for the first time the dollar and cents markup per unit you are going to use or do use in the sale or offering of an imported commodity, you shall promptly furnish the Office of Price Stabilization, Exports-Imports Branch, Washington, 25, D. C., with the following information in duplicate:

(1) The commodity
(2) The quantity
(3) The class of buyer
(4) The dollar and cents markup per unit you are permitted to use under this regulation.

Once you have furnished such information for the sale of a particular commodity to a particular class of buyer, you need not again advise the Office of Price Stabilization with respect to your pricing of that type of sale.

SEC. 7. *Formula where no sales of the type being priced were made during the base period.* (a) If you are either an importer, a wholesaler or a retailer and did not sell during the base period the commodity you are pricing to a buyer of the class for which you are pricing, your ceiling price for such sale shall be the landed cost or cost of acquisition, as the case may be, plus a base period markup as calculated under section 5 or section 6 of this regulation, whichever is applicable, based on sales during the base period of the type set forth below in the following order of preference:

(1) Sales of the commodity you are pricing to buyers of the next most closely related class;

(2) Sales of a comparison commodity to buyers of the class for which you are pricing;

(3) Sales of a comparison commodity to buyers of the next most closely related class.

In this event you must advise the Office of Price Stabilization, Exports-Imports Branch, Washington 25, D. C., in writing, in duplicate, by registered letter, of the price you propose as your ceiling price for the commodity, showing in detail how it was computed, the markup you propose to use, and naming the "comparison commodity" and/or "class of buyer" you used. Unless this proposed ceiling price is rejected by the Office of Price Stabilization within ten days of the postmarked date of your letter, you may proceed with sales accordingly, until notified by the Office of Price Stabilization that your proposed ceiling price has been disapproved.

(b) If you, the seller, either importer, wholesaler or retailer, did not sell during the base period the commodity you are pricing, nor did you sell a comparison commodity, or if you are a new seller, you shall compute your ceiling price by reference to the ceiling price of the "most closely competitive seller of the same class". In this event you must advise the Office of Price Stabilization, Exports-Imports Branch, Washington 25, D. C., in writing, in duplicate, by registered letter, of the price you propose as your ceiling price for the commodity and show in detail how it was determined, and naming the "most closely competitive seller of the same class" whose price you used, together with his address. Unless this proposed ceiling price is rejected by the Office of Price Stabilization within ten days of the postmarked date of your letter, you may proceed with sales accordingly, until notified by the Office of Price Stabilization that your proposed ceiling price has been disapproved.

(c) For the sales of imported commodities for which you are unable to compute ceiling prices under the provisions of paragraphs (a) or (b) of this section, or under any provisions of this regulation, you may apply in writing, in duplicate, to the Office of Price Stabilization, Exports-Imports Branch, Washington 25, D. C. for establishment of a ceiling price for such imported commodity. This application shall contain (1) an explanation of why you are unable to compute your ceiling price for the imported commodity under this regulation; (2) a complete description of the imported commodity involved; and (3) the nature of your business. In addition, your application shall contain a proposed ceiling price for the imported commodity, together with an explanation of the basis upon which such proposed ceiling price was computed by you. You shall not sell such imported commodity until the Office of Price Stabilization notifies you, in writing, of the ceiling price you may use.

(d) Once you have determined under the provisions of this section a markup which has not been disapproved by the Office of Price Stabilization, you may continue to use that markup for future sales of the same commodity to the same class of buyer.

SEC. 8. *Processing.* If you are an importer and also process (as defined in section 18 of this regulation) commodities you import, you may, in determining your ceiling price, add the actual costs of processing to your landed costs. If you process imported commodities purchased from an importer, you may, in determining your ceiling price, add the actual costs of processing to your cost

of acquisition: *Provided*, That if your markup as calculated under section 6 of this regulation included the costs of processing, you may add only those costs of processing which were in excess of the cost of processing during the base period.

SEC. 9. *Sale of imported commodities in a related range or line.* (a) If you are a seller of imported commodities in a related range or line, you may maintain your customary price differentials on those imported commodities, provided that their total sales value does not exceed that which would otherwise be their total sales value if you sold the items in the range or line separately at their respective ceiling prices.

(b) Where you have an inventory or purchase commitment of a commodity at a different ceiling price than the ceiling price of the same commodity received in a different shipment, you may use a uniform selling price (for that commodity), provided that in such case you shall compute a ceiling price for the entire inventory and purchase commitments by using properly weighted average costs of your inventory and purchase commitments, and provided that the total sales value shall not exceed that which would otherwise be the total sales value at ceiling prices for each item in such lot if sold separately.

ARTICLE III—GENERAL PROVISIONS

SEC. 10. *Taxes.* In addition to your ceiling price, you may collect the amount of any excise, sales or similar taxes paid by you only if, during the base period, you stated and collected such taxes separately from your selling price. In the case of such a tax imposed by law which is not effective until after June 30, 1950, you may collect the amount of the tax actually paid by you, in addition to your ceiling price, if not prohibited by the tax law. You must in all such cases state separately the amount of the tax.

SEC. 11. *Restrictions on multiple handling.* For the purposes of this Ceiling Price Regulation, markups shall be allowed only when the following sequences of distribution are followed. These are (a) sales by importers to industrial users, to processors, to wholesalers, or to retailers; (b) sales by wholesalers to industrial users, or to retailers; (c) sales by processors to wholesalers, to retailers or to consumers; (d) sales by retailers to consumers. If you are a wholesaler who buys commodities from another wholesaler, no markup may be added, unless specifically authorized by order of the Office of Price Stabilization. Such authorization may be granted upon application to the Office of Price Stabilization, Exports-Imports Branch, Washington 25, D. C., when it can be established that the second wholesaler performs a recognized distributive function in accordance with the usual practice of the trade.

SEC. 12. *Transfer of business or stock in trade.* If the business, assets or stock in trade of any business were sold or otherwise transferred since July 1, 1949, or are sold or transferred after the effective date of this regulation, and the transferee carries on the business, or continues to deal in the same type of commodities, the maximum prices of the transferee shall be the same as those to which his transferor would have been subject if no such transfer had taken place, and his obligation to keep records sufficient to verify such prices shall be the same. The transferor shall either preserve and make available, or turn over, to the transferee all records of transactions prior to the transfer which are necessary to enable the transferee to comply with the record provisions of this regulation.

SEC. 13. *Records.* (a) This section tells you what records you shall preserve and what additional records you must prepare and keep available for examination by the Office of Price Stabilization for so long as the Defense Production Act of 1950 is in effect and for two years thereafter.

(b) You must preserve and keep available as required in paragraph (a) of this section those records in your possession showing the prices charged by you for the commodities you delivered during the base period, and those records you used to establish the markups you charged during the base period, and those records you used showing how you calculated your base period markup. You must also prepare and preserve a statement of your customary price differentials, terms and conditions of sale, and classes of purchasers, which you had in effect during the base period.

(c) You shall prepare and keep available, as required in paragraph (a) of this section, records of the kind you customarily keep; specifically you must also keep records showing the date of each sale or contract, the names of the parties thereto, the prices charged, the landed cost or the cost of the commodity to you. If you are a retailer, however, you are required only to preserve your purchase invoices and to record thereon your selling price.

(d) If you are a seller who has customarily given a purchaser a sales slip, receipt, or similar evidence of purchase, you shall continue to do so. Upon request from a purchaser, any seller, regardless of previous custom, shall give the purchaser a receipt showing the date, the name and address of the seller, the name of each commodity or service sold, and the price received for it.

SEC. 14. *Exemptions.* (a) This regulation does not apply to sales of commodities for which import ceiling prices have been or hereafter will be established under other regulations or supplements, or to sales of commodities which are specifically exempted from the application of ceiling prices by other regulations or orders of the Office of Price Stabilization.

(b) This regulation does not apply to sales of hand knotted oriental rugs and imported handicraft objects which are sold for household or personal use in substantially the same form as imported, and which are the product of individuals, families, tribes, or other small groups.

(c) Nothing in this regulation shall operate to prevent the performance of a written contract for the sale of an imported commodity entered into prior to the effective date of this regulation and executed in strict compliance with the provisions of the General Ceiling Price Regulation, provided (1) that such contract covers a commodity which the seller as of the date of the contract had in inventory or under purchase commitment, and (2) that such contract covers a specified quantity of a described commodity at a fixed price per unit.

(d) This regulation does not apply to the sale of the commodities listed in Appendix A.

(e) This regulation does not apply to the sales of commodities transported into the continental United States for transshipment abroad and which do not enter into the domestic commerce of the United States and which are either,

(1) Entered at Customs in transit on a "Transportation and Exportation (TE) entry" or on an "Exportation (Exp.) entry" or

(2) Stored in transit in a bonded warehouse or stored in a foreign trade zone.

SEC. 15. *Enforcement.* If you violate any provision of this Ceiling Price Regulation you are subject to the criminal penalties, civil enforcement actions, and suits for treble damages provided for by the Defense Production Act of 1950.

SEC. 16. *Evasion.* Any practice which results in obtaining indirectly a higher price than is permitted by this regulation is a violation of this regulation. Such practices include, but are not limited to, devices making use of commissions, services, cross sales, transportation arrangements, premiums, discounts, special privileges, tie-in agreements or combination sales, and trade understandings.

SEC. 17. *Petitions for amendment.* If you wish to have this regulation amended, you may file a petition for amendment in accordance with the provisions of Price Procedural Regulation 1 (15 F. R. 9055).

SEC. 18. *Definitions.* This Ceiling Price Regulation and the terms which appear in it shall be construed in the following manner:

(a) *Classes of sellers and buyers*—(1) *Importer.* This term means the person by whom a commodity is imported and who first sells it after importation.

(2) *Wholesaler.* This term means any person who performs a recognized distributive function, purchases imported commodities directly from an importer and who sells or delivers them in essentially the same form as imported to another wholesaler, industrial user, or a retailer in accordance with established trade practice.

(3) *Retailer.* This term means any person who buys or receives imported commodities and who actually sells them in essentially the same form as imported to an ultimate consumer other than an industrial or commercial user.

(4) *Supplier.* This term means the person from whom an importer covered by this regulation procures a commodity.

(5) *Industrial user.* This term means a person who uses an imported commodity or commodities in fabrication, manufacture, or production.

(6) *Retail customer.* This term means the person who buys commodities from a retailer in customary retail quantities and at customary retail prices for the purpose of normal individual or household consumption rather than for resale, fabrication, processing or manufacture.

(7) *Wholesale customer.* This term means the person who is not a "retail customer" and who buys commodities in customary wholesale quantities and at customary wholesale prices for purposes other than for normal individual or household consumption.

(8) *Seller.* This term includes the seller of any commodity. Where a seller at retail makes sales through more than one selling unit or place of business (other than salesmen making sales at uniform prices) each such selling unit or separate place of business shall be deemed to be a separate seller.

(9) *Class of buyer.* This term means that group of persons to which you sell imported products and which you distinguish from other groups of buyers with respect to price or terms and conditions of sale by reason of location, quantity purchased, or functions in distribution, i. e., manufacturer, wholesaler, retailer, processor or end user.

(b) *Pricing*—(1) *Commodity.* This term includes not only those items or groups of items generally called commodities, but also materials, articles, or products.

(2) *Comparison commodity.* This term means a commodity which is one with the same or next lowest or highest current unit direct cost, whichever is closer to the cost of the new commodity, and which has the same essential characteristics as does the new commodity for which you are computing a ceiling price.

(3) *Cost of acquisition.* This term means the actual cost of the commodity to a buyer, which shall not exceed the ceiling price of the supplier at the point of delivery plus such costs of delivery actually incurred by the buyer.

(4) *Foreign invoice cost.* This term means the amount stated on your foreign invoice less any discount or allowances, but including separately stated charges except such charges as are included in costs of importation as herein defined.

(5) *Costs of importation.* This term means those costs actually incurred or to be incurred by you in moving the goods from the place of foreign origin to the place of destination and include, but are not necessarily limited to, foreign export and other taxes directly related to the transaction, foreign ocean and domestic transportation costs, customs duties, dock charges, clearance, insurance, letter of credit or other finance charges, and any customary buying commission to a purchasing agent outside the continental United States.

(6) *Landed cost.* This term means the foreign invoice cost plus the costs of importation. If your foreign invoice states charges included in the costs of importation, you shall not include the same item more than once.

(7) *Purchase contract cost.* This term means the price the importer paid for the commodity including any charges and expenses incurred in, or in connection with, the moving of the commodity to destination which are borne by the foreign seller.

(8) *Next most closely related class of buyer.* This term means the class of buyer to which you sold, during the base period, the commodity you are pricing, or a "comparison commodity," and which in terms of quantity and conditions of sale is most similar to the class of buyer for which you are pricing.

(9) *Most closely competitive seller of the same class.* This term means the seller with whom you are in most direct competition even though he may perform a different function with respect to the commodity. You are in direct competition with another seller who sells the same types of commodities to the same classes of purchaser in similar quantities, in similar terms and, if you are selling a commodity, you supply approximately the same amount of service.

(10) *Inventory.* This term means the sum total of stocks or goods owned by the importer which are in the United States, its territories and possessions, or which are afloat destined for the United States, its territories and possessions.

(11) *Purchase commitment.* This term means an agreement between the foreign seller and American buyer for a specified quantity of a described article for definite shipment to the United States, its territories or possessions at a stated fixed price.

(c) *General*—(1) *Base period.* This term means the period from July 1, 1949 to June 30, 1950, inclusive.

(2) *Ceiling price.* This term means the highest price at which an imported commodity covered by this regulation may be sold.

(3) *General Ceiling Price Regulation.* This term means the General Ceiling Price Regulation issued on January 26, 1951 by the Director of Price Stabilization as amended and supplemented.

(4) *You or Person.* This term includes any individual, corporation, partnership, association or any other organized group of persons, or legal successors or representatives of the foregoing, and the United States or any other government or their political subdivision or agencies.

(5) *Records.* This term includes but is not limited to books of account, sales lists, sales slips, orders, vouchers, contracts, receipts, invoices, bills of lading, and other papers and documents.

(6) *Sell.* This term includes sell, supply, dispose, barter, exchange, transfer or deliver.

(7) *Imported.* A commodity is imported which is transported from a place outside the continental limits of the United States to a place inside the continental limits of the United States, its territories and possessions. However, commodities shipped into the United States, its territories and possessions from outside thereof and entered in a foreign trade zone or under general order or in a bonded warehouse for transshipment and actually transshipped to a destination outside the continental limits of the United States shall not be deemed to be "imported",

(8) *Delivered.* A commodity shall be deemed to have been delivered during a specified period if during that period it was received by the purchaser or his agent or by any carrier, including a carrier owned or controlled by the seller, for shipment to the purchaser.

(9) *Processing.* This term means the sorting, grading, cleaning, repacking, assembling, or otherwise manipulating of a commodity but not to the extent that there results therefrom a new and different article having a distinctive character.

SEC. 19. *Appendix.* The appendix to this regulation entitled "Appendix A" and listing the commodities excluded from the application of this regulation, is incorporated herein and made a part hereof.

Effective date: This regulation shall become effective on May 9, 1951.

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

MICHAEL V. DISALLE,
Director of Price Stabilization.

MAY 4, 1951.

APPENDIX A

TO CEILING PRICE REGULATION NO. 31

1. The important strategic commodities that are today excepted from this regulation are as follows:

	Paragraph
Abaca	1001
Aluminum—	
Metal, ore, scrap, foil, alloys	207, 374, 382
Antimony—	
Metal (regulues) ore, concentrates, needle	376, 1608
Arsenic, metallic	379
Asbestos Fibers that conform to standard commercial Grade B–1, Grade B–3, Grade D–3, or Grade 3/DM–1 Transvaal Amosite. Also those grades of Rhodesian Chrysotile suitable for spinning that conform to commercial standard Grade C & G–1 or Grade C & G–2	1616
Bauxite	6, 207
Beryl	17, 19
Bismuth	22, 377
Bristles, Hog	1507, 1637
Brass scrap	1634
Burlap	1008
Cadmium	378
Celestite	1776
Chrome—	
Ore, salts, metal and alloys	5, 301, 302 305, 1647
Cobalt—	
Metal, ore, compounds and salts	29, 1652
Columbite	1719
Copper—metal, concentrates, blister, compounds, and salts	5, 76, 302 387, 1657, 1658, 1659, 381
Corundum and emery	1514, 1672
Ferro-alloys	302
Flax	1001
Fluorspar	207
Graphite or plumbage	213
Hemp (not including crin vegetal)	1001, 1002, 1004, 1005
Henequen	1005
Iron ore	1700
Iodine, radioactive	1749
Jute	1003
Kyanite, crude and calcined	1719
Lead—metal, ores, concentrates, compounds and alloys	46, 391, 392

	Paragraph
Magnesite	201, 204
Magnesium	375
Manganese—ores, concentrates, metal	214, 302
Mercury (including compound mixtures and salts thereof)	386
Mica	208
Molybdenum—metal, ore, concentrates	301, 302, 305, 316
Monazite sand	1721
Naval stores	90
Nickel—ores, concentrates, metal, alloys	302, 380, 389, 1734
Opium and derivatives	59
Platinum	1734, 1744
Quartz crystals	1636
Quinine sulphate, all alkaloids and salts of alkaloids derived from cinchona bark	1748
Radium, salts and radioactive substitutes	1749
Shellac	1707
Spiegeleisen	301, 302
Talc, steatite	209
Tallow	701
Thorium—metal, ores, alloys, nitrate, oxides and other salts	87, 302, 1721
Titanium—metal, ore, compound and mixtures	89, 302, 1719
Tungsten—metal, ore, concentrates, powder, alloys and compounds	302
Uranium—ores, metal, alloys, oxides, salts and compounds	302, 1719, 1792
Vanadium—metal, ore, alloys, compounds, mixtures and salts	91, 302, 1719
Zaffer	1814
Zinc—metal, ore, concentrates, scrap	393, 394

2. Important commodities that are highly essential to the basic cost of living that are today excepted from this regulation are as follows:

	Paragraph
Butter and substitutes	709
Cocoa—specifically covered by Supplemental Regulation No. 3 to the General Ceiling Price Regulation.	
Coffee—specifically covered by Supplemental Regulation No. 3 to the General Ceiling Price Regulation.	
Eggs	713
Hides and skins—	
Calf	1530 (a)
Cattle	1530 (a)
Buffalo	1530 (a)
Cabretta	1765
Deer	1765
Goat	1765
Horse	1765
Kangaroo	1765
Kid	1765
Kipskins	1530 (a)
Lamb, including cooled and shearlings	1765
Sheep	1765
Leather—including tanned and finished, semi-tanned or rough tanned or otherwise partly finished	1530 (b), 1530 (d)
Leather, made from goat or sheep skins, raw, semi-tanned, rough-tanned or pickled	1530 (c)
Lumber, including logs	401, 402, 404, 1803
Meats, fresh, chilled or frozen	701, 702, 703, 704
Milk—fresh or sour, whole or skimmed, condensed, evaporated, dried, malted	707, 708
Molasses and sugar syrup	502
Tea	1783 (b)
Wood pulp	1716
Wool—and animal hairs (not including carpet wool)	1101, 1102, 1105, 1106
Woven fabrics, containing 25 percent or more of woolen fabric by weight	1108, 1109 (a)

3. Important commodities that are excepted from this regulation because they are covered by a United States Government purchase program today include the following:

	Paragraph
Rubber, crude, latex and synthetic	1558, 1697
Tin—metal, ore, concentrates, powder, scrap alloys	88, 382, 392, 1785, 1786

NOTE: The paragraphs referred to and as shown above opposite each category or commodity are the pertinent paragraphs from the current U. S. Tariff Schedule as published by the U. S. Tariff Commission. The purpose of specifying these paragraph numbers is to fully describe the item, and the description given in the Tariff Schedule is the governing factor per item, to the extent such paragraph applies to the item as stated in the list.

[F. R. Doc. 51-5371; Filed, May 4, 1951; 4:07 p. m.]

[Ceiling Price Regulation 32]

CPR 32—CRUDE PETROLEUM

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Ceiling Price Regulation 32 is hereby issued.

STATEMENT OF CONSIDERATIONS

When the General Ceiling Price Regulation was issued on January 26, 1951, it was realized that a single, comprehensive regulation could hardly cope with the multitude of prices and the diverse practices of many sellers and industry. It was, therefore, the express intent of the Director of Price Stabilization to replace the General Ceiling Price Regulation as rapidly as possible with specific price regulations tailored to meet the needs of different industries. Essentially, this regulation provides for the establishment of ceiling prices for all sales and deliveries of crude petroleum by producers, sellers, refiners, or by any other person.

The regulation establishes the ceiling price at the receiving tank for crude petroleum from any given pool as the posted purchase price on January 25, 1951, for such pool, or where there was for any pool more than one posted purchase price then the ceiling price is the highest of the posted purchase prices. Use of the posted purchase price on this date to determine ceiling prices is believed equitable, and in conformity with the customary pricing practices of this segment of the petroleum industry. A provision is included which requires every purchaser of crude petroleum to file a report thirty days after the issuance of this regulation with the Director of Price Stabilization listing the purchase prices he posted or paid for crude petroleum purchased from each pool.

Where no posted purchase price existed on January 25, 1951, alternative methods of determining ceiling prices are provided. Special provision is made for certain contract sales in excess of the posted purchase price, provided the contract was made prior to December 9, 1950, and was in effect on January 25, 1951. The ceiling price so established is applicable only to the production covered by the contract. The reason that December 9, 1950, was selected as the initial date is that it marked the start of the voluntary freeze on crude petroleum prices requested of the refiners by the Economic Stabilization Agency.

Prior to the formulation of this regulation the Director of Price Stabilization consulted with a large number of persons representing a substantial part of the industry and the regulation has been reviewed by the National Petroleum Advisory Committee and the Petroleum Administration for Defense.

FINDINGS OF THE DIRECTOR OF PRICE STABILIZATION

In the judgment of the Director of Price Stabilization the ceiling prices established by this regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950.

So far as practicable the Director of Price Stabilization gave due consideration to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950; to prices prevailing during the period from May 24, 1950, to June 24, 1950, inclusive; to relevant factors of general applicability.

REGULATORY PROVISIONS

SCOPE OF REGULATION

Sec.

CEILING PRICES

INCREASES PERMITTED OR REDUCTIONS REQUIRED

AUTHORITY: Sections 1 to 22 issued under sec. 704, Pub. Law 774, 81st Cong. Interpret or apply Title IV, Pub. Law 774, 81st Cong., E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SCOPE OF REGULATION

SECTION 1. *Applicability of regulation.* (a) This regulation establishes

ceiling prices for all sales and deliveries of crude petroleum by producers, sellers, refiners, or by any other person except:

(1) When sold to a processor as gas enrichment oil;

(2) When sold to a consumer for a purpose other than the production of more than one petroleum fraction; or

(3) When sold to a tank wagon reseller by sellers, other than crude oil operators or royalty owners, for resale to a consumer for a purpose other than the production of more than one petroleum fraction therefrom.

(4) This regulation shall in all cases be applicable to sales of crude petroleum to a refiner or to a person using such crude petroleum in oil and gas field operations, notwithstanding that otherwise subparagraphs 1, 2 and 3 of this paragraph would provide an exception.

(5) Sales between corporations when one is a wholly owned subsidiary of the other, or when both are wholly owned subsidiaries of a third corporation, and sales between such other affiliated or controlled corporations as are especially excepted by order in writing of the Director of Price Stabilization or his duly authorized representative.

(6) Exchanges of crude petroleum between refiners or other petroleum sellers, providing such exchanges conform to customary practices of the industry during the base period. The Office of Price Stabilization will not grant any increases in the ceiling prices of crude oil or refined petroleum products where the requested revision in price is due to the price at which crude oil has been exchanged.

(b) Transactions excepted from the coverage of this regulation are also exempt from the provisions of the General Ceiling Price Regulation. However, certain products and transactions excepted from this regulation are covered by Ceiling Price Regulation No. 17, Gasolines, Naphthas, Fuel Oils and Liquefied Petroleum Gases.

(c) The provisions of this regulation are applicable to the United States, its territories and possessions and the District of Columbia.

SEC. 2. *Exports.* The ceiling price at which a person may export crude petroleum shall be determined by this regulation unless an export regulation shall be issued by this office, in which case ceiling prices for these sales shall be covered by such export regulation.

SEC. 3. *Imports.* [Reserved]

SEC. 4. *Transfers of business or stock in trade.* If the business, assets or stock in trade of any seller or any person are sold or otherwise transferred after January 25, 1951, the ceiling prices of the transferee shall be the same as those to which his tranferor would have been subject if no such transfer had taken place, and his obligation to keep records and make reports shall be the same. The transferor shall either preserve and make available, or turn over to the transferee records of all transactions prior to the transfer which are necessary to enable the transferee to comply with the records and reports provisions of this regulation and amendments thereto.

SEC. 5. *Adjustable pricing.* Any person may agree to buy or sell at a price which can be increased up to the maximum price in effect at the time of delivery. Where a petition for adjustment or amendment is pending the buyer and seller may agree that prices for deliveries made during the pendency of the petition shall be determined in accordance with the disposition of the petition.

SEC. 6. *Petitions for amendment.* Any person seeking an amendment of any provision of this regulation may file a petition for amendment in accordance with the provisions of Price Procedural Regulation No. 1.

SEC. 7. *Applications for adjustment—*(a) *Local shortages.* The Office of Price Stabilization may adjust by order any ceiling price established under this regulation for a seller or group of sellers or for a general area when it appears:

(1) That there exists or threatens to exist in a particular locality a shortage in the supply of crude petroleum which aids directly in the present defense program or is essential to a standard of living consistent with the maintenance of the defense program; and

(2) That such local shortage will be substantially reduced or eliminated by adjusting the ceiling prices of such seller and of like sellers for such products; and

(3) That such adjustment will not create or tend to create a shortage, or a need for increase in prices, in another locality, and will effectuate the purposes of the Defense Production Act of 1950.

(b) *Filing of Applications.* Application for adjustment for local shortage shall be filed with the Petroleum Branch of the Office of Price Stabilization, Washington 25, D. C.

SEC. 8. *Price revisions incident to orders establishing specific prices.* Notwithstanding the provisions of this regulation, the Director of Price Stabilization may by written order provide specific ceiling prices to replace ceilings established by this regulation.

SEC. 9. *Reporting and record-keeping requirements.*—(a) *Reporting.* Thirty days after the issuance of this regulation, every purchaser of crude petroleum shall file with the Director of Price Stabilization, Washington 25, D. C., a report listing the following information for each pool:

(1) Posted purchase prices in effect on January 25, 1951, and date said prices first became effective.

(2) Prices paid for purchases during the period December 9, 1950, to January 25, 1951, inclusive, at other than the purchaser's "posted purchase prices." This shall include:

(i) Prices paid for purchases where the purchaser did not post purchase prices for the production involved.

(ii) Prices paid for purchases in excess of purchaser's "posted purchase price." In this connection the information filed shall specify the production involved and if purchased under a contract the date of execution of such contract and the period of such contract.

(b) *Records.* (1) Each producer and purchaser of crude petroleum shall preserve and keep available for examination by the Office of Price Stabilization all records necessary to substantiate ceiling prices established under this regulation.

(2) Compliance with these record keeping provisions shall be deemed compliance with the record keeping requirements of the General Ceiling Price Regulation during the period when crude oil was covered by that regulation.

SEC. 10. *Prohibitions against selling or delivering crude petroleum at prices above the ceiling.* After the date of this order, regardless of any contract or other obligation, no person shall sell or deliver and no person shall buy or receive in the regular course of trade or business any crude petroleum at a price higher than the ceiling price established by this regulation.

SEC. 11. *Evasion.* The ceiling prices established by this regulation shall not be evaded whether by direct or indirect methods in connection with the purchase, sale, delivery or transfer of crude petroleum alone or in conjunction with any other materials, or by way of any commission, service, transportation, or other charge, or discount, premium or other privilege, or by tie-in-agreement or other trade understanding, or by a change in the quality of the product, or otherwise.

SEC. 12. *Enforcement.* Any person who violates any provision of this regulation is subject to the criminal penalties, civil enforcement actions, and suits for damage provided for by the Defense Production Act of 1950.

SEC. 13. *Definitions.* When used in this regulation the term:

(a) "Person" includes any individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing, and the United States or any other government or their political subdivisions or agencies.

(b) "Crude petroleum" is considered to be crude petroleum for the purpose of this regulation until put through a bona fide refinery process which results in the production of more than one petroleum fraction. Crude petroleum includes distillates and condensates from a well which moves as crude petroleum.

(c) "Posted purchase price" means a price schedule posted by a purchaser who, during the period December 9, 1950, to January 25, 1951, inclusive, actually purchased crude petroleum produced from any pool to which the posted price was applicable.

(d) "Pool" means any underground accumulation of crude petroleum or associated hydrocarbon substances constituting a single and separate reservoir or source of supply within a field, area, or horizon whether or not presently discovered or developed.

(e) "Producer" means an operator of an oil lease or royalty owner or any other seller of crude petroleum.

(f) "Receiving tank" means the tank of the producer of crude petroleum, sometimes called stock tank or shipping tank, in which the oil from one or more

wells is first gauged or measured for sale, delivery or storage.

(g) "Contract" means an agreement, the existence of which is established by written evidence.

CEILING PRICES

SEC. 14. *Posted purchase price.* The ceiling price at the receiving tank for crude petroleum from any given pool shall be the posted purchase price as of January 25, 1951, for such pool.

SEC. 15. *Two or more posted purchase prices.* Where there was for any pool more than one posted purchase price, the ceiling price at the receiving tank for crude petroleum from such pool shall be the highest of the posted purchase prices.

SEC. 16. *Contract in excess of posted purchase price.* Where a contract was in effect on January 25, 1951, and was made prior to December 9, 1950, for the purchase of crude petroleum at the receiving tank at a price in excess of the highest posted purchase price for the given pool and deliveries were made prior to January 25, 1951, such contracts may be carried out in accordance with the terms of the contract, notwithstanding any other provision of this regulation. On termination of the contract it may be extended by the buyer and seller on the same terms, and payments made by the buyer and received by the seller under such circumstances shall not be deemed in excess of ceiling prices notwithstanding any other provisions of this regulation.

SEC. 17. *Where no posted purchase price.* Where there was no posted purchase price for a pool but sales of crude petroleum were made by a producer from the pool, the ceiling price at the receiving tank shall be the highest price paid during the period December 9, 1950, to January 25, 1951, inclusive, at any receiving tank of that producer in the same pool for crude petroleum of the same quality. If, however, this price was paid pursuant to a contract which did not reflect current market conditions on January 25, 1951, the ceiling price shall be determined by the next pricing section (18).

SEC. 18. *Where no ceiling price.* (a) If the ceiling price for any sale of crude petroleum at the receiving tank cannot be determined under sections 14 through 17 of this regulation, the seller or purchaser shall set a tentative price for crude petroleum at the particular receiving tank or tanks which shall be in line with the ceiling prices of comparable crude patroleum in the same general area. Within 15 days after setting such tentative price the seller or purchaser shall file with the Petroleum Branch of the Office of Price Stabilization, Washington 25, D. C., a written request for approval of such tentative price. The person filing such request shall file in connection therewith a statement setting forth:

(1) Such tentative price.

(2) An explanation as to why it is impossible to determine his ceiling price under sections 14, 15, 16, or 17 of this regulation.

(3) A description of the available transportation facilities, and a description of the gravity, characteristics and source of the crude petroleum in question.

(b) Such tentative price shall be the ceiling price for crude petroleum produced from the same pool until a different ceiling price is set in writing by the Director of Price Stabilization. If a seller and purchaser have agreed upon a price for the sale of crude petroleum subject to the approval of the Director of Price Stabilization, a ceiling price determined in accordance with this Section 18 shall be effective retroactively to the effective date of this regulation, or the date of the agreement, whichever is later.

SEC. 19. *Sales at points other than receiving tank.* The ceiling price for any seller or purchaser of crude petroleum sold at a point other than the receiving tank shall be at no greater differential at such point over the ceiling price for such crude petroleum at the receiving tank than the highest differential that existed on January 25, 1951, between the price at the receiving tank and the price at such point. If, however, a contract in effect on January 25, 1951 established a differential for crude petroleum sold at a point other than the receiving tank which did not reflect current market conditions on or about January 25, 1951, the differential shall be subject to revision by order of the Director of Price Stabilization so that it will reflect current market conditions on or about January 25, 1951.

SEC. 20. *Where no differential at points other than receiving tanks.* (a) Where a ceiling price at a point other than at the receiving tank cannot be determined under section 19 of this regulation, the seller or purchaser shall establish a tentative differential based on differences in quality and transportation costs for a sale of crude petroleum at such point. Within 15 days after setting such tentative differential the seller shall file with the Director of Price Stabilization, Washington 25, D. C., a written request for approval for such tentative differential accompanied by a statement setting forth:

(1) Such tentative differential.

(2) An explanation as to why it is impossible to determine his ceiling prices at the particular point under section 19 of this regulation.

(3) The location of the source of the crude petroleum in question and of the particular delivery point, and

(4) An itemized statement of the costs involved in transporting the crude petroleum from the receiving tank to the particular delivery point and of any other items comprising the tentative differential.

(b) Such tentative differential shall be the seller's maximum differential for the particular sale and for all subsequent sales of crude petroleum from the same receiving tank delivered at that point until a different maximum differential is set in writing by the Director of Price Stabilization. If a seller and purchaser have agreed upon a price for a sale of crude petroleum at a point other than at the receiving tank subject to the approval of the Director of Price Stabilization, a maximum differential determined in accordance with this section 20 shall be effective retroactively to January 25, 1951, or the date of the agreement, whichever is later.

INCREASES PERMITTED OR REDUCTIONS REQUIRED

SEC. 21. *Taxes.* There may be added to the applicable ceiling prices determined under other sections of this regulation an amount not in excess of any tax increase, or new tax effective after January 25, 1951, imposed upon or incident to the production, severance, gathering, sale, transportation, delivery, processing, or use of crude petroleum, except import duties.

Effective date: This Ceiling Price Regulation shall become effective on May 12, 1951.

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

MICHAEL V. DISALLE,
Director of Price Stabilization.

MAY 7, 1951.

[F. R. Doc. 51-5414; Filed, May 7, 1951; 4:00 p. m.]

[Distribution Regulation 2, Amendment 1]

DR 2—ALLOCATION RECORDS

CHANGE IN EFFECTIVE DATES

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.) Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 5 (16 F. R. 1273), this Amendment 1 to Distribution Regulation 2 (16 F. R. 3772) is hereby issued.

Preamble. Since the issuance of Distribution Regulation 2, the Office of Price Stabilization has been advised that there is not now available a sufficient number of graders to grade and grade mark beef, veal, calf, lamb, yearling mutton and mutton which has left slaughtering establishments prior to May 7.

This amendment therefore extends the time for compliance with the grading and grade marking requirements of section 5. The regulation has been amended so as to change the effective dates of the record keeping requirements accordingly.

This amendment is also designed to make clear that the limitation on non-official graders contained in section 5 (g) applies to owners or operators of commercial freezer or cooler plants who grade and grade mark carcasses for Class 3 slaughterers.

Amendatory provisions. Distribution Regulation 2 is amended in the following respects:

1. Section 3 (a) is amended so as to add thereto immediately prior to section 3 (b) the following paragraph:

This requirement shall be effective on May 14, 1951, except with respect to un-

graded fabricated beef cuts and ungraded boneless beef cuts (as those cuts are defined in Ceiling Price Regulation 24) prepared prior to May 7, 1951.

2. Section 3 (b) is amended so as to add thereto immediately prior to section 3 (c) the following paragraph:

This requirement shall be effective for each accounting period commencing on or after May 20, 1951.

3. Section 5 (a) is amended to read as follows:

(a) *Requirement of grading.* Each carcass and wholesale cut of beef, veal, calf, lamb, yearling mutton and mutton must be graded and grade marked in accordance with the requirements of this section and the grade mark must be preserved on each such carcass and wholesale cut. This requirement applies to each veal or calf carcass with skin on and, upon removal of the skin, to each veal or calf carcass and wholesale cut derived therefrom. For the purposes of this section, ribbing shall not constitute breaking.

On and after May 7, 1951, you may not, if you are a Class 1, Class 1A, Class 2 or Class 2A slaughterer, ship or deliver from one of your slaughtering establishments any carcass or wholesale cut of beef, veal, calf, lamb, yearling mutton or mutton, and you may not, if you are such a slaughterer, break any such carcass or wholesale cut located in one of your slaughtering establishments, unless each such carcass and wholesale cut has been graded and grade marked in accordance with the requirements of this section and unless the grade mark has been preserved on each such carcass and wholesale cut.

On and after May 12, 1951, you may not sell, offer for sale, ship or deliver and you may not, unless you are a resident operator of a farm or a livestock raiser who has slaughtered livestock for home consumption in accordance with section 6 of Distribution Regulation 1, break, and you may not in the course of trade or business buy or receive any carcass or wholesale cut of beef, veal, calf, lamb, yearling mutton or mutton unless each such carcass and wholesale cut has been graded and grade marked in accordance with the requirements of this section and unless the grade mark has been preserved on each such carcass and wholesale cut. This requirement shall not apply until May 31, 1951, to fabricated beef cuts or boneless beef cuts (as those cuts are defined in Ceiling Price Regulation 24) prepared prior to May 7, 1951.

In addition, you may not agree, offer, attempt or solicit another to do any act in violation of this section.

4. Section 5 (g) is amended by adding at the end thereof the following sentence: "These limitations also apply to the owner or operator of a commercial freezer or cooler plant if he performs grading and grade marking of carcasses which you delivered to him in accordance with section 5 (d)."

5. Section 8 is amended to add at the end thereof the following paragraph:

(p) "Slaughtering establishment" means each separate plant within the 48 States of the United States or the District of Columbia where livestock is slaughtered.

Effective date. This amendment shall be effective May 7, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

MAY 4, 1951.

[F. R. Doc. 51-5370; Filed, May 4, 1951; 3:53 p. m.]

[GCPR, Interpretations 3-43]

INTERPRETATIONS UNDER GENERAL CEILING PRICE REGULATION

The following interpretations under the General Ceiling Price Regulation were issued through May 1, 1951.

GCPR, INT. 3—TYPICAL "SQUEEZE" SITUATIONS (SEC. 3)

(1) Seller issued a new price list of increased prices during the base period, but for one reason or another made it effective after January 25, 1951.

(2) Seller's costs had gone up, but for one reason or another he did not prior to January 26, raise his prices to reflect his increased costs.

(3) Seller, A, purchased a commodity from his supplier, X, early in the base period at $1 and resold it at $1.25. However, his supplier, X, made deliveries to other purchasers of the same class later in the base period at $1.25, which thus became supplier's ceiling price. Seller, therefore, now has to pay $1.25 for the commodity but his ceiling price for resale remains $1.25, the highest price at which he delivered the commodity during the base period.

(4) Seller had decided to raise his prices or did actually raise his prices during the base period, but because of commitments under a long-term contract all his deliveries during the base period continued at the old low price.

In all such "squeeze" situations, involving sellers who are still subject to the GCPR and whose problem is not solved by Amendment 5, the answer is that the seller's ceiling price is determined under section 3 as the highest price at which the commodity was delivered during the base period to a purchaser of the same class, regardless of any resulting hardship.

GCPR, INT. 4—DETERMINATION OF CEILING PRICE (SECS. 3-7)

In determining ceiling price under GCPR, section 3 must be used if applicable if not, then sec. 4 or 5; if these sections do not apply, then section 6; and if none of those sections are applicable seller must apply for establishment of a ceiling price under section 7. Each section must be exhausted in order, before a later section can be used.

GCPR, INT. 5—DETERMINATION OF CEILING PRICE (SECS. 3-6)

Ceiling prices under GCPR must be determined in strict compliance with sections 3, 4, 5 or 6, whichever is applicable. Catalog prices become ceiling price only where ceiling price as properly determined under applicable GCPR section happens to be same price which appears in catalog.

GCPR, INT. 6—SALES OUTSIDE UNITED STATES (SEC. 2)

Commodities which while en route from a foreign seller to a foreign purchaser are stored in a bonded warehouse without any customs entry for United States consumption are not considered as being within the continental limits of the United States and are, therefore, not subject to the GCPR, since under section 2 (a) the regulation is applicable only to the United States, its Territories and possessions and the District of Columbia.

GCPR, INT. 7—SALES NOT IN REGULAR COURSE OF BUSINESS (SEC. 2)

The prohibition in section 2 (c) against selling any commodity or service at a price exceeding the ceiling price established under the GCPR applies to all sales regardless of whether the sale is in the regular course of business or trade. The limiting phrase "in the regular course of business or trade" applies only to purchasers.

GCPR, INT. 8—CONTRACT PRICE (SEC. 3)

Under section 3, GCPR, the ceiling price for sale of a commodity is the highest price at which it was delivered during the base period, regardless of contract price. Where deliveries of the commodity were actually made during the base period at a low price, a higher contract price on subsequent sales may not be used as the ceiling price unless deliveries were actually made at such price.

GCPR, INT. 9—CONTRACT PRICE (SEC. 3)

Where deliveries were made under a contract containing an escalator clause, which permitted increases in price under stated conditions, the ceiling price of a seller under section 3, GCPR, remains the highest price at which he actually made deliveries during the base period, regardless of such escalator clause.

GCPR, INT. 10—OFFER FOR BASE PERIOD DELIVERY (SEC. 3)

Where a commodity was not delivered during the base period, a price list in effect during such period does not establish a ceiling price under section 3, if the seller could not possibly have made, and did not contemplate or intend to make deliveries pursuant to the price list before the expiration of the base period.

GCPR, INT. 11—CUSTOMARY PRICING METHODS (SEC. 3)

Under section 3 of the GCPR, except insofar as amended by Amendment 5, the ceiling price for the sale of any commodity is the highest price at which it was actually delivered during the base period, regardless of the method which the seller employed to arrive at such price. Ceiling prices under section 3 cannot be determined by applying the same pricing method which the seller used in the base period, or by adding to his present costs the same markup which he enjoyed during the base period. If the seller did not deliver the same commodity during the base period or offer it for base period delivery, and if he

cannot determine his ceiling price under sections 4, 5, or 6, he must apply for the establishment of a ceiling price under section 7. He cannot, under such circumstances, establish his ceiling price by simply adhering to his customary pricing methods.

GCPR, INT. 12—FAIR TRADED ITEMS (SEC. 3)

Where a seller's ceiling prices, as determined under section 3, GCPR, are in conflict with its minimum prices as set forth in a fair traded contract under a state fair trade law, the General Ceiling Price Regulation controls. Under section 402 (d) (1) of Defense Production Act of 1950 and section 2 (c) GCPR, ceiling price regulations control, regardless of any contract or other obligation. However, the OPS has provided for observance of fair trade items in cases governed by CPR 7, under the conditions set forth in section 43 of that regulation.

NOTE: Since the issuance of this interpretation, SR 19 to the GCPR was issued, effective April 21, 1951. SR 19 provides for ceiling prices of wholesalers and retailers to be adjusted in certain situations to minimum prices established under state Fair Trade Acts.

GCPR, INT. 13—DELIVERED PRICE (SEC. 3)

Where a seller notified his purchasers during the base period that his prices were being increased, but where the customers were not provided with information from which the exact prices in dollars and cents were ascertainable at the time the commodity was delivered or prior to the end of the base period, no delivery was made at an increased price during the base period within the meaning of section 3.

GCPR, INT. 14—DELIVERED PRICE (SEC. 3)

Where deliveries of a commodity are made during the base period with the understanding that the price is to be increased, but with the actual price being left to subsequent negotiation between the seller and the purchaser, no delivery has been made at a higher price within the meaning of section 3, GCPR.

GCPR, INT. 15—DELIVERED PRICE (SEC. 3)

A wholesaler or manufacturer during the base period sold a commodity at a "list" price less certain "promotional" discounts, with all sales of the commodity being made at the lower price and discounts being allowed regardless of the performance of any services by the purchaser to justify the discount. Such discounts, even though designated as "promotional", actually constitute a reduction in price and the lower price is the ceiling price under section 3.

GCPR, INT. 16—DELIVERED PRICE (SEC. 3)

Where selling price of a commodity was determined during base period under a formula such as cost plus a fixed fee or percentage, or by a percentage of proceeds from resale, the ceiling price of the same commodity under section 3 GCPR is still the highest price at which the base period delivery was made, regardless of the manner in which the base period price was arrived at or computed.

GCPR, INT. 17—DELIVERED PRICE (SEC. 3)

Where seller raised prices and delivered and invoiced at new high prices on or after December 19th, but prior to receiving payment seller notified such customers that price increases were cancelled and reinvoiced them at old low prices, there was no effective delivery at higher price and that price does not become his ceiling price.

GCPR, INT. 18—DELIVERED PRICE (SEC. 3)

The price paid after January 25th on a delivery made during the base period may establish a ceiling price if such price was agreed upon at time of delivery.

GCPR, INT. 19—SAME COMMODITY (SEC. 3)

In determining whether two commodities are the same commodity for the purpose of establishing a ceiling price under section 3, the following tests should be applied:

(a) Two commodities will be considered the "same" where there is a physical identity of the two items as to source, size, weight, physical outline, color, etc., so that any one examining them objectively and with a view to their source would have no doubt that they were identical.

(b) Where two commodities vary slightly in minute physical details and therefore do not meet the test set forth in paragraph (a) above, they may nevertheless, depending largely upon trade practice and customer acceptance, be considered the "same" for purposes of pricing under section 3 if all four of the following conditions are satisfied;

(1) All basic elements of the two commodities must be identical.

(2) Both commodities must be made from the same materials.

(3) Both commodities must be regarded as identical by the trade.

(4) In actual practice both commodities, when sold by the same seller, must have been invariably sold at the same price under the same conditions.

GCPR, INT. 20—CURRENT UNIT DIRECT COST (SEC. 4)

Under section 4 "current unit direct cost" for both the new commodity being priced and the comparison commodity is defined as the "total unit direct labor and direct material cost" for each. By "total unit direct labor and material cost" is meant the present replacement cost for labor and material, and not the actual out-of-pocket cost incurred on the commodity already on hand in the manufacturer's inventory. This applies to both the comparison commodity and the new commodity being priced. The percentage markup for the comparison commodity is therefore not necessarily the normal markup enjoyed on such commodity during the base period.

GCPR, INT. 21—NET INVOICE COST (SEC. 5)

"Net invoice cost" is defined in section 22 as excluding separately stated freight charges. Therefore the term "net invoice cost," as used in section 5 (a), does not include such charges and they may not be added to the ceiling price of a new commodity as determined under section 5. Inasmuch as such freight charges are likewise omitted in determining net invoice cost of the comparison commodity, thereby increasing the percentage markup determined for such comparison commodity, the inclusion of such freight charges in the net invoice cost of the new commodity would operate to include them twice.

GCPR, INT. 22—CUSTOMARY DIFFERENTIALS (SEC. 9)

If the seller's customary practice was to give a discount to new customers, he must, under section 9, maintain such discount to all new buyers in the future. However, a new buyer who received such a discount in the base period, need not be given such a discount in the future when he ceases to be a "new customer".

GCPR, INT. 23—CUSTOMARY DIFFERENTIAL (SEC. 9)

Service station which during the base period followed its usual practice of providing free parking to customers who have their automobiles lubricated at the station may not subsequently discontinue this free parking service for such customers, since under section 9, GCPR, customary extras must be continued.

GCPR, INT. 24—IMPORTERS (SEC. 10 (b))

GCPR is not applicable to purchases or sales made entirely outside the jurisdiction of the United States, its territories and possessions. However, the resale of such commodities after they are imported into the United States is subject to the GCPR. The importer's ceiling price for any such commodity, as determined under section 3, may not be adjusted to reflect any increases in the price charged by his foreign supplier, except to the extent permitted under section 10 (c).

GCPR, INT. 25—IMPORTER'S ADJUSTMENT FOR INCREASE IN LANDED COSTS (SEC. 10 (c))

Where an importer has adjusted his ceiling price under the limited adjustment provision of section 10 (c) (1), a seller purchasing from such importer cannot adjust his own ceiling price accordingly.

GCPR, INT. 26—IMPORTER'S ADJUSTMENT FOR INCREASE IN LANDED COSTS (SEC. 10 (c))

In the case of importers reselling an imported commodity in substantially the same form, if they do not qualify for an adjustment under the limited provision of section 10 (c) (1) there is no other provision under which they may offset increases in their landed costs.

GCPR, INT. 27—IMPORTER'S ADJUSTMENT FOR INCREASE IN LANDED COSTS (SEC. 10 (c))

Section 10 (c) (2) is only a reporting requirement for certain commodities as to which an adjustment is permitted under section 10 (c) (1). It does not in any way broaden the scope of section 10 (c) (1).

GCPR, INT. 28—IMPORTER'S ADJUSTMENT FOR INCREASE IN LANDED COSTS (SEC. 10 (c))

Even where section 10 (c) (1) does permit adjustment to effect increases in landed costs, such increased price may be used only in resale of items imported under the pre-January 26 contract. After such contract deliveries are completed, commodities subsequently imported go back to unadjusted ceiling price.

GCPR, INT. 29—IMPORTER'S ADJUSTMENT FOR INCREASE IN LANDED COSTS (SEC. 10 (c))

Section 10 (c) (1), permitting adjustment to offset an increase in landed costs on commodity delivered under contract dated prior to January 26, applies only to commodity whose ceiling price is established under section 3.

GCPR, INT. 30—PARITY ADJUSTMENTS (SEC. 11)

Where a distributor resells in substantially the same form a commodity, the cost of which has been increased by the processor or manufacturer under section 11 (b), and if the cost to the distributor of a current purchase of such commodity exceeds the highest price he paid for it during the base period, such distributor may increase his ceiling price under the parity adjustment provision of section 11 (c). The adjustment taken may equal the dollars and cents difference per unit between the highest price paid by such distributor for a customary purchase during the base period and the cost to him of the most recent customary purchase.

GCPR, INT. 31—PARITY ADJUSTMENTS (SEC. 11)

Where the ceiling price of a processor or distributor has been increased under section 11 (b) or (c) by use of the parity adjustment, such recomputed ceiling price is not limited to the commodity processed from the higher cost raw material, but is also thereafter applicable to existing inventories.

GCPR, INT. 32—PARITY ADJUSTMENTS (SEC. 11)

Where the processing of one of the listed agricultural commodities results in a number of co-products, the processor may increase his ceiling price for each of the co-products under the parity adjustment provision of section 11 (b). However, the increase in the cost of the agricultural commodity must be allocated to each of the co-products in the same manner as the cost of such agricultural commodity was customarily allocated to such co-products.

GCPR, INT. 33—PARITY ADJUSTMENTS (SEC. 11)

Where the ceiling price of a processor or distributor has been increased by the parity adjustment under section 11 (b) or (c), the ceiling price thus adjusted need not be lowered if a lower price is subsequently paid for the listed agricultural commodity or the commodity processed therefrom.

GCPR, INT. 34—PARITY ADJUSTMENTS (SEC. 11)

Where a commodity being priced is the end product of an operation in which one of the listed agricultural commodities is used or employed, such end product is considered as "processed" from the agricultural commodity and therefore within the scope of the parity adjustment provision in section 11 (b), without regard to precise or technical definitions of the word "process". For example, where a petroleum company makes various grades of foundry core oil by mixing or blending varying quantities of linseed oil (which is processed from flaxseed) with other petroleum products, that is considered "processing" within the meaning of section 11 (b).

GCPR, INT. 35—REAL PROPERTY (SEC. 14 (a))

A lease of pasture land is a rental of real property and therefore exempt from control under section 402 (e) (i) of the Defense Production Act of 1950 and section 14 (a) of the GCPR, which exempt prices or rentals for real property.

GCPR, INT. 36—REAL PROPERTY (SEC. 14 (a))

Owner of realty, A, grants exclusive license to coal operator, B, to mine, dig and carry away coal from certain described property, in return for agreed royalties. Such royalties are not a price or rental for real property, but are considered as the price for the sale of a commodity. Accordingly, they are not exempt from control under section 402 (e) (i) of the Defense Production Act of 1950 and section 14 (a) of the GCPR.

GCPR, INT. 37—PROFESSIONAL SERVICES (SEC. 14 (b))

Services performed by beauty shops and barber shops are not considered "professional services" and are therefore not exempt under section 14 (b), GCPR.

GCPR, INT. 38—FROZEN FOODS (SEC. 14 (s))

Frozen fish and frozen foods are not "fresh" foods within meaning of section 14 (s) (7) and (8) of the GCPR, and are therefore not exempt.

GCPR, INT. 39—RAW AGRICULTURAL COMMODITIES (SEC. 14 (s) (1))

Pasteurized, homogenized bottled milk is not exempt under section 14 (s) (1), GCPR, as amended by Amendment 1, since such milk is not in its raw or natural state, in which it is customarily sold by producers generally.

GCPR, INT. 40—TIE-IN SALES (SEC. 18)

Where a wholesaler compels a retailer to purchase a commodity he does not want in order to obtain a commodity he desires, such a practice falls within the purview of section 18, GCPR, and is prohibited, since the effect of such practice is to force the retailer to do something in addition to paying the ceiling price in order to obtain the commodity he wants.

GCPR, INT. 41—SELLER (SEC. 22)

Under the definition of "seller" in section 22 of the GCPR, where a seller makes sales through branch outlets or establishments, each such separate place of business is deemed to be a separate seller and must determine its own ceiling prices, regardless of whether such establishment is a wholesaler or a retailer, and regardless of whether or not the central office gave any discretion to such branch outlet in the fixing of prices. The original GCPR determines this result for retailers; Amendment 2 for other sellers. The only exception to this is the provision of section 12 as to retail sellers under common control.

GCPR, INT. 42—SELLER (SEC. 22)

A manufacturer delivered a certain commodity to ten different industrial users during the base period at different prices. The variation in price resulted from the fact that long-term contracts were involved, with the contract price being based upon the market situation at the time each contract was negotiated. If all such contracts had been negotiated on the same date, each of the purchasers would have received the same price, subject to the normal differentials based on the terms of sale. Under such circumstances, such purchasers are all considered as purchasers of the same class, as defined in section 22.

GCPR, INT. 43—SELLER (SEC. 22)

Where a wholesaler established different prices to retailers in different zones, on the basis of location, his retail customers in each zone are considered a different class of purchaser, since "class of purchaser" is defined in section 22, GCPR, as referring to the practice adopted by a seller in setting different prices for sales to purchasers located in different areas.

(Sec. 704, Pub. Law 774, 81st Cong.)

HAROLD LEVENTHAL,
Chief Counsel, Office of Price Stabilization.

MAY 4, 1951.

[F. R. Doc. 51-5403; Filed, May 7, 1951; 11:17 a. m.]

[General Ceiling Price Regulation, Supplementary Regulation 9, Revision 1]

GCPR, SR 9, REV. 1—EXEMPTION OF SALES AND DELIVERIES OF EXPORTED COMMODITIES UNDER EXISTING CONTRACTS

Pursuant to the Defense Production Act of 1950 (Public Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Supplementary Regulation 9, Revision 1 to the General Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

This Supplementary Regulation 9, Revision 1, regarding contracts for export sales entered into prior to January 26, 1951, extends to all exporters the authority to fulfill such contracts originally granted only to merchant exporters

by the original Supplementary Regulation 9. There are a number of considerations which indicate why contracts for export sales should be permitted to be fulfilled at the contract price. In the case of the merchant exporter there is an extra time lag between contract date and delivery in the case of exports, which does not obtain for purely domestic transactions due to the special packaging, shipping arrangements, license clearances, and other requirements. In addition, merchant exporters customarily operate at a smaller margin over invoice costs than do domestic distributors and wholesalers, thus, in many cases, merchant exporters find that the ceiling prices of their suppliers are higher than their own ceilings. Furthermore, merchant exporters, in some instances, have been required to make part payments for export sales, particularly with respect to special purpose equipment for use abroad and not readily salable here.

With respect to producer exporters, similar problems are involved. The producer exporter has, in many cases, committed himself to the manufacture or production of special commodities for export sale, the market for which is peculiar to one or several foreign countries. Unless the producer exporter is also allowed to fulfill contracts entered into prior to January 26, 1951, to the performance of which he is firmly committed, he, too, may well suffer substantial hardship. There are a number of considerations applying equally to merchant exporters and producer exporters which in a larger sense make desirable the honoring of export contracts. If exporters decline to ship on contracts because of the lower price required by the ceiling regulation, the purchasers abroad unfamiliar with the price impact of the regulations might believe there was an effort to avoid any supply of the article, all to the detriment of the Nation's foreign trade and reputation for honoring international contracts, and perhaps to foreign relations in a larger sense. Delay in delivery on existing contracts for export sales pending issuance of tailored regulations, may jeopardize the transactions due to the difficulties of renewing letters of credit and governmental licenses. Cancellation of export contracts would have an unfortunate impact, contrary to the over-all national interests.

REGULATORY PROVISIONS

Sec.
1. Applicability of revised supplementary regulation.
2. Execution of contract.
3. Commodities covered.
4. Preservation of records.
5. GCPR governs all other transactions.
6. Definitions.

AUTHORITY: Sections 1 to 6 issued under sec. 704, Pub. Law 774, 81st Cong. Interpret or apply Title IV, Pub. Law 774, 81st Cong., E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Supp.

SECTION 1. *Applicability of revised supplementary regulation.* This revised supplementary regulation grants authority to exporters to fulfill at the contract price those written contracts for the export sale of commodities remaining under the General Ceiling Price Regulation and not covered by specific "tailored regulations", which contracts (a) were entered into prior to January 26, 1951, or (b) entered into on or before February 2, 1951, and based on firm written offers made by such exporters prior to January 26, 1951.

SEC. 2. *Execution of contract.* If a written contract for an export sale (including exchange of written or cabled offers and acceptance) was entered into by a merchant exporter having an office or place of business in the United States, or by a producer exporter on or before January 26, 1951, or on or before February 2, 1951, but pursuant to a firm written offer for an export sale made by such merchant exporter or producer exporter on or before January 26, 1951, and such contract provides for delivery to a foreign buyer, such delivery may be made pursuant thereto at the contract price, provided that in the case of the merchant exporter the price paid by him in acquiring the commodity does not exceed the applicable ceiling price of his supplier, and provided that in the case of a producer exporter the price paid by him for the components of the exported product shall not exceed the ceiling price applicable to such components.

SEC. 3. *Commodities covered.* This revised supplementary regulation is limited in application to contracts for export sales of those commodities which remain under the General Ceiling Price Regulation and which are not otherwise covered by tailored regulations designed for particular industries.

SEC. 4. *Preservation of records.* All exporters making deliveries in accordance with this revised supplementary regulation shall preserve for examination by the Office of Price Stabilization, all documents and records which will substantiate that each such contract complied fully with the requirements as set forth in sections 2 and 3 of this regulation.

SEC. 5. *GCPR governs all other transactions.* Deliveries pursuant to this revised supplementary regulation shall not establish a ceiling price for any commodity or for any exporter, nor relieve any exporter from compliance with the General Ceiling Price Regulation or with any other regulation except as specifically set forth herein.

SEC. 6. *Definitions.* When used in this regulation, the term:

(a) "Merchant exporter" means any person, firm, corporation or other legal entity which purchases a commodity or commodities from a supplier, takes title to same and resells to a foreign buyer.

(b) "Producer exporter" means a manufacturer or prime producer of the commodity to be exported, or a wholly owned subsidiary corporation of the manufacturer or prime producer, which sells or delivers to a foreign buyer.

(c) "Export sale" is a sale to a person located outside the continental United States, its territories or possessions, by a seller who invoices it and who directly or through the seller's or the buyer's agent effects delivery to a carrier for transportation from the continental United States, its territories or possessions, to a point outside thereof, regardless of whether the invoicing is done within or outside the continental United States, its territories or possessions, by the seller or his agent.

(d) "Exporter" means merchant exporter and/or producer exporter.

(e) "Firm offer" means an offer which states price and quantity and the acceptance of which is not subject to confirmation by the offeror before he becomes bound.

All definitions used in the General Ceiling Price Regulation issued by the Director on January 26, 1951, which are pertinent to this revised supplementary regulation, are incorporated in this revised supplementary regulation by this reference, except those which are more particularly defined and used herein.

Effective date: This revised supplementary regulation to the General Ceiling Price Regulation is effective May 12, 1951.

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

MICHAEL V. DISALLE,
Director of Price Stabilization.

MAY 7, 1951.

[F. R. Doc. 51-5413; Filed, May 7, 1951; 11:21 a. m.]

[General Ceiling Price Regulation, Amendment 2 to Supplementary Regulation 15]

GCPR, SR 15—EXCEPTIONS FOR CERTAIN SERVICES

SERVICES IN CONNECTION WITH FRESH FRUITS, VEGETABLES, BERRIES AND TREE NUTS

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this amendment to Supplementary Regulation 15 (16 F. R. 2908), is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment 2 to Supplementary Regulation 15 suspends control over the rates, charges and compensation for services performed in connection with harvesting, preparing for market and marketing of fresh fruits, vegetables, berries and tree nuts pending formulation of regulations applicable to all phases of marketing these commodities.

These commodities in general are selling below effective legal minimum prices. Fresh fruits, vegetables, berries and tree nuts were exempted from price control under the provision of section 14 (s) (7) of the General Ceiling Price Regulation. However, services performed on a fee or compensation basis in harvesting, packing and marketing of these commodities are subject to price control under the provisions of section 3 of that regulation. The same services when performed by the owner or by any person who takes title to these fresh commodities are not subject to price control as they are merely a part of the operations of marketing the commodities which are exempt from price control. This situation, if allowed to continue, threatens to

disrupt the normal distribution of these commodities and to enhance marketing costs. Inequities have already resulted. There are also administrative problems hereinafter mentioned. These reasons induce the Director of Stabilization to believe that these services should be suspended from control until such time as it is found feasible to impose ceiling prices on the commodities themselves. At that time, consideration will be given to fixing ceiling prices for the services which are being suspended from price control at this time.

Due to increases in cost of labor and in packing and packaging materials since the previous marketing season, custom packers are put at a competitive disadvantage with cooperative packing and marketing organizations and with commercial packers who purchase these commodities for packing. Custom packers compete in the same areas with packers and handlers who are not now subject to price control for the reason that services are considered a cost of operation rather than a charge, inasmuch as ownership of the commodities does not pass from the producer or grower. Faced with these increases in cost of operation, the custom or commission operator, both at the shipping point and at the terminal market, is threatened with such an unprofitable position that he will be disinclined to render services in packing, packaging and preparing these commodities for market on a fee basis. Furthermore, he will be able to decline this method of operation in favor of buying the grower's products for his own account. In this way many growers would be left with no packing and marketing facilities, and would be forced to sell their products to the operator performing the services. Thus a major change in their customary manner of doing business would result.

Many marketing agencies, at all stages of the marketing process, conduct part of their business on a fee basis for the account of growers or other dealers; in the same enterprise, part of the business is done for the marketing agency's own account and with products to which it has acquired title. The latter part of the agency's business is now exempted from price control; the former part remains controlled. The same disruption of normal trade patterns and the same adverse impact upon growers are implicit in this situation. Handlers normally operating partly for their own account and partly for the account of growers will almost certainly abandon the latter form of operation. Growers will thus be denied a traditional method of marketing established over many decades. Maintenance of alternative and competing channels of marketing in these industries has always served as protection to growers and as an influence restraining increases in marketing costs.

The fact that most of the fresh fruits, vegetables and berries—which will be moving into marketing channels within the next few weeks—were not being marketed during the December 19, 1950, to January 25, 1951, base period set by the GCPR presents many administrative problems. Most agencies performing such customs services would have to resort to the provisions of section 7 to determine their ceilings. A heavy burden would thus be put upon the Office of Price Stabilization in establishing individual ceilings pursuant to this provision of the regulation.

In summary, this suspension of regulation over rates for custom or commission marketing services is temporary. General regulations governing all fresh fruits and vegetables and tree nuts cannot be promulgated prior to commencement of the 1951 shipping season. In the meantime, maintenance of regulation over custom and commission charges with no regulation over costs for the same services performed by commercial operators acquiring title would divert marketing to the latter type of enterprise. Traditional channels of sale would be closed. Competition would be lessened. The growers' right to market on their own account would be threatened. Since diversion is so easy, marketing costs in uncontrolled channels would probably rise as competition decreased. Secondly, the GCPR base period is entirely inappropriate for these operations. To the extent that business was not shifted from traditional custom and commission channels, individual applications for ceiling price determination would be necesitated. Thirdly, there is an inherent invitation to evasion where one or a few channels are controlled and others remain free of any restriction.

The services which are suspended from price control by this amendment include harvesting; packing and prepackaging (including such services as washing, trimming, grading, sizing, and so forth); car and truck pre-cooling and top icing (excepting services performed under general transportation tariff rates); and buying and selling services (performed generally for growers' accounts by country and carlot shippers, country and terminal brokers, auction sales companies and commission merchants).

Persons who perform any of the services covered by this amendment are, however, required to keep the records provided for by section 16 (b) of the GCPR. In the judgment of the Director of Price Stabilization, this suspension from price control will effectuate the purposes of the Defense Production Act of 1950.

AMENDATORY PROVISION

Section 2 (a) of Supplementary Regulation 15 to the General Ceiling Price Regulation is hereby amended by adding subparagraph (3), as follows:

(3) *Services in connection with fresh fruits, vegetables, berries and tree nuts.* The provisions of the General Ceiling Price Regulation shall not apply to rates, fees, and charges for services performed in connection with harvesting; car and truck pre-cooling and top-icing; packing and pre-packaging; and buying and selling of fresh fruits, vegetables, berries and tree nuts pending formulation of regulations applicable generally to fresh fruits, vegetables, berries and tree nuts, but in no event to exceed a period of six (6) months from the effective date of this amendment: *Provided however,* That during the period of this suspension, persons performing these services shall maintain the current records required to be maintained by section 16 (b) of the General Ceiling Price Regulation.

(Sec. 704, Pub. Law 774, 81st Cong.)

Effective date. This Amendment 2 to Supplementary Regulation 15 to the General Ceiling Price Regulation shall become effective May 4, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

MAY 4, 1951.

[F. R. Doc. 51-5360; Filed, May 4, 1951; 12:10 p. m.]

Chapter VI—National Production Authority, Department of Commerce

[NPA Order M-4, as Amended May 3, 1951]

M-4—CONSTRUCTION

This order as amended is found necessary and appropriate to promote the national defense, and is issued pursuant to authority granted by section 101 of the Defense Production Act of 1950. In the formulation of this order, there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations.

This amendment affects NPA Order M-4 as amended April 16, 1951, as follows: It deletes the second sentence of section 1; it substitutes a new paragraph (c) to section 3; it deletes paragraph (h) of section 3 and reletters the following paragraphs of section 3 accordingly; it substitutes a new paragraph (b) of section 4; it substitutes new paragraphs (b), (c), and (e) of section 5, and deletes paragraphs (f) and (g) of section 5; it deletes the item "Outdoor advertising sign" from section 16 (list B) and adds it to section 15 (list A); and it adds a new section 17 (list C). It also makes other minor changes.

As amended, NPA Order M-4 reads as follows:

Sec.
1. What this order does.
2. Policy of the National Production Authority.
3. Definitions.
4. Prohibited construction.
5. Exemptions.
6. Authorization for certain construction.
7. Multiple use of buildings, structures or projects.
8. Scope of this order.
9. Prohibited deliveries.
10. Defense against claims for damages.
11. Applications for adjustment or exception.
12. Communications.
13. Reports.
14. Violations.
15. List A—Prohibited construction.
16. List B—Construction where NPA authorization is required.
17. List C—Additional construction where NPA authorization is required.

AUTHORITY: Sections 1 to 17 issued under sec. 704, Pub. Law 774, 81st Cong. Interpret or apply sec. 101, Pub. Law 774, 81st Cong.; 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.

SECTION 1. *What this order does.* In order to further the purposes of the Defense Production Act of 1950 by conserving critical materials and services needed for the defense program, this order prohibits the commencement of construction of certain types of buildings, structures and projects unless specific exception is made, or authorization issued, by the National Production Authority. The order allows, within specified limits, small construction jobs, and necessary maintenance and repair of buildings, structures or projects, and also permits, under specified circumstances, the restoration of buildings, structures, or projects in the event of a disaster, act of God, or an act of war.

SEC. 2. *Policy of the National Production Authority.* In the event that increasing shortages clearly indicate the necessity for such action, in the national interest, the National Production Authority may further limit the commencement of construction of additional types of buildings, structures or projects which do not support the defense effort, or increase the Nation's production capacity for defense.

SEC. 3. *Definitions.* For the purpose of this order:

(a) "Person" means any individual, corporation, partnership, association, or any other organized group of persons, and includes any agency of the United States or any other government.

(b) "Construction" means the erection of any building, structure, or project, or addition or extension thereto, or alteration thereof, through the incorporation-in-place on the site of materials which are to be an integral and permanent part of the building, structure or project.

(c) "Commence construction" means substantial site clearance (including demolition of buildings or structures), preliminary to the start of or incident to the work on a new building, structure, or project; or to incorporate into a building, structure, or project, substantial quantities of materials which are to be an integral and permanent part of such building, structure, or project.

(d) "Construction cost" means the total expense for demolition of existing structures in connection with a new construction, for site preparation, and for building materials, building equipment, labor and services used in the construction of the particular building, structure, or project, by whomever spent. It does not include the cost of personal property, or the expense for land acquisition, attorneys, architects, and financing.

(e) "Consumer goods" means articles or commodities that directly satisfy human wants or desires, and which are capable of use without further processing (for example, clothing, food, furniture, floor covering, household appliances, motor vehicles, etc.). They are distinguished from capital goods (for example, dynamos, industrial ovens, generators, etc.). They are distinguished also from production goods that satisfy wants only indirectly as factors in the production of other articles or commodities (for example, machine tools, heavy duty presses, etc.).

(f) "Damage restoration" means restoring to substantially the same size and condition on the same site, any building, structure or project which has been damaged by storm, fire, flood, or other disaster, or by act of God, or act of war.

(g) "Maintenance and repair" means such work as is necessary to keep a building, structure, or project in sound working condition or to rehabilitate a building, structure, or project or any portion thereof, when the same has been rendered unsafe or unfit for service by wear and tear, or other similar causes. The term does not include any building operation or job where substantial structural alterations or changes in design are made.

(h) "Office building" means any building the principal use of which is to provide office space or office facilities, regardless of whether it is designed for the exclusive or partial use of its owner or is to be used commercially and rented to prospective tenants, including buildings for use by government agencies. The size of the building is not a determinative factor in deciding whether a building is an office building as the term includes both one-story and multi-storied structures; but the term does not include a private residence with incidental office space located therein for the use of the occupant.

(i) "Hotel" means either or both an establishment furnishing sleeping accommodations for transient guests, or an establishment classified as a hotel under applicable State, municipal, or other local law.

SEC. 4. *Prohibited construction.* (a) (1) Except as permitted in section 5 of this order, or pursuant to an adjustment or exception granted under section 11 of this order, after midnight October 26, 1950, no person shall commence construction of any building, structure, or project to be used for, or in connection with, any of the purposes specified, as set forth in section 15 of this order.

(2) Since October 26, 1950, the National Production Authority has issued exceptions to permit the commencement of construction of specific buildings, structures, or projects of the type prohibited by section 15 of this order. All such exceptions granted prior to January 13, 1951, will cease to be effective 120 days after the date of issuance, unless construction has been commenced within that time; and construction of any such building, structure, or project may not be commenced thereafter without a further authorization from the National Production Authority.

(b) (1) After midnight, January 13, 1951, with respect to construction specified in section 16 (list B), and after midnight, May 3, 1951, with respect to construction specified in section 17 (list C), no person shall commence construction of any building, structure, or project to be used for, or in connection with, any of the purposes specified, as set forth in section 16 (list B) or section 17 (list C), until a specific authorization therefor has been issued by the National Production Authority. The conditions which must exist before an authorization will be issued are set forth in section 6.

(2) In matters involving unreasonable hardship, or when required in the interest of the national defense, the National Production Authority may grant an exception from this order, pursuant to section 11, with respect to types of construction specified in section 16 (list B) and section 17 (list C).

SEC. 5. *Exemptions.* The following construction in connection with the buildings, structures, or projects to be used in connection with any of the purposes specified in sections 15, 16, and 17 of this order is exempted from this order:

(a) Maintenance and repair on any building, structure, or project.

(b) Small jobs of new construction or in connection with any such building, structure, or project including, but not limited to, alterations, additions, improvements, and modernization, where the cost of all such work shall not exceed:

(1) In the case of interior alterations, additions, improvements, or modernization of hotels, store space of department stores, office buildings, and loft buildings, 25 cents per square foot of occupied space for any consecutive 12-month period. (In computing this cost, both construction cost and all other expenses or charges incident to the work shall be taken into consideration.)

(2) In the case of any type of construction of all other buildings, structures, or projects specified in section 15 (list A), section 16 (list B), and section 17 (list C), $5,000 for any consecutive 12-month period. (In computing this cost, only construction cost shall be considered.)

(c) Reconstruction of any such building, structure, or project following a fire, flood, storm, disaster, act of God, or act of war, which occurred on or after July 29, 1950: *Provided, however,* That the reconstruction work will not require the use of more than a total quantity of 25 tons of steel, both in the forms and shapes as defined in NPA Order M–1 and also reinforcing steel.

(d) Construction by, or for the account of, the Department of Defense, the Atomic Energy Commission, or the National Advisory Committee for Aeronautics.

(e) Installation of personal property, fixtures or equipment where the total cost incurred for installation in any consecutive 12-month period does not exceed $2,000.

SEC. 6. *Authorization for certain construction.* (a) Any person desiring to erect a building, structure, or project to be used for, or in connection with, any of the purposes specified, as set forth in section 16 or section 17 of this order, may apply for a National Production Authority authorization to commence such construction. The application shall be made on NPA Form NPAF–24, copies of which are available at all field offices of the Department of Commerce, and should be addressed to the field office of the Department of Commerce in the region of the site of the proposed construction.

(b) Authorization under this section will be granted if the National Pro-

duction Authority is satisfied that the desired construction conforms to the following requirements:

(1) It furthers the defense effort by providing facilities of the type specified in section 16 of this order in areas adjacent to military establishments or defense plants and projects, which construction the National Production Authority considers necessary to furnish or to supplement facilities in connection with the activities of the Defense Production Administration, the Department of Defense or the Atomic Energy Commission, including their programs for increasing production capacity; or

(2) It is essential to maintenance of public health, safety or welfare.

(c) Further, with respect to an application for authorization to construct a facility not directly related to the defense effort, the NPA will consider the type and quantity of materials on hand, and needed, for the facility, and the effect on the community at large if the authorization were denied.

SEC. 7. *Multiple use buildings, structures, or projects.* Where a building, structure, or project to be constructed is designed for a number of different uses and occupants, no portion thereof shall be constructed for use or occupancy in connection with any of the purposes specified in sections 15, 16, or 17 of this order where the construction cost apportionable to such use or occupancy will exceed the small job exemption provided for in section 5 (b) of this order.

SEC. 8. *Scope of this order.* This order shall apply to construction in the 48 States, the District of Columbia, and in the territories and insular possessions of the United States.

SEC. 9. *Prohibited deliveries.* No person shall accept an order for, sell, deliver, or cause to be delivered, material, equipment, or supplies which he knows, or has reason to believe, will be used in violation of the provisions of this order.

SEC. 10. *Defense against claims for damages.* No person shall be held liable for damages or penalties for any default under contract or order which shall result directly or indirectly from compliance with any regulation or order of the National Production Authority (including any direction, directive or other instruction), notwithstanding that any such regulation or order shall thereafter be declared by a judicial or other competent authority to be invalid.

SEC. 11. *Applications for adjustment or exception.* Any person affected by any provision of this order may file a request for adjustment or exception upon the ground that:

(a) Such provision works an unreasonable hardship upon him not suffered generally by others in the same trade, industry, or other relative position; or that enforcement of such provision against him would not be in the interest of the national defense. In determining whether unreasonable hardship exists, the National Production Authority will consider, among other things:

(1) The extent of the work done by the applicant incident to the proposed construction.

(2) Whether the building, structure, or project requires reconstruction as a result of a fire, flood, storm, disaster, act of God, or act of war.

(3) Whether a building, structure, or project of the applicant has been seized by legal action under eminent domain, or condemned by responsible governmental authorities; and the applicant requests permission to replace such facility.

(b) Each request shall be made on NPA Form NPAF-24, copies of which are available at all field offices of the Department of Commerce, and should be addressed to the field office of the Department of Commerce in the region of the site of the proposed construction.

SEC. 12. *Communications.* All communications concerning this order shall be addressed to the Field Offices of the Department of Commerce, Ref: NPA, M-4.

SEC. 13. *Reports.* Persons subject to this order shall make such records and submit such reports to the National Production Authority as it shall require, subject to the terms of the Federal Reports Act (5 U. S. C. 139-139F).

SEC. 14. *Violations.* Any person who wilfully violates any provisions of this order, or any other order or regulation of the National Production Authority, or who wilfully conceals a material fact, or furnishes false information in the course of operation under this order, is guilty of a crime, and upon conviction, may be punished by fine or imprisonment or both. In addition, administrative action may be taken against such person to suspend any authority to commence or complete construction or such other assistance as may be rendered pursuant to this order.

SEC. 15. *List A—Prohibited contruction.*

Outdoor advertising sign.

All buildings, structures, or projects to be used for, or in connection with, any recreational, amusement, or entertainment purpose, whether public or private (unless authorized pursuant to section 6 of this order), including, but not limited to:

Amphitheater.
Amusement arcade.
Amusement device built into place on the site such as a roller coaster, merry-go-round, or similar device or kind. This shall not include demountable or portable equipment.
Amusement park.
Arena.
Assembly hall used primarily for recreation or amusement.
Athletic field house.
Band stand.
Bars and buildings or structures where the predominant business carried out therein or in connection therewith shall be the sale for consumption on the premises of alcoholic liquors.
Baseball park.
Bath house.
Billiard or pool parlor.
Bleachers and similar seating arrangements when they are built in place as a permanent part of the building, structure or project.
Boardwalk used primarily for recreation or amusement.
Boat or canoe club.
Bowling alley establishment.
Cabana.
Camp (except for public or social welfare).
Carnival.
Club building except for social welfare purposes.
Country club.
Dance hall.
Dance studio.
Dude ranch used primarily for recreation or amusement.
Exposition or exhibition building or structure for recreational, amusement or entertainment displays or purposes.
Flood lighting (including piers, poles, towers, framework or foundation with fixed equipment) in connection with any recreational, amusement, or entertainment purpose.
Gambling establishment.
Golf course.
Golf club.
Golf driving range.
Grandstand.
Gymnasium (except where it is a part of an educational institution and is to be used primarily for instructional purposes in physical education and training).
Lodge hall.
Music shell.
Night club.
Pier used primarily for recreation or amusement.
Race track, any kind.
Riding academy.
Rodeo.
Shooting gallery.
Skating rink.
Ski lodge.
Slot machine establishment.
Stadium.
Swimming pool.
Theater, any kind (including drive-in theater).
Yacht basin or marine railway primarily for the use of pleasure craft.

SEC. 16. *List B—Construction where NPA authorization is required.* Any building, structure or project to be used for, or in connection with, any of the following specified purposes:

Bank, credit institution, or brokerage establishment.
Community or neighborhood building.
Furnishing of personal services (e. g., barber shop, beauty shop, undertaking and mortuary establishment, cemetery building, mausoleum, crematory, garage, service station, shoe repair shop, laundry, dry cleaning establishment, tailor shop).
Hotel, motel, motor court, tourist camp, trailer camp.
Loft building.
Office building.
Printing or duplicating establishment.
Restaurant.
Storage, distribution, display or sale of consumer goods (for example, retail store, shopping center, wholesale establishment, gasoline filling station, drugstore, soda fountain, florist shop, greenhouse), except wholesale food establishment, wholesale supply facility for fuel oil, gasoline or coal, gas distribution system, pipeline.
Storage warehouse for personal effects.
Tobacco auction warehouse.

SEC. 17. *List C—Additional construction where NPA authorization is required.*

Multiunit residential building in excess of three stories and basement.

Residential unit for single-family occupancy where the construction cost exceeds $35,000.

Building, structure, or project for radio broadcasting or television broadcasting.

Terminal warehouse.

Any and all other public or private buildings, structures, or projects of a type not listed above in this list C, and not listed in list A or in list B, of every kind (including but not limited to an industrial plant, facility or factory), which will require the use of more than a total quantity of 25 tons of steel, both in the forms and shapes as defined in NPA Order M-1 and also reinforcing steel.

(Sec. 704, Pub. Law 774, 81st Cong.)

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

This order, as amended, shall take effect at midnight, May 3, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-5375; Filed, May 4, 1951; 4:46 p. m.]

[NPA Order M-26, Interpretation 1]

M-26—PACKAGING CLOSURES

INTERPRETATION 1

SECTION 1. Section 4 of NPA Order M-26, as amended April 6, 1951, establishes a limitation on a packer's permitted inventory of packaging closures, and provides that the receipt or the acceptance of delivery of packaging closures must conform to such limitation.

SEC. 2. Questions have arisen with respect to the method of determining inventory and with respect to the necessity for a packer's adjusting an order for closures which have already been put into production.

SEC. 3. To answer such questions, this interpretation respecting the intent and effect of section 4 of NPA Order M-26 is issued pursuant to authority granted by the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.).

(a) In figuring his inventory of packaging closures, a packer must include all such closures in his possession or held for his account by others. A closure is considered to be in inventory until actually used in packaging by being applied or affixed to a container.

(b) A "75-day supply" means that quantity of packaging closures which a packer schedules for use during a period of 75 consecutive calendar days.

(c) The limitation as to a 75-day supply is to be applied on an item by item basis; thus, a packer is permitted to maintain a "75-day supply" of each size and type of packaging closure which he uses for packaging.

(d) The provisions of section 4 of NPA Order M-26 requiring the adjustment of outstanding orders for packaging closures apply only when the closures covered by an outstanding order had not been produced or were not in process of production prior to April 6, 1951. Accordingly, in any case in which the packaging closures covered by a packer's outstanding order had been produced or were in process of production prior to April 6, 1951, the packer is not warranted under the provisions of section 4 of NPA Order M-26 in refusing to accept delivery. Such closures so produced or in process of production are to be included in the packer's inventory, irrespective of his then inventory position, but the packer shall so schedule the deliveries under subsequent orders for packaging closures that his inventory will conform, at the earliest practicable date, to the requirements of section 4 of NPA Order M-26. Any adjustment of an outstanding order made between a packer and his supplier prior to the issuance of this interpretation of section 4 of NPA Order M-26 shall, if at variance with this interpretation, be further adjusted in conformity herewith.

(e) Nothing in this interpretation is intended or shall be construed in any way to relieve a packer from the restrictions on the use of aluminum packaging closures imposed by section 3 (b) of NPA Order M-26. A packer whose use of aluminum packaging closures is thus restricted may, subject to the provisions of section 3 (a) of NPA Order M-26, use packaging closures made of tin plate to maintain his scheduled method and rate of operation; his supply of packaging closures made of tin plate and of packaging closures made of aluminum shall, for inventory purposes, be considered as separate items in accordance with paragraph (c) of this interpretation.

(Sec. 704, Pub. Law 774, 81st Cong. Interpret or apply sec. 101, Pub. Law 774, 81st Cong., 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)

Issued this 4th day of May 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-5376; Filed, May 4, 1951; 4:46 p. m.]

[NPA Order M-47, amendment of May 4, 1951]

M-47—USE OF IRON AND STEEL

This amendment to NPA Order M-47, as amended April 24, 1951, is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950. In the formulation of this amendment, there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations.

This amendment affects NPA Order M-47, as amended April 24, 1951, as follows:

[Paragraph (b) of section 5 is hereby redesignated paragraph (c) of that section.]

[A new paragraph (b) is hereby added to section 5, providing as follows:]

(b) Notwithstanding the provisions of paragraph (a) of this section, subject to the exemptions stated in section 6 of this order and unless specifically authorized in writing by the National Production Authority, no person shall use during the month of June 1951 in the manufacture of item 1 of group VII of list A attached hereto, a total quantity by weight of iron and steel products in excess of 25 percent of his average quarterly use of such materials in said manufactured item during the base period. However, if such person manufactured one or more units of a part made wholly or partly from iron or steel products during the base period, and uses one or more purchased units of that part during said month in said item 1 of group VII, he shall include the weight of the iron and steel products used in the manufacture of each such part, whether by himself or another, in computing his use of iron and steel products during the base period and during said month. During said month any person who does not use any iron and steel product in the manufacture of said item, but who assembles parts made wholly or partly from such material into said item, shall not assemble a total number of units of said item in excess of 12½ percent of the number of such units which he assembled during the base period.

This amendment shall take effect on May 4, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-5377; Filed, May 4, 1951; 4:46 p. m.]

Chapter XVII—Housing and Home Finance Agency

[CR 3, Appendix 1]

CR 3—RELAXATION OF RESIDENTIAL CREDIT CONTROLS; REGULATION GOVERNING PROCESSING AND APPROVAL OF EXCEPTIONS AND TERMS FOR CRITICAL DEFENSE HOUSING AREAS

APP. 1—CRITICAL DEFENSE HOUSING AREAS

Appendix 1 to CR 3, Relaxation of Residential Credit Controls: Regulation Governing Processing and Approval of Exceptions and Terms for Critical Defense Housing Areas, originally issued at 16 F. R. 3838 (May 2, 1951) is hereby amended to read as follows:

APPENDIX 1—CRITICAL DEFENSE HOUSING AREAS [1]

Critical defense housing area and State:	*Date designated*
1. San Diego, Calif.	May 2, 1951
2. Corona, Calif.	May 8, 1951
3. Colorado Springs, Colo.	May 8, 1951

RAYMOND M. FOLEY,
Housing and Home Finance Administrator.

[F. R. Doc. 51-5383; Filed, May 7, 1951; 8:55 a. m.]

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[1] These areas are in addition to three areas of Atomic Energy Commission installations in which exceptions from residential credit restrictions are issued pursuant to CR 2 of the Housing and Home Finance Agency.

Chapter XVIII — National Shipping Authority, Maritime Administration, Department of Commerce

[NSA Order 5 (DRO–1)]

DRO–1—Rates on Grain in Bulk Between United States Ports and the Ports of India

Sec.
1. What this order does.
2. Freight rates and charter terms and conditions required under "Warshipvoy" form of charter as revised August 15, 1944.

Authority: Sections 1 and 2 issued under sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114.

Section 1. *What this order does.* This order authorizes freight rates and charter terms and conditions for the transportation of full cargoes of Grain in bulk under "Warshipvoy" form of charter as revised August 15, 1944, in vessels operated for account of the National Shipping Authority, from one Atlantic, Gulf or Pacific Coast port of the United States to a port of discharge in India, effective on vessels commencing to load on and after March 13, 1951.

Sec. 2. *Freight rates and charter terms and conditions required under "Warshipvoy" form of charter as revised August 15, 1944.*

Heavy Grain in Bulk, i. e., Wheat, Corn or Rye

[All rates in United States currency per ton of 2,240 pounds]

From—	To—	
	West coast India ports	East coast India ports
United States Atlantic ports	$21.50	$23.50
United States Gulf ports	23.00	25.00
United States Pacific ports	22.00	20.50

On cargoes of Light Grains (i. e. Barley, Millet, and Linseed), in bulk, excluding Oats, a 10 percent differential shall be added to the above rates.

Note: Foregoing rates apply to cargoes loaded at one port and discharged at one port; for more than one port of loading or discharge, within the same general area or range, add fifty cents (50 cents) United States currency per ton for each additional port to the highest applicable rate, the total rate thus formed to apply on the entire cargo. Cargoes for more than one port of loading or discharge shall be subject to negotiation and mutual agreement between the owners and charterers.

The following clauses are to be inserted in Paragraphs E, F, G, H, and I of Part I of warshipvoy:

E. *Freight rate.* (Insert applicable rate in United States currency per ton of 2,240 pounds as above set forth.)

Freight fully prepaid in the United States on bill-of-lading quantity and to be considered due and payable and earned on the cargo as taken aboard, vessel and/or cargo lost or not lost.

Demurrage. Charterers to pay demurrage for each and every day, or pro rata for part of a day, for all time used in loading or discharging in excess of allowed laytime. The demurrage rate, per day, shall be Fifteen Hundred Dollars ($1,500) for Liberty type vessels and Eighteen Hundred Dollars ($1,800) for Victory type vessels.

Despatch. No despatch payable at loading port. Despatch if earned at discharging port will be payable at the rate of one-half (½) of the demurrage rate per day, or pro rata for part of a day, for all laytime saved in discharging.

F. *Stevedoring.* Loading and trimming to be for the vessel's account. Discharging expenses to be for the charterer's account.

G. *Loading time.* A maximum of five (5) days, Sundays and holidays excepted unless used, shall be allowed for loading. Time lost in loading due to weather preventing loading shall not count as laytime.

H. *Discharging time.* Cargo shall be discharged at the rate of 750 tons of 2,240 pounds per day, Sundays and holidays excepted unless used. Time lost in discharging due to weather preventing discharge shall not count as laytime.

I. *Special provisions.* 1. Laydays not reversible.

2. Any bags and/or bagging required for safe stowage to be for vessel's account.

3. *General average clause.* The adjustment and settlement of general average claims, pursuant to Clause 21, Part II shall be governed by the York-Antwerp Rules of 1950, exclusive of Rule 22.

4. Wherever the words "United States Maritime Commission" appear in Part II hereof, same shall be understood to mean "National Shipping Authority".

5. This contract is subject to the approval of the National Shipping Authority.

[SEAL] C. H. McGuire,
Director,
National Shipping Authority.

[F. R. Doc. 51–5363; Filed, May 7, 1951; 8:55 a. m.]

TITLE 42—PUBLIC HEALTH

Chapter II—Children's Bureau, Social Security Administration, Federal Security Agency

Part 201—Child Welfare Services

Expenditures: Definitions

By virtue of the authority vested in the Commissioner for Social Security by sec. 1102, 49 Stat. 647, as amended by secs. 1, 4, Reorganization Plan No. 2 of 1946, 60 Stat. 1095, 11 F. R. 7873, and sec. 403 (c), 64 Stat. 559, 42 U. S. C. Supp. 1302; sec. 521, 49 Stat. 633 as amended by sec. 507 (c), 53 Stat. 1381, sec. 401 (b) 7, 60 Stat. 986, and sec. 331 (e), 64 Stat. 552, 42 U. S. C. Supp. 721; sec. 1, Reorganization Plan No. 2 of 1946, 60 Stat. 1095, 11 F. R. 7873; Agency Order No. 9, 12 F. R. 479; sec. 401 (a), 64 Stat. 558, Part 201 of the regulations relating to Child Welfare Services is hereby amended as follows:

1. Section 201.6 of Part 201 is hereby amended to read as follows:

§ 201.6 *Expenditures.* (a) Funds paid to a State under Part 3 of Title V of the act shall be expended, in accordance with the State's approved plan and with the act and the regulations in this part only where such expenditures are:

(1) For one or more of the following purposes:

(i) For payment of part of the cost of district, county or other local child welfare services in areas predominantly rural; or,

(ii) For developing State services for the encouragement and assistance of adequate methods of community child welfare organization in areas predominantly rural and other areas of special need; or,

(iii) For paying the cost of returning any runaway child who has not attained the age of sixteen to his own community in another State in cases in which such return is in the interest of the child and the cost cannot otherwise be met; and,

(2) In accordance with policies issued from time to time by the Bureau with the approval of the Commissioner designed to utilize most effectively the funds granted in establishing, extending or strengthening child welfare services, under the conditions specified in subparagraph (1) of this paragraph: *Provided,* That policies heretofore issued by the Chief of the Children's Bureau shall continue to remain in effect unless superseded by new policies issued by the Children's Bureau with the approval of the Commissioner: *Provided further,* That State plans heretofore approved shall continue to be governed by such policies which were in effect at the time such State plans were approved.

(b) Except as specifically stated in the act and in the regulations in this part, State laws, rules, regulations and standards governing the custody and disbursement of State funds shall govern the custody and disbursement of Federal funds paid to the State.

2. The following new section is added at the end of Part 201:

§ 201.10 *Definitions.* (a) "Child Welfare Services" means public welfare services for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent.

3. The word "Commissioner" is hereby substituted for the word "Secretary" in §§ 201.1 and 201.5.

4. These regulations shall become effective on the date of their publication in the Federal Register.

(Sec. 1102, 49 Stat. 647, as amended; 42 U. S. C. 1302)

Dated: April 27, 1951.

[SEAL] A. J. Altmeyer,
Commissioner.

Approved: May 2, 1951.

Oscar R. Ewing,
Federal Security Administrator.

[F. R. Doc. 51–5274; Filed, May 7, 1951; 8:46 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter C—Management of Wildlife Conservation Areas

Part 33—Central Region

Subpart—Crab Orchard National Wildlife Refuge, Illinois

Commercial Fishing

Basis and purpose. On the basis of observations and reports by field representatives of the Fish and Wildlife Service it has been determined that more

rough fish should be removed from refuge waters and that this can best be accomplished by extending the season during which commercial fishing is allowed on the Refuge.

Inasmuch as the following is a relaxation of existing regulations, publication prior to the effective date thereof is not required. (60 Stat. 237, 5 U. S. C. 1001 et seq.)

Effective immediately upon publication in the FEDERAL REGISTER, § 33.55 is revised to read as follows:

§ 33.55 *Period of fishing.* Area I shall be open to commercial fishing during the period from January 1 to May 15, inclusive, of each year. Area II shall be open to commercial fishing during the period from March 1 to May 15, inclusive, of each year.

(Sec. 10, 45 Stat. 1224; 16 U. S. C. 715*i*.)

Dated: April 30, 1951.

O. H. JOHNSON,
Acting Director.

[F. R. Doc. 51-5268; Filed, May 7, 1951; 8:45 a. m.]

PROPOSED RULE MAKING

INTERSTATE COMMERCE COMMISSION

[49 CFR, Parts 71, 72, 73, 74, 75, 77, 78]

[Notice No. 1, Docket No. 3666]

TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

NOTICE OF PROPOSED RULE MAKING

MARCH 27, 1951.

The Commission is in receipt of applications for early amendment of the above entitled regulations insofar as they apply to shippers in the preparation of articles for transportation, and to all carriers by rail and highway, as published in orders pursuant to section 835, of the Criminal Code, and Part II of the Interstate Commerce Act;

Application for these amendments ordinarily would be considered at our next hearing in this docket. It appears, however, that the proposed amendments have been the subject of exchanges and study by interested parties, in which substantial agreement has been reached, and it is proposed that the applications be disposed of by modified procedure.

Any party desiring to be heard upon any of the proposed amendments shall advise the Commission in writing within 20 days from the date of this notice; otherwise, the Commission may proceed to investigate and determine the matters involved in the application, or may suspend action pending formal hearing in this docket.

[SEAL] W. P. BARTEL,
Secretary.

PART 71—GENERAL INFORMATION AND REGULATIONS

1. Amend § 71.13 paragraph (a) (3) (49 CFR 71.13, 1950 Rev.) to read as follows:

(3) Shipments of explosive bombs and unfuzed explosive projectiles when not packed in wooden boxes, and large metal containers of incendiary bombs weighing 500 pounds or more, each, may be loaded in stock cars or in gondola cars (flat bottom) when adequately braced. Wooden boxed bombs which, due to size, cannot be loaded in closed cars may be loaded in open top cars but must be protected against accidental ignition.

2. Amend § 71.13 paragraph (b) (3) (15 F. R. 8263, Dec. 2, 1950) to read as follows:

(3) Shipments of explosive bombs and unfuzed explosive projectiles when not packed in wooden boxes, and large metal containers of incendiary bombs weighing 500 pounds or more, each, may be loaded in stock cars or in gondola cars (flat bottom) when adequately braced. Wooden boxed bombs which, due to size, cannot be loaded in closed cars may be loaded in open top cars but must be protected against accidental ignition.

PART 72—COMMODITY LIST OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 71–78 OF THIS CHAPTER

Amend § 72.5, Commodity list (15 F. R. 8263, Dec. 2, 1950) (49 CFR 72.5, 1950 Rev.) as follows:

Article	Classed as—	Exemption and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
Change				
Acetyl benzoyl peroxide, solution	Oxy. M	No exemption, 73.222.	Yellow	1 quart.
Magnesium peroxide, solid	Oxy. M	73.153, 73.154	Yellow	100 pounds.
Peracetic acid	Oxy. M	73.223	Yellow	5 pints.
*Rubber shoddy, regenerated rubber, or reclaimed rubber.	F. S	73.153, 73.201	Yellow	10 pounds.
Zinc peroxide	Oxy. M	73.153, 73.154	Yellow	100 pounds.
Add				
Antimony pentachloride, solution	Cor. L	73.242, 73.245	White	5 pints.
Charged oil well jet perforating guns (total explosive contents in guns exceeding 12 pounds per motor vehicle).	Expl. A	No exemption, 73.53 (u), 73.80.		Not accepted.
Charged oil well jet perforating guns (total explosive contents in guns not exceeding 12 pounds per motor vehicle.	Expl. C	No exemption, 73.53 (u), 73.110.		Not accepted.
Chlorpicrin and methyl chloride, mixture	Pois. A	No exemption, 73.329 (c).	Poison Gas.	75 pounds.
Formic acid, solution	Cor. L	73.244, 73.245, 73.289	White	5 gallons.
Tetraethyl dithio pyrophosphate and compressed gas mixture.	Pois. A	No exemption, 73.203	Poison Gas.	Not accepted.
Tetranitromethane	Oxy. M	No exemption, 73.203	Yellow	25 pounds.
Thiocarbonyl-chloride (see thiophosgene).				
hiophosgene (thiocarbonyl-chloride)	Pois. B	No exemption, 73.356	Poison	1 gallon

PART 73—SHIPPERS

1. Cancel first three paragraphs and Note 1 appearing under authority citation for Part 73 (15 F. R. 8275, Dec. 2, 1950) (15 F. R. 8824, Dec. 12, 1950) (49 CFR 73, 1950 Rev.).

2. Add Note 1 to § 73.8 paragraph (a), (15 F. R. 8276, Dec. 2, 1950) (49 CFR 73.8, 1950 Rev.) to read as follows:

NOTE 1: Because of the present emergency and until further order of the Commission, compressed gas cylinders 40 inches in length and 8 inches in diameter, charged with not more than 40 pounds of carbon dioxide and shipped by or to the Canadian Department of National Defense in accordance with Board of Transport Commissioners for Canada Order No. 76253 dated Mar. 10, 1951, may be shipped to destinations in the United States or through the United States to points in Canada.

SUBPART A—PREPARATION OF ARTICLES FOR TRANSPORTATION BY CARRIERS BY RAIL FREIGHT, RAIL EXPRESS, HIGHWAY, OR WATER

3. Amend § 73.28 paragraph (h) (15 F. R. 8277, Dec. 2, 1950) (49 CFR 73.28, 1950 Rev.) to read as follows:

(h) Single-trip containers made under specifications prescribed in Part 78 of this chapter from which contents have once been removed following use for shipment of any article, must not be again used as shipping containers for explosives, flammable liquids, flammable solids, oxidizing materials, corrosive liquids, or poisons, class B or C, as defined in this part: *Provided*, That during the present emergency and until further order of the Commission, single-trip containers may be reused if retested and approved for service by the Bureau of

Explosives. Containers reused under Bureau of Explosives' approval must be plainly marked "Authorized for Reuse by Bureau of Explosives" and must show the date of last retest. Applications for permission for reuse should be made to the Bureau of Explosives, 30 Vesey Street, New York 7, N. Y.

4. Amend § 73.29 paragraph (a) (15 F. R. 8277, Dec. 2, 1950) (49 CFR 73.29, 1950 Rev.) to read as follows:

§ 73.29 *Empty containers.* (a) Empty cylinders, barrels, kegs, drums, or other containers, previously used for the shipment of any explosive or other dangerous article, as defined in this part, if authorized for reuse must have all openings including removable heads, filling and vent holes, tightly closed before being offered for transportation. Small quantities of the material with which containers were loaded may remain in "empty" containers and when the vapors remaining therein are unstable, it is permissible to add sufficient inert gas to render the vapors stable.

SUBPART B—EXPLOSIVES; DEFINITIONS AND PREPARATION

5. Amend § 73.53 paragraph (i) (15 F. R. 8286, Dec. 2, 1950) (49 CFR 73.53, 1950 Rev.) to read as follows:

(i) *Ammunition for cannon.* Ammunition for cannon is fixed, semi-fixed or separate loading ammunition which is fired from a cannon, mortar, gun, howitzer or recoilless rifle.

6. Add Paragraph (u) to § 73.53 (15 F. R. 8286, Dec. 2, 1950) (49 CFR 73.53, 1950 Rev.) to read as follows:

(u) Charged oil well jet perforating guns are steel tubes in which are installed one or more commercial shaped charges of the type described in paragraph (h) (1) of this section except that each charge shall contain not over 28 grams of high explosives and each must be protected by a metal cover. Charged oil well jet perforating guns must not be transported with detonating devices or other firing assemblies affixed to or installed in the guns. The guns are used in oil well operations and transporting is restricted to motor vehicles operated by private motor carriers and used only in such service.

7. Amend § 73.65 paragraph (b) (2) (15 F. R. 8289, Dec. 2, 1950) (49 CFR 73.65, 1950 Rev.) to read as follows:

(2) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums. Net weight not to exceed 200 pounds.

8. Add § 73.80 (15 F. R. 8292, Dec. 2, 1950) (49 CFR 73.80, 1950 Rev.) to read as follows:

§ 73.80 *Charged oil well jet perforating guns.* (a) Charged oil well jet perforating guns, when transported by motor vehicles operated by private carriers and used only in oil well operations, in which the total weight of explosive contents of shaped charges assembled to guns does not exceed 12 pounds per such vehicles, are classified as class C explosives. See § 73.110.

(b) Charged oil well jet perforating guns must be packed without detonating devices or other firing assemblies affixed to or installed in the guns, in substantial fully - enclosed especially - constructed compartments of motor vehicles operated by private motor carriers and used only in oil well operations. Shaped charges installed in the guns must be of the type described in § 73.53 (h) (1), except that each charge must not contain over 28 grams of high explosives and each must be protected by a metal cover after installation in the gun. The guns and the compartments of such motor vehicles must be so constructed that accidental damage to guns or shaped charges will be avoided. The assembled gun or guns must be secured in the compartments so as to prevent movement relative to each other or in the compartment.

(1) Detonating devices or other firing assemblies transported on any motor vehicle operated by private motor carriers transporting charged oil well jet perforating guns shall be segregated; each kind from every other kind, and from jet perforating guns, tools or other supplies. Any detonating devices or other firing assemblies shall be carried in a cloth container having individual pockets for each such device or assembly, or by at least equally safe means. No greater number of any such devices or assemblies shall be transported with the guns than is necessary for use on any particular trip.

(c) Charged oil well jet perforating guns must not be offered for transportation by rail freight, rail express, rail baggage, water, or by common or contract carriers by public highway.

9. Amend § 73.93 paragraph (a) (5) (15 F. R. 8294, Dec. 2, 1950) (49 CFR 73.93, 1950 Rev.) to read as follows:

(5) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums. Use of these containers will be permitted because of the present emergency and until further order of the Commission.

10. Amend § 73.94 paragraph (e) (15 F. R. 8295, Dec. 2, 1950) (49 CFR 73.94, 1950 Rev.) to read as follows:

(e) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums. Drums having wooden heads must be provided with a strong, sift-proof liner. Use of these containers will be permitted because of the present emergency and until further order of the Commission.

11. Amend § 73.100 paragraphs (b), (p), and (r), (1) (10), and (11) (15 F. R. 8295, 8296, Dec. 2, 1950) (49 CFR 73.100, 1950 Rev.) to read as follows:

(b) Small-arms ammunition, designed to be fired from a pistol, revolver, rifle, or shotgun held by the hand or by the hand and shoulder, or machine guns of caliber .60 or less, is fixed ammunition consisting of a metallic or paper cartridge case, a primer and a propelling charge, with or without bullet, shot, tear gas material, or tracer components, but not including bullets loaded with high explosives or incendiary compositions or mixtures.

(p) Toy paper caps, consisting of paper cap ammunition for toy pistols, in sheets, strips, rolls, or individual caps, must not contain more than an average of twenty-five hundredths of a grain of explosive composition per cap and must be packed in inside packages constructed of cardboard not less than 0.013 inch in thickness, metal not less than 0.008 inch in thickness, or noncombustible plastic not less than 0.015 inch in thickness, which shall provide a complete enclosure and the minimum dimensions of each side or end of such package shall be not less than ⅛ inch in height. Unless greater weight of composition is approved by the Bureau of Explosives, the number of caps in these inside packages shall be limited so that not more than 10 grains of explosive composition shall be packed into one cubic inch of space and not exceeding 17.5 grains of the explosive composition of toy caps shall be packed in any inside container. These inner containers must be packed in outside containers as specified in § 73.109.

(r) Common fireworks are manufactured articles designed primarily for the purpose of producing visible or audible pyrotechnic effects by combustion or explosion. Fireworks other than those specifically enumerated in this paragraph are classed as special fireworks (see § 73.88 (d)). Common fireworks must be in the finished state exclusive of mere ornamentation, as supplied to the retail trade and must be so constructed and packed that loose pyrotechnic composition will not be present in packages in transportation. No component part of any article listed in this paragraph which is designed to produce an audible effect (other than propelling or expelling charges) shall contain pyrotechnic composition in excess of 2 grains in weight.

(1) Roman candles, not exceeding ten balls spaced uniformly in the tube, total pyrotechnic composition in each candle not to exceed 20 grams in weight.

* * * * *

(10) Mines and shells of which the mortar is an integral part, total pyrotechnic composition not to exceed 40 grams each in weight.

(11) Firecrackers and salutes with casings, the external dimensions of which do not exceed one and one-half inches in length or one quarter inch in diameter, total pyrotechnic composition not to exceed two grains each in weight.

12. Amend § 73.107 paragraph (c) (15 F. R. 8296, Dec. 2, 1950) (49 CFR 73.107, 1950 Rev.) to read as follows:

(c) Small-arms primers containing anvils must be packed in cellular inside packages, with partitions separating the layers and columns of the primers, so that the explosion of a portion of the primers in the completed shipping package will not cause the explosion of all the primers. They must be packed as prescribed in paragraph (a) of this section or in fiberboard boxes, spec. 12B (§ 78.205 of this chapter), and equipped with corrugated fiberboard liners having Mullen or Cady test equal to or exceeding that of the box. Not more than 5000 primers shall be packed in each fiberboard box.

13. Add § 73.110 (15 F. R. 8297), Dec. 2, 1950) (49 CFR 73.110, 1950 Rev.) to read as follows:

§ 73.110 *Charged oil well jet perforating guns total explosive content in guns not exceeding twelve pounds per motor vehicle operated by private motor carriers.* (a) Charged oil well jet perforating guns, transported by motor vehicles operated by private motor carriers and used only in oil well operations, in which the total weight of explosive contents does not exceed 12 pounds per such vehicles, must be packed as prescribed in § 73.80 (b).

(b) Charged oil well jet perforating guns must not be offered for transportation by rail freight, rail express, rail baggage, water, or by common or contract carriers by public highway.

SUBPART C—FLAMMABLE LIQUIDS; DEFINITION AND PREPARATION

14. Amend § 73.116 paragraph (h) (15 F. R. 8298, Dec. 2, 1950) (49 CFR 73.116, 1950 Rev.) to read as follows:

(h) No cargo tank or compartment thereof used for the transportation of any flammable liquid shall be liquid full. The vacant space (outage) in a cargo tank or compartment thereof used in the transportation of flammable liquids shall be not less than 1 percent; sufficient space (outage) shall be left vacant in every case to prevent leakage from or distortion of such tank or compartment by expansion of the contents due to rise in temperature in transit.

15. Add paragraphs (d) and (e) to § 73.118 (15 F. R. 8298, Dec. 2, 1950) (49 CFR 73.118, 1950 Rev.) to read as follows:

(d) *Exemptions for private carriers by motor vehicle of flammable liquids in interstate and foreign commerce.* Because of the present emergency and until further order of the Commission, the following regulations shall apply to transportation of flammable liquids by private carriers by motor vehicle in interstate or foreign commerce:

(1) All regulations in Parts 71–78 of this chapter applying to common, contract, and private carriers by motor vehicle in interstate or foreign commerce shall apply to such private carriers, except:

Cargo tanks of tank motor vehicles constructed previous to June 15, 1943, may be continued in service if maintained in safe operating condition and sufficiently frequent inspections are maintained to determine compliance with all requirements as specified below.

Any defect or deficiency, due to accident or otherwise, that is likely to cause serious hazard must be corrected before any such tank is continued in or returned to service; see, however, § 77.856 of this chapter.

Requirements applying to tests of tanks, and provisions for markers thereon except that indicating the flammable nature of the cargo, are waived.

Outages for shipments shall be those provided for in this part, except that filling of tanks to outage markers already incorporated in tanks, having due regard for safety in the transportation of the flammable liquids, need not be changed.

Section 77.815 of this chapter, labels, and § 77.819 of this chapter, certification of packages, need not be complied with by such private carriers, except as to packages transferred from one carrier to another.

(e) *Exemptions for common, contract, and private carriers by motor vehicle of flammable liquids in intrastate commerce.* Because of the present emergency and until further order of the Commission, the following regulations shall apply to transportation of flammable liquids by common, contract, and private carriers by motor vehicle in intrastate commerce:

(1) All regulations in Parts 71–78 of this chapter applying to common, contract, and private carriers by motor vehicle in intrastate commerce shall apply to such carriers, except:

That common, contract, and private carriers by motor vehicle transporting flammable liquids in intrastate commerce shall not be subject to Parts 71–78 of this chapter.

16. Amend § 73.119 paragraphs (a) (9) and (a) (12), (15 F. R. 8298, Dec. 2, 1950) (49 CFR 73.119, 1950 Rev.) to read as follows:

(9) Spec. 21A, 21B, 22A, or 22B (§§ 78.222, 78.223, 78.196, or 78.197 of this chapter). Fiber drums and plywood drums with a single inside glass, earthenware, or metal container of not over 1 gallon capacity in each drum. Inside container must be so cushioned at top, sides, and bottom, as to prevent breakage or leakage in transit.

(12) Spec. 103, 103–W, 103AL–W, 104, 104–W, 104A, 104A–W, 105A300, 105A300–W, 105A400, 105A400–W, 105A500, 105A500–W, 105A600, 105A600–W, ARA–II,[2] ARA–III,[2] ARA–IV,[2] or ARA–IV–A.[2] Tank cars. (§§ 78.265, 78.280, 78.291, 78.269, 78.284, 78.270, 78.285, 78.271, 78.286, 78.272, 78.287, 78.273, 78.288, 78.274, and 78.289 of this chapter.) For cars equipped with expansion domes, manhole closures must be so designed that pressure will be released automatically by starting the operation of removing the manhole cover. (See § 73.432 for shipping instructions.)

17. Amend § 73.119 paragraph (e) (2) (15 F. R. 8299, Dec. 2, 1950) (49 CFR 73.119, 1950 Rev.) to read as follows:

(2) Spec. 103, 103–W, 103AL–W, 104, 104–W, 104A, 104A–W, 105A300, 105A300–W, 105A400, 105A400–W, 105A500, 105A500–W, 105A600, 105A600–W, ARA–II,[2] ARA–III,[2] ARA–IV,[2] or ARA–IV–A[2]. Tank cars. (§§ 78.265, 78.280, 78.291, 78.269, 78.284, 78.270, 78.285, 78.271, 78.286, 78.272, 78.287, 78.273, 78.288, 78.274, and 78.289 of this chapter). Cars having expansion domes must be equipped with manhole closures, identification marks, and dome placards as prescribed in paragraphs (f) (4), (g), (h), and (h) (1) of this section. (See Note 1 of paragraph (f) (3) of this section).

18. Amend § 73.119 paragraph (f) (4) (15 F. R. 8299, 8300, Dec. 2, 1950) (49 CFR 73.119, 1950 Rev.) to read as follows:

(4) Spec. 103, 103–W, 103AL–W, 104, 104–W, ARA–II,[2] ARA–III,[2] or ARA–IV.[2] Tank cars. (§§ 78.265, 78.280, 78.291, 78.269, and 78.284 of this chapter). Cars must have their manhole closures equipped with approved safeguards making removal of closures from manhole openings practically impossible while car interior is subjected to vapor pressure of lading. These cars must be stenciled on each side of domes in line with the ladders, and in a color contrasting to the color of the dome, with the identification mark as prescribed in paragraph (g) of this section.

19. Amend § 73.119 paragraph (h) (15 F. R. 8300, Dec. 2, 1950) (49 CFR 73.119, 1950 Rev.) to read as follows:

(h) *Dome placards.* Spec. 103, 103–W, 103AL–W, 104, 104–W, ARA–II,[1] ARA–III,[1] or ARA–IV.[1] Tank cars. (§§ 78.265, 78.280, 78.291, 78.269, and 78.284 of this chapter). Cars loaded with materials described in paragraphs (e) and (f) of this section must, in addition to the "Dangerous" placards, be protected by special dome placards, at least 4⅛ by 10⅞ inches, with legible wording as follows: (No change in dome placard).

20. Add paragraph (a) (6) to § 73.124 (15 F. R. 8301, Dec. 2, 1950) (49 CFR 73.124, 1950 Rev.) to read as follows:

(6) Spec. 105A300, 105A300W, 105A400, 105A400W, 105A500, 105A500W, 105A600, or 105A600W. Tank cars. (§§ 78.271, 78.286, 78.272, 78.287, 78.273, 78.288, 78.274, or 78.289 of this chapter). Tanks must be restenciled 104A or 104A–W and be equipped with safety valves of the type and size used on 104A and 104A–W tank cars. See Note 1 in § 73.119 (f) (3). (See § 73.432 for shipping instructions.)

21. Amend § 73.138 paragraph (a) (15 F. R. 8302, Dec. 2, 1950) (49 CFR 73.138, 1950 Rev.) to read as follows:

§ 73.138 *Pentaborane.* (a) Pentaborane must be packed in specification cylinders as prescribed for any compressed gas, except acetylene. Cylinders must be protected with valve protection caps or must be packed in strong wooden boxes and blocked therein so as to protect the valves from injury under conditions ordinarily incident to transportation.

SUBPART D—FLAMMABLE SOLIDS AND OXIDIZING MATERIALS; DEFINITION AND PREPARATION

22. Cancel paragraph (c) (27) of § 73.153 (15 F. R. 8303, Dec. 2, 1950) (49 CFR 73.153, 1950 Rev.).

23. Add paragraphs (c) (27) and (c) (60) to § 73.153, (15 F. R. 8303, Dec. 2, 1950) (49 CFR 73.153, 1950 Rev.) to read as follows:

(27) Tetranitromethane.

(60) Acetyl benzoyl peroxide, solution.

24. Amend § 73.154 paragraph (a) (9) (15 F. R. 8303, Dec. 2, 1950) (49 CFR 73.154, 1950 Rev.) to read as follows:

(9) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums.

25. Amend § 73.156 paragraph (a) (5) (15 F. R. 8304, Dec. 2, 1950) (49 CFR 73.156, 1950 Rev.) to read as follows:

(5) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums.

26. Amend § 73.163 paragraph (a) (3) (15 F. R. 8305, Dec. 2, 1950) (49 CFR 73.163, 1950 Rev.) to read as follows:

(3) Spec. 21A, 21B, 22A, or 22B (§§ 78.222, 78.223, 78.196, or 78.197 of this chapter). Fiber or plywood drums with inside metal drums, Spec. 2F (§ 78.25 of this chapter).

27. Amend § 73.168 paragraph (a) (2) (15 F. R. 8306, Dec. 2, 1950) (49 CFR 73.168, 1950 Rev.) to read as follows:

(2) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums with inside metal drums, Spec. 2F (§ 78.25 of this chapter).

28. Amend § 73.175 paragraph (a) (4) (15 F. R. 8306, Dec. 2, 1950) (49 CFR 73.175, 1950 Rev.) to read as follows:

(4) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums.

29. Amend § 73.178 paragraph (a) (6) (15 F. R. 8307, Dec. 2, 1950) (49 CFR 73.178, 1950 Rev.) to read as follows:

(6) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums.

30. Amend § 73.195 paragraph (a) (5) (15 F. R. 8309, Dec. 2, 1950) (49 CFR 73.195, 1950 Rev.) to read as follows:

(5) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums. Must be externally treated to provide protection against moisture.

31. Amend § 73.197 paragraph (a) (3) (15 F. R. 8309, Dec. 2, 1950) (49 CFR 73.197, 1950 Rev.) to read as follows:

(3) Sheets, rolled, in fiber drums, spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter), having 2 straps applied lengthwise and 1 or more circumferentially; straps at least ½ by 0.02 inch steel.

32. Amend § 73.201 paragraph (a) (4) (5) and (8) and paragraph (b) (15 F. R. 8310, Dec. 2, 1950) (49 CFR 73.201, 1950 Rev.) to read as follows:

§ 73.201 *Rubber scrap, rubber buffings, rubber shoddy, regenerated rubber or reclaimed rubber.* (a) Rubber scrap, if ground, powdered, or granulated, and the rubber content of which exceeds 45 percent, as determined by subtracting the sum of the percentage of ash and the percentage of acetone extract from 100; rubber buffings from any grade of rubber, irrespective of the percentage of rubber content; and rubber shoddy, regenerated rubber, or reclaimed rubber, must be packed in specification containers as follows (see paragraph (b) of this section):

* * * * *

(4) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes.

(5) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums.

* * * * *

(8) Spec. 36A, 36B, or 44B (§§ 78.230, 78.231, or 78.236 of this chapter). Bags.

(b) Rubber scrap, rubber shoddy, regenerated rubber, or reclaimed rubber are not subject to Parts 71–78 of this chapter if shipped in the following forms:

(1) Rubber scrap, not ground or ground with cord or fabric insertion.

(2) Rubber shoddy, regenerated rubber, or reclaimed rubber when in the form of dense homogeneous nonporous sheets or rolls, the sheets of thickness of ⅛ inch or greater, packed flat or in rolls, and properly cooled before shipment.

33. Cancel § 73.203 paragraphs (a) and (b) (15 F. R. 8310, Dec. 2, 1950) (49 CFR 73.203, 1950 Rev.).

34. Add § 73.203 paragraph (a) (15 F. R. 8310, Dec. 2, 1950) (49 CFR 73.203, 1950 Rev.) to read as follows:

§ 73.203 *Tetranitromethane.* (a) Tetranitromethane must be packed in specification containers as follows:

(1) Spec. 15A or 15B (§§ 78.168 or 78.169 of this chapter). Wooden boxes, gross weight not exceeding 150 pounds, with inside containers which must be: glass bottles not more than 1 quart capacity each, with closures securely fastened and of a type not deteriorated by the contents, each bottle individually packed in a tight metal container and cushioned therein with absorbent incombustible material; or aluminum cans or polyethylene bottles, not more than 5 pounds capacity each, with opening not more than 1.25 inches diameters, fitted with securely fastened screw type closures and gaskets of material not deteriorated by contact with the contents, cushioned with not less than 2 inches of absorbent incombustible cushioning material between the inside containers and any part of the wooden box.

(2) Spec. 6A, 6B, or 6C (§§ 78.97, 78.98, or 78.99 of this chapter). Metal barrels or drums, with inside stainless steel or aluminum drum (or drums) having no opening exceeding 2.5 inches diameter, openings to be securely closed by a screw type gasketed device, with gaskets of material not deteriorated by contact with the contents. The inside drum (or drums) must be cushioned with not less than 2 inches of absorbent incombustible cushioning material; inside drums shall be of not less than 20 gauge metal and shall be tested for leakage before packing in the outside drum.

35. Amend § 73.204 paragraphs (a) (5) and (a) (6) (15 F. R. 8310, Dec. 2, 1950) (49 CFR 73.204, 1950 Rev.) to read as follows:

(5) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums with inside metal drums.

(6) Spec. 21A or 21B (§§78.222 or 78.223 of this chapter). Fiber drums, net weight not over 250 pounds; drums must have a metal foil (laminated between two sheets of kraft paper with thermoplastic adhesive) moisture and water barrier wound into the sidewall of the drum and located not more than 2 plies from the interior of drum but not to be wound as the first ply; a metal foil moisture and water barrier must also be present in the fiber or wood heading; exterior of drum sidewall must be protected with a water resistant coating; in addition to the tests prescribed by §§ 78.222–4 and 78.223–4 of this chapter, a drum having been given a 4-foot diagonal bottom chime drop must, after being emptied, withstand complete immersion of the bottom in 6 inches of water for 4 hours without leakage to the interior; drums must not be offered for transportation by carriers by water.

36. Amend § 73.206 (paragraph (c) (2), (15 F. R. 8310, Dec. 2, 1950) (49 CFR 73.206, 1950 Rev.) to read as follows:

(2) Spec. 17H or 37D (§§ 78.118 or 78.125 of this chapter). Metal drums (single-trip) authorized for cylindrical blocks at least 2 inches in diameter and not less than 6 inches in length, or rectangular blocks not less than 6 inches in length and not less than 2 inches in any other dimension. Net weight not over 30 pounds.

37. Amend § 73.207 paragraph (b) (5) (15 F. R. 8311, Dec. 2, 1950) (49 CFR 73.207, 1950 Rev.) to read as follows:

(5) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums which must be lined or coated, or otherwise treated so as to prevent the entrance of moisture in quantities sufficient to create a hazardous condition in transportation; drums to withstand two drops from height of 4 feet in same spot or one 6 foot drop in place of drop test as provided in Spec. 21A or 21B (§§ 78.222–4 or 78.223–4 of this chapter); maximum loaded capacity 250 pounds net. Use of this container will be permitted because of the present emergency and until further order of the Commission.

38. Amend § 73.222 paragraph (a) (15 F. R. 8312, Dec. 2, 1950) (49 CFR 73.222, 1950 Rev.) to read as follows:

§ 73.222 *Acetyl peroxide and acetyl benzoyl peroxide, solution.* (a) Acetyl peroxide must be shipped in solution in a non-volatile solvent and must contain not more than 25 percent by weight of the peroxide. Acetyl benzoyl peroxide must be shipped in solution in a non-volatile solvent and must contain not more than 40 percent by weight of the peroxide. They must be packed in specification containers as follows:

39. Amend paragraph (b) to § 73.223 (15 F. R. 8312, Dec. 2, 1950) (49 CFR 73.223, 1950 Rev.) to read as follows:

(b) Peracetic acid solutions not exceeding 40 percent strength packed in strong wooden or fiberboard boxes, with not more than one inside glass container not exceeding 1 pint or 1 pound capacity, cushioned with sterile absorbent cotton or other cushioning material which will not react with the contents to generate heat, and with such cushioning material in sufficient quantity to completely absorb the contents of the bottle, are exempt from specification packaging, marking, other than name of contents, and labeling requirements.

40. Amend § 73.227 paragraph (a) (2) (15 F. R. 8312, Dec. 2, 1950) (49 CFR 73.227, 1950 Rev.) to read as follows:

(2) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums completely coated on the inside with a suitable wax; or fiber drums having a metal foil (laminated) between two sheets of kraft paper with thermoplastic adhesive moisture and water barrier wound into the sidewall of the drum and located not more than 2 plies from the interior of drum but not be wound as the

first ply; a metal foil moisture and water barrier must also be present in the fiber or wood heading; exterior of drum sidewall must be protected with a water resistent coating; in addition to the tests prescribed by §§ 78.222–4 or 78.223–4 of this chapter, a drum having been given a 4-foot diagonal bottom chime drop must after being emptied, withstand complete immersion of the bottom in 6 inches of water for 4 hours without leakage to the interior.

SUBPART E—ACIDS AND OTHER CORROSIVE LIQUIDS: DEFINITION AND PREPARATION

41. Add paragraph (a) (5) to § 73.254 (15 F. R. 8315, Dec. 2, 1950) (49 CFR 73.254, 1950 Rev.) to read as follows:

(5) Spec. MC 310 (§ 78.330 of this chapter). Tank motor vehicles.

42. Amend § 73.261 paragraph (a) (2), (15 F. R. 8316, Dec. 2, 1950) (49 CFR 73.261, 1950 Rev.) to read as follows:

(2) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums with a single inside container consisting of a glass bottle not over 64 fluid ounces capacity filled with not over six pounds by weight of sulfuric acid (approximately 50 fluid ounces by volume). Bottle must be suspended in center of outside container by means of adequate supports and surrounded by bicarbonate of soda in sufficient quantity to fill drum and neutralize contents in the event of breakage.

43. Amend § 73.266 paragraph (f) (15 F. R. 8319, Dec. 2, 1950) (49 CFR 73.266, 1950 Rev.) to read as follows:

(f) Hydrogen peroxide solution in water exceeding 52 percent hydrogen peroxide by weight may also be packed in specification containers as follows:

(1) Spec. 103A–AL–W (§ 78.292 of this chapter). Tank cars. Venting arrangement must be approved by the Bureau of Explosives.

44. Add paragraph (g) to § 73.266 (15 F. R. 8319, Dec. 2, 1950) (49 CFR 73.266, 1950 Rev.) to read as follows:

(g) Hydrogen peroxide solution in water exceeding 52 percent hydrogen peroxide by weight may also be shipped in tank motor vehicles subject to Parts 71–78 of this chapter provided that such shipments are for ultimate use by the Departments of the Army, Navy, and Air Force of the United States Government. Tank motor vehicles must be of design and venting arrangement approved by the Bureau of Explosives.

45. Amend § 73.275 paragraph (a) (1) (15 F. R. 8321, Dec. 2, 1950) (49 CFR 73.275, 1950 Rev.) to read as follows:

(1) Spec. 15A, 12B, 21A, or 21B (§§ 78.168, 78.205, 78.222, or 78.223 of this chapter). Wooden boxes, fiberboard boxes, or fiber drums with inside containers which must consist of polystyrene or polyethylene bottles not over 2 pounds capacity each, closed by means of threaded acid-resistant caps with a resilient gasket or lining impervious to the acid; caps must have at least one complete continuous thread and be wired or sealed to the bottle to prevent turning of cap after bottle is closed for shipment.

46. Amend § 73.289 paragraph (a) (15 F. R. 8323, Dec. 2, 1950) (49 CFR 73.289, 1950 Rev.) to read as follows:

§ 73.289 *Formic acid and formic acid solutions.* (a) Formic acid and formic acid solutions must be packed in specification containers as follows:

SUBPART F—COMPRESSED GASES; DEFINITION AND PREPARATION

47. Amend § 73.301 paragraph (f) (2) (15 F. R. 8324, Dec. 2, 1950) (49 CFR 73.301, 1950 Rev.) to read as follows:

(2) Manifolding is authorized for containers of the following gases, provided individual containers are equipped with approved safety devices as required by § 73.34 (f) and further provided that each container is equipped with individual shut-off valve, or valves, which shall be tightly closed while in transit. Manifold branch lines to these individual shut-off valves shall be sufficiently flexible to prevent injury to the valves which otherwise might result from the use of rigid branch lines. When a temperature measuring device is used on a cylinder the manifold shut-off valve shall be deemed the equivalent of the individual shut-off valve; boron trifluoride; hydrogen; hydro-carbon gases (nonliquefied); methane.

48. Amend § 73.309 paragraph (a) (15 F. R. 8327, Dec. 2, 1950) (49 CFR 73.309, 1950 Rev.) to read as follows:

§ 73.309 *Acetylene gas.* (a) Acetylene gas must be shipped in cylinders, spec. 8 or 8AL (§§ 78.59 or 78.60 of this chapter). The cylinders must be filled with a porous material that has been tested with satisfactory results by the Bureau of Explosives, and this material must be charged with a suitable solvent.

49. Amend § 73.314 paragraph (a) Table, (15 F. R. 8328, Dec. 2, 1950) (49 CFR 73.314, 1950 Rev.) to read as follows:

Kind of gas	Maximum permitted filling density, note 1	Required type of tank car, note 2
Change		
Dichlorodifluoromethane	119 125	ICC–106A500, ICC–110A500–W, note 12, ICC–105A300.
Monochlorodifluoromethane	105 110	ICC–106A500, ICC–110A500–W, note 12, ICC–105A300.

50. Amend § 73.314 paragraph (a) Table Note 3 paragraph (b) (15 F. R. 8328, Dec. 2, 1950) (49 CFR 73.314, paragraph (a) Table Note 3 paragraph (b), 1950 Rev.) to read as follows:

(b) Because of the present emergency and until further order of the Commission, and only for shipments made during the months of November to March, inclusive, the following filling densities may be used in lieu of those specified in the table in Note 3 (a).

(No change in table.)

51. Amend § 73.314 paragraph (a) Table Note 12, (15 F. R. 8329, Dec. 2, 1950) (49 CFR 73.314 paragraph (a) Table Note 12, 1950 Rev.) to read as follows:

NOTE 12: tanks complying with specification 106A500 (§ 78.275 of this chapter), containing chlorine, anhydrous ammonia, sulfur dioxide, methyl chloride, dichlorodifluoromethane, monochlorodifluoromethane, monochlorotetrafluoroethane, vinyl chloride, inhibited, difluoroethane, difluoromonochloroethane, dispersant gas, n. o. s., or dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture), tanks complying with specification 110A500W (§ 78.293 of this chapter), containing dichlorodifluoromethane or monochlorodifluoromethane, or tanks complying with specification 106A800 (§ 78.276 of this chapter), containing hydrogen sulfide, may be transported on trucks or semitrailers only, when securely chocked or clamped thereon to prevent shifting, and provided adequate facilities are present for handling tanks where transfer in transit is necessary. See § 74.560 of this chapter, for rail freight-motor vehicle shipments.

52. Amend § 73.314 paragraph (g) (15 F. R. 8329, Dec. 2, 1950) (49 CFR 73.314, 1950 Rev.) to read as follows:

(g) The maximum quantity of any liquefied gas, except crude nitrogen fertilizer solution, fertilizer ammoniating solution containing free ammonia, methyl chloride, and vinyl chloride, inhibited, loaded into tanks mounted on one car structure must not exceed 60,000 pounds: *Provided*, That for single-unit tank car tanks having water weight capacities not less than 86,240 pounds nor over 90,640 pounds, lagged with 4 inches of corkboard, equipped with one or more safety valves set to open at a pressure of 225 pounds per square inch, the total discharge capacity of which must be sufficient to prevent building up of pressure in the tank in excess of 225 pounds per square inch, mounted on one car structure, tank jackets stenciled ICC–105A300 (§ 78.271 of this chapter) if tanks are forge-welded and ICC–105A300W (§ 78.286 of this chapter) if tanks are fusion-welded, and in all other respects constructed and maintained in full compliance with I. C. C. shipping container specification 105A500 or 105A500W (§§ 78.273 or 78.288 of this chapter), the quantity of liquefied chlorine gas or liquefied sulfur dioxide gas loaded into such tanks must be not more than 110,000 pounds and the quantity of liquefield chlorine gas loaded into such tanks must be at least 107,800 pounds. (See Appendix D to Subpart I of Part 78 of this chapter.)

SUBPART G—POISONOUS ARTICLES; DEFINITION AND PREPARATION

53. Amend § 73.329 paragraph (c) (15 F. R. 8332, Dec. 2, 1950) (49 CFR 73.329, 1950 Rev.) to read as follows:

(c) Chlorpicrin, mixture of chlorpicrin and methyl chloride, or mixtures of chlorpicrin with nonpoisonous liquid, in addition to containers prescribed in paragraphs (a) and (b) of this section,

when offered for transportation by carriers by rail freight, highway, or water may be shipped in specification containers as follows:

54. Amend § 73.334 paragraph (a) (15 F. R. 8333, Dec. 2, 1950) (49 CFR 73.334, 1950 Rev.) to read as follows:

§ 73.334 *Hexaethyl tetraphosphate, parathion, tetraethyl dithio pyrophosphate, and tetraethyl pyrophosphate mixtures.* (a) Hexaethyl tetraphosphate, parathion, tetraethyl dithio pyrophosphate, and tetraethyl pyrophosphate mixtures with compressed gas, containing no more than 10 percent by weight of hexaethyl tetraphosphate, parathion, tetraethyl dithio pyrophosphate, or tetraethyl pyrophosphate mixtures must be packed in specification containers as follows:

55. Add paragraph (b) (7) to § 73.345 (15 F. R. 8334, Dec. 2, 1950) (49 CFR 73.345, 1950 Rev.) to read as follows:

(7) Thiophosgene.

56. Amend § 73.353 paragraph (a) (2) (15 F. R. 8335, Dec. 2, 1950) (49 CFR 73.353, 1950 Rev.) to read as follows:

(2) Spec. 15A, 15B, 15C, 16A, 19A, or 12B (§§ 78.168, 78.169, 78.170, 78.185, 78.190, or 78.205 of this chapter). Wooden, wire-bound wooden, or fiberboard boxes, with inside metal cans containing not over 1 pound each; outage required so can shall not become liquidfull at 130° F. Cans must be of tinplate or lined with suitable material and must have concave or pressure ends. Cans must be able to withstand an interior pressure of 130 pounds per square inch gauge without evidence of leakage or permanent distortion.

57. Add § 73.356 paragraph (a) (15 F. R. 8336, Dec. 2, 1950) (49 CFR 73.356, 1950 Rev.) to read as follows:

§ 73.356 *Thiophosgene.* (a) Thiophosgene must be packed in specification containers as follows:

(1) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes, with inside containers which must be tightly closed glass bottles not exceeding 1 pint capacity each, securely packed in absorbent incombustible cushioning material. Cushioning material must be capable of absorbing entire contents of the container.

(2) Spec. 15A or 15B (§§ 78.168 or 78.169 of this chapter). Wooden boxes, with inside containers which must be tightly closed glass bottles not exceeding 1 quart capacity each, securely packed in absorbent incombustible cushioning material. Cushioning material must be capable of absorbing entire contents of container.

58. Amend § 73.373 paragraph (a) (3) (15 F. R. 8338, Dec. 2, 1950) (49 CFR 73.373, 1950 Rev.) to read as follows:

(3) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums, gross weight 400 pounds; side walls must be of at least 10-ply construction having strength not less than 1,200 pounds Mullen or Cady test; in addition to tests prescribed by §§ 78.222–4 or 78.223–4 of this chapter, a drum must withstand two drops from a height of 6 feet to solid concrete, the first drop to be made diagonally on bottom chime and the second drop diagonally on the top chime; when heads are made of wood, the grain of the wood must run parallel to concrete surface.

59. Amend § 73.374 paragraph (a) (2), (15 F. R. 8338, Dec. 2, 1950) (49 CFR 73.374, 1950 Rev.) to read as follows:

(2) Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter). Fiber drums, authorized only for nitrochlorbenzene, para, flaked, gross weight 400 pounds; side walls must be of at least 10-ply construction having strength not less than 1,200 pounds Mullen or Cady test; in addition to tests prescribed by §§ 78.222–4 and 78.223–4 of this chapter, a drum must withstand two drops from a height of 6 feet to solid concrete, the first drop to be made diagonally on the bottom chime and the second drop diagonally on the top chime; when heads are made of wood, the grain of the wood must run parallel to concrete surface.

60. Amend § 73.392 paragraph (c) (15 F. R. 8339, Dec. 2, 1950) (49 CFR 73.392, 1950 Rev.) to read as follows:

(c) Radioactive materials such as ores, residues, etc., of low activity packed in strong tight containers are exempt from specification packaging and labeling requirements for shipment in carload lots by rail freight only provided the gamma radiation or equivalent will not exceed 10 milliroentgens per hour at a distance of 12 feet from any surface of the car and that the gamma radiation or equivalent will not exceed 10 milliroentgens per hour at a distance of 5 feet from either end surface of the car. There must be no loose radioactive material in the car, and the shipment must be braced so as to prevent leakage or shift of lading under conditions normally incident to transportation. The car must be placarded by the shipper as provided in §§ 74.541 (b) and 74.553 of this chapter. Shipment must be loaded by consignor and unloaded by consignee.

PART 74—CARRIERS BY RAIL FREIGHT

1. Amend § 74.501 paragraph (a) (15 F. R. 8344, 8345, Dec. 2, 1950) (49 CFR 74.501, 1950 Rev.) to read as follows:

§ 74.501 *Acceptable articles.* (a) Explosives, including samples of explosives and explosive articles not exceeding 5 pounds net weight and other dangerous articles may be accepted and transported, provided they are in proper condition and are certified, for transportation by rail, highway, or water. Articles must be loaded, stayed, and handled in transit according to regulations applying to service or services used. Methods of manufacture, packing, and storage, in so far as they affect safety in transportation, must be open to inspection by a duly authorized representative of the initial carrier or by the Bureau of Explosives.

2. Add Note 1 to § 74.505 paragraph (a) (15 F. R. 8345, Dec. 2, 1950) (49 CFR 74.505, 1950 Rev.) to read as follows:

NOTE 1: Because of the present emergency and until further order of the Commission, compressed gas cylinders 40 inches in length and 8 inches in diameter, charged with not more than 40 pounds of carbon dioxide and shipped by or to the Canadian Department of National Defense in accordance with Board of Transport Commissioners for Canada Order No. 76253 dated Mar. 10, 1951, may be shipped to destinations in the United States or through the United States to points in Canada.

SUBPART A—LOADING, UNLOADING, PLACARDING AND HANDLING CARS; LOADING PACKAGES INTO CARS

3. Amend § 74.526 paragraph (b) (1) (15 F. R. 8346, 8347, Dec. 2, 1950) (49 CFR 74.526, 1950 Rev.) to read as follows:

(b) Shipments of explosive bombs and unfuzed explosive projectiles when not packed in wooden boxes, and large metal containers of incendiary bombs weighing 500 pounds or more, each, may be loaded in stock cars or in gondola cars (flat bottom) when adequately braced. Wooden boxed bombs which, due to size, cannot be loaded in closed cars may be loaded in open top cars but must be protected against accidental ignition.

(1) Explosives, class A, must not be loaded, transported, or stored in cars equipped with lighted heaters.

4. Amend § 74.529 paragraph (a) (15 F. R. 8347, Dec. 2, 1950) (49 CFR 74.529, 1950 Rev.) to read as follows:

§ 74.529 *Cars for class B explosives.* (a) Explosives, class B, must not be loaded, transported, or stored in cars equipped with lighted heaters.

5. Amend § 74.532 paragraphs (b), (d), and (e) (15 F. R. 8347, Dec. 2, 1950) (49 CFR 74.532, 1950 Rev.) to read as follows:

(b) Flammable liquids (red label) and flammable gases (red gas label) must not be loaded, transported, or stored in cars equipped with lighted heaters.

(d) Metal barrels or drums containing flammable liquids may be loaded on steel gondola or flat cars or into stock cars, but must not be loaded into hopper bottom cars.

(Note 1 to paragraph (d) remains unchanged.)

(e) Empty cylinders, barrels, kegs, or drums, previously used for the shipment of any dangerous article, as defined in Part 73 of this chapter, must have all openings including removable heads, filling and vent holes properly closed before being offered for transportation. Small quantities of the material with which containers were loaded may remain in "empty" containers and when the vapors remaining therein are unstable, it is permissible to add sufficient inert gas to render the vapors stable.

SUBPART B—LOADING AND STORAGE CHART OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

6. Amend § 74.538, chart, footnotes a, b, c, and Notes 1, 2, and 3 (15 F. R. 8349, 8350, Dec. 2, 1950) (49 CFR 74.538, 1950 Rev.) to read as follows:

§ 74.538 *Loading and storage chart of explosives and oth er dangerous articles.* (a) Explosives or other dangerous articles must not be loaded, transported, or stored together, except as provided in this section.

The following table shows the explosives and other dangerous articles which must not be loaded or stored together.
The letter X at an intersection of horizontal and vertical columns shows that these articles must not be loaded or stored together, for example: Detonating fuzes, boosters (explosive) 7 horizontal column must not be loaded or stored with high explosives 2 vertical column.
Footnotes at bottom of the chart apply only to the items making reference to them.

		1 Low explosives or black powder	2 High explosives, and smokeless powder for small arms in quantity exceeding 50 pounds net weight	3 Initiating or priming explosives, wet: diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene	4 Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers	5 Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles or shell, ammunition for small arms with explosive bullets, or ammunition for small arms with explosive projectiles, or rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles or illuminating projectiles	6 Explosive projectiles, bombs, torpedoes, or mines, rifle or hand grenades (explosive), jet thrust units (jato), Class A	7 Detonating fuzes, boosters (explosive)	8 Ammunition for cannon with empty, inert-loaded or solid projectiles, or without projectiles, or rocket ammunition with empty projectiles, inert-loaded or solid projectiles or without projectiles	9 Smokeless powder for cannon, or not exceeding 50 pounds net weight of smokeless powder for small arms, or jet thrust units (jato), Class B	10 Fireworks, special	11 Small arms ammunition	12 Primers for cannon or small arms, empty cartridge bags-black powder igniters, empty cartridge cases, primed, empty grenades, primed, combination primers of percussion caps, toy caps, explosive cable cutters, explosive rivets	13 Percussion fuzes, tracer fuzes or tracers	14 Time or combination fuzes	15 Cordeau detonant fuse, safety squibs, fuse lighters, fuse igniters, delay electric igniters, electric squibs or instantaneous fuse	16 Fireworks, common	17 Flammable liquids or compressed flammable gases, red label	18 Flammable solids or oxidizing materials, yellow label	19 Acids, corrosive liquids, and alkaline caustic liquids, white label	20 Compressed nonflammable gases, green label	21 Poisonous gases or liquids, in cylinders, projectiles or bombs, poison gas label (see note 1)	22 Radioactive materials (Class D poisons) blue or red radioactive material label
CLASS A EXPLOSIVES																						
Low explosives or black powder	1	----	(c)	X	(c)	(c)	(c)	(c)	(c)	(c)	X	----	----------	----	----	----------	X	X	X	X	X	[d] X	X
High explosives, and smokeless powder for small arms in quantity exceeding 50 pounds net weight	2	(c)	----	X	X	(c)	(c)	X	(c)	(c)	X	----	----------	----	----	----------	X	X	X	X	X	[d] X	X
Initiating or priming explosives, wet: diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene	3	X	X	----------	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers	4	(c)	X	X	----	X	X	(c)	(c)	(c)	[a] X	----	----------	----	----	----------	[a] X	[a] X	[a] X	[a] X	[a] X	[d] X	X
Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles or shell, ammunition for small arms with explosive bullets, or ammunition for small arms with explosive projectiles, or rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles or illuminating projectiles	5	(c)	(c)	X	X	----------	(c)	X	(c)	(c)	X	----	----------	----	----	----------	X	X	X	X	X	[d] X	X
Explosive projectiles, bombs, torpedoes, or mines, rifle or hand grenades (explosive), jet thrust units (jato), class A	6	(c)	(c)	X	X	(c)	------	X	(c)	(c)	X	----	----------	----	----	----------	X	X	X	X	X	[d] X	X
Detonating fuzes, boosters (explosive)	7	(c)	X	X	(c)	X	X	----	(c)	(c)	X	----	----------	----	----	----------	X	X	X	X	X	[d] X	X
CLASS B EXPLOSIVES																						
Ammunition for cannon with empty, inert-loaded or solid projectiles, or without projectiles, or rocket ammunition with empty projectiles, inert-loaded or solid projectiles or without projectiles	8	(c)	(c)	X	(c)	(c)	(c)	(c)	----------	(c)	(c)	----	----------	----	----	----------	----	----	----	[b] X	----	[d] X	25
Smokeless powder for cannon, or not exceeding 50 pounds net weight of smokeless powder for small arms, or jet thrust units (jato), class B	9	(c)	(c)	X	(c)	(c)	(c)	(c)	(c)	-------	(c)	----	----------	----	----	----------	----	----	----	[b] X	----	[d] X	----
Fireworks, special	10	X	X	X	[a] X	X	X	X	(c)	(c)	----	----	----------	----	----	----------	----	----	----	----	----	[d] X	----
CLASS C EXPLOSIVES																						
Small arms ammunition	11	----	----	X	----	----------	----	----	----------	----------	----	----	----------	----	----	----------	----	----	----	----	----	----	----
Primers for cannon or small arms, empty cartridge bags—black powder igniters, empty cartridge cases, primed, empty grenades, primed, combination primers or percussion caps, toy caps, explosive cable cutters, explosive rivets	12	----	----	X	----	----------	----	----	----------	----------	----	----	----------	----	----	----------	----	----	----	----	----	----	----
Percussion fuzes, tracer fuzes or tracers	13	----	----	X	----	----------	----	----	----------	----------	----	----	----------	----	----	----------	----	----	----	----	----	----	----
Time or combination fuzes	14	----	----	X	----	----------	----	----	----------	----------	----	----	----------	----	----	----------	----	----	----	----	----	----	----
Cordeau detonant fuse, safety squibs, fuse lighters, fuse igniters, delay electric igniters, electric squibs or instantaneous fuse	15	----	----	X	----	----------	----	----	----------	----------	----	----	----------	----	----	----------	----	----	----	----	----	----	----
Fireworks, common	16	X	X	X	[a] X	X	X	X	----------	----------	----	----	----------	----	----	----------	----	----	----	----	----	[d] X	----

See footnotes at end of table.

The following table shows the explosives and other dangerous articles which must not be loaded or stored together.
The letter X at an intersection of horizontal and vertical columns shows that these articles must not be loaded or stored together, for example: Detonating fuzes, boosters (explosive) 7 horizontal column must not be loaded or stored with high explosives 2 vertical column.
Footnotes at bottom of the chart apply only to the items making reference to them.

		Low explosives or black powder	High explosives, and smokeless powder for small arms in quantity exceeding 50 pounds net weight	Initiating or priming explosives, wet: diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene	Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers	Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles or shell, ammunition for small arms with explosive bullets, or ammunition for small arms with explosive projectiles, or rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles or illuminating projectiles	Explosive projectiles, bombs, torpedoes, or mines, rifle or hand grenades (explosive), jet thrust units (jato), Class A	Detonating fuzes, boosters (explosive)	Ammunition for cannon with empty, inert-loaded or solid projectiles, or without projectiles, or rocket ammunition with empty projectiles, inert-loaded or solid projectiles or without projectiles	Smokeless powder for cannon, or not exceeding 50 pounds net weight of smokeless powder for small arms, or jet thrust units (jato), Class B	Fireworks, special	Small arms ammunition	Primers for cannon or small arms, empty cartridge bags-black powder igniters, empty cartridge cases, primed, empty grenades, primed, combination primers of percussion caps, toy caps, explosive cable cutters, explosive rivets	Percussion fuzes, tracer fuzes or tracers	Time or combination fuzes	Cordeau detonant fuse, safety squibs, fuse lighters, fuse igniters, delay electric igniters, electric squibs or instantaneous fuse	Fireworks, common	Flammable liquids or compressed flammable gases, red label	Flammable solids or oxidizing materials, yellow label	Acids, corrosive liquids, and alkaline caustic liquids, white label	Compressed nonflammable gases, green label	Poisonous gases or liquids, in cylinders, projectiles or bombs, poison gas label (see note 1)	Radioactive materials (Class D poisons) blue or red radioactive material label
		1	2	3	4	5	6	7	c	9	10	11	12	13	14	15	16	17	18	19	20	21	22
OTHER DANGEROUS ARTICLES																							
Flammable liquids or compressed flammable gases, red label	17	X	X	X	[a] X	X	X	X	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	[d] X	.....
Flammable solids or oxidizing materials, yellow label	18	X	X	X	[a] X	X	X	X	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	[b] X	.....	[d] X	.....
Acids, corrosive liquids, and alkaline caustic liquids, white label	19	X	X	X	[a] X	X	X	X	[b] X	[b] X	.....	.....	.....	.....	.....	.....	.....	.....	[b] X	.....	.....	[d] X	.....
Compressed nonflammable gasses, green label	20	X	X	X	[a] X	X	X	X	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Poisonous gases or liquids, in cylinders, projectiles or bombs, poison gas label (see note 1)	21	[d] X	[d] X	X	[d] X	[d] X	[d] X	[d] X	[d] X	[d] X	[d] X	.....	.....	.....	.....	.....	[d] X	[d] X	[d] X	[d] X	.....	.....	.....
Radioactive materials (class D poisons) blue or red radioactive material label	22	X	X	X	X	X	X	X	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

[a] Blasting caps or electric blasting caps in quantities not exceeding 1,000 caps may also be loaded and transported with articles named in columns 10, 16, 17, 18, 19 and 20.
[b] Acids, corrosive liquids, and alkaline caustic liquids, white label, must not be loaded above or adjacent to articles named in columns 8, 9 and 18.
[c] Explosives, class A, and explosives, class B, columns 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 must not be loaded or stored with chemical ammunition containing incendiary charges either with or without bursting charges. Chemical ammunition of the same classification containing incendiary charges may be loaded and stored together.
[d] Gas identification sets may also be loaded and transported with articles named in columns 1, 2, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18 and 19.

NOTE 1: Cyanides or cyanide mixtures must not be loaded or stored with acids, corrosive liquids, or alkaline caustic liquids.

SUBPART E—HANDLING BY CARRIERS BY RAIL FREIGHT

7. Amend § 74.584 paragraph (a) Table (15 F. R. 8354, Dec. 2, 1950) (49 CFR 74.584, 1950 Rev.) to read as follows:

	Label notation to follow entry of the article on the billing	Placard notation to follow entry of the article on the billing	Placard endorsement must be ¾ high and appear on the billing near the space provided for the car number
For high explosives, initiating explosives, class A, and smokeless powder for small arms in quantity exceeding 50 pounds net weight.	None	"Explosives Placard".	"Explosives".
For explosive chemical ammunition containing class A poison gas.	Poison gas label	"Explosives and Poison Gas Placard".	"Explosives" and "Poison Gas".
For explosives, class B, except smokeless powder for small arms in quantity exceeding 50 pounds net weight.	None	"Dangerous Placard".	"Dangerous".
For explosives, class C	None	None	None.
For flammable liquids	Red label	"Dangerous Placard".	"Dangerous".
For flammable solids	Yellow label	"Dangerous Placard".	"Dangerous".
For oxidizing materials	Yellow label	"Dangerous Placard".	"Dangerous".
For corrosive liquids	White label	"Dangerous Placard".	"Dangerous".
For compressed nonflammable gases in containers other than tank cars.	Green label	None	None.
For compressed nonflammable gases in tank cars	None	"Dangerous Placard".	"Dangerous".
For compressed flammable gases	Red gas label	"Dangerous Placard".	"Dangerous".
For poisonous gases or liquids, class A	Poison gas label	"Poison Gas Placard".	"Poison Gas".
For poisonous liquids or solids, class B	Poison label	"Dangerous Placard".	"Dangerous".
For tear gases, class C	Tear gas label	None	None.
For radioactive materials, class D, poison	Radioactive materials label.	"Dangerous class D Poison Placard".	"Dangerous class D Poison".

8. Amend § 74.589 paragraph (g) (7), (15 F. R. 8356, Dec. 2, 1950) to read as follows:

(7) Loaded flat car.

NOTE: Flat cars equipped with permanently attached ends of rigid construction shall be considered as open-top cars. See subparagraph (8) of this paragraph.

9. Amend § 74.589 paragraph (h) (7) (49 CFR 74.589, 1950 Rev.) to read as follows:

(7) Loaded flat car.

NOTE: Flat cars equipped with permanently attached ends of rigid construction shall be considered as open-top cars. See subparagraph (8) of this paragraph.

10. Amend § 74.589 paragraph (i) (7) (15 F. R. 8356, Dec. 2, 1950) to read as follows:

(7) Loaded flat car.

NOTE: Flat cars equipped with permanently attached ends of rigid construction shall be considered as open-top cars. See subparagraph (8) of this paragraph.

11. Amend § 74.589 paragraph (j) (7) (49 CFR 74.589, 1950 Rev.) to read as follows:

(7) Loaded flat car.

NOTE: Flat cars equipped with permanently attached ends of rigid construction shall be

considered as open-top cars. See subparagraph (8) of this paragraph.

12. Add paragraph (a) (1) to § 74.595 (15 F. R. 8357, 8358, Dec. 2, 1950) (49 CFR 74.595, 1950 Rev.) to read as follows:

(1) Small quantities of the material with which the tank car was loaded may remain in the "empty" tank car and when the vapors remaining therein are unstable it is permissible to add sufficient inert gas to render the vapors stable.

PART 75—CARRIERS BY RAIL EXPRESS

13. Amend § 75.651 paragraph (a) (15 F. R. 8359, Dec. 2, 1950) (49 CFR 75.651, 1950 Rev.) to read as follows:

§ 75.651 *Acceptable articles.* (a) Explosives and other dangerous articles, except such as will not be accepted, may be offered for transportation to rail express carriers engaged in interstate or foreign commerce and transported provided they are in proper condition for transportation and are certified that the regulations in Parts 71–78 of this chapter have been complied with, and provided their method of manufacture, packing, and storage, in so far as they affect safe transportation, are open to inspection by a duly authorized representative of the initial carrier or of the Bureau of Explosives.

PART 77—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

1. Amend first four paragraphs appearing under authority citation for Part 77 (15 F. R. 8361, Dec. 2, 1950) (15 F. R. 8824, Dec. 13, 1950) (49 CFR 77, 1950 Rev.) to read as follows:

[The regulations with respect to transportation of explosives and other dangerous articles as defined in Parts 71–78 of this chapter are applicable to every common,[1] contract,[2] and private[3] carrier by motor vehicle in interstate or foreign commerce, and also to every common,[4] contract,[4] and private[4] carrier by motor vehicle engaged solely in intrastate commerce.]

2. Cancel Note 1 appearing under authority citation for Part 77 (15 F. R. 8361, Dec. 2, 1950) (49 CFR 77, 1950 Rev.).

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[1] Prescribed under authority of Public Law 772, 80th Congress (62 Stat. 738, sections 831–835 of Title 18 of the United States Code approved June 25, 1948.

[2] Prescribed under authority of the Interstate Commerce Act, Part II, section 204 (a) (2) and by order of the Interstate Commerce Commission, Docket No. 3666, dated November 8, 1941.

[3] Prescribed under authority of the Interstate Commerce Act, Part II, section 204 (a) (3) and by orders of the Interstate Commerce Commission, Dockets Ex Parte No. MC–3 and MC–13, and No. 3666, dated April 20, June 14, and August 27, 1943.

[4] Prescribed by orders of the Interstate Commerce Commission, in Dockets Ex Parte No. MC–3 and MC–13, and No. 3666, dated April 20, June 14, and August 27, 1943.

SUBPART A—GENERAL INFORMATION AND REGULATIONS

3. Amend § 77.800 paragraph (a) (15 F. R. 8361, Dec. 2, 1950) (49 CFR 77.800, 1950 Rev.) to read as follows:

§ 77.800 *Purpose of regulations in Parts 71–78 of this chapter.* (a) To promote the uniform enforcement of law and to minimize the dangers to life and property incident to the transportation of explosives and other dangerous articles, by common, contract, and private carriers, by motor vehicles engaged in interstate, intrastate, or foreign commerce, the regulations in Parts 71–78 of this chapter are prescribed to define these articles for motor vehicle transportation purposes, and to state the precautions that must be observed by the carrier in handling them while in transit. It is the duty of each such carrier to make the prescribed regulations effective and to thoroughly instruct employees in relation thereto.

4. Amend § 77.801 paragraph (a) (15 F. R. 8361, Dec. 2, 1950) (49 CFR 77.801, 1950 Rev.) to read as follows:

§ 77.801 *Scope of regulations in Parts 71–78 of this chapter.* (a) Explosives and other dangerous articles, except such as may not be accepted and transported under Parts 71–78 of this chapter, may be accepted and transported by common, contract, and private carriers by motor vehicle engaged in interstate, intrastate, or foreign commerce, provided they are in proper condition for transportation and are certified as being in compliance with Parts 71–78, and provided the method of manufacture, packing, and storage, so far as they affect safety in transportation, are open to inspection by a duly authorized representative of the initial carrier or of the Bureau of Explosives.

5. Amend § 77.802 paragraph (a) (15 F. R. 8361, Dec. 2, 1950) (49 CFR 77.802, 1950 Rev.) to read as follows:

§ 77.802 *Application of regulations in Parts 71–78 of this chapter.* (a) The regulations in Parts 71–78 of this chapter apply to all common, contract, and private carriers by motor vehicle transporting explosives and other dangerous articles as defined in Parts 71–78 of this chapter in interstate, intrastate, or foreign commerce, except as follows:

(1) *Exemptions for private carriers of flammable liquids in interstate or foreign commerce.* Because of the present emergency and until further order of the Commission, the following regulations shall apply to transportation of flammable liquids by private carriers by motor vehicle in interstate or foreign commerce:

All regulations in Parts 71–78 of this chapter applying to common, contract, and private carriers by motor vehicle in interstate or foreign commerce shall apply to such private carriers, except:

Cargo tanks of tank motor vehicles constructed previous to June 15, 1943, may be continued in service if maintained in safe operating condition and sufficiently frequent inspections are maintained to determine compliance with all requirements as specified below.

Any defect or deficiency, due to accident or otherwise, that is likely to cause serious hazard must be corrected before any such tank is continued in or returned to service; see, however, § 77.856.

Requirements applying to tests of tanks, and provisions for markers thereon except that indicating the flammable nature of the cargo, are waived.

Outages for shipments shall be those provided for in Part 73 of this chapter, except that filling of tanks to outage markers already incorporated in tanks, having due regard for safety in the transportation of the flammable liquids, need not be changed.

Section 77.815 labels, and § 77.819 certification of packages, need not be complied with by such private carriers, except as to packages transferred from one carrier to another.

(2) *Exemptions for common, contract, and private carriers by motor vehicle of flammable liquids in intrastate commerce.* Because of the present emergency and until further order of the Commission, the following regulations shall apply to transportation of flammable liquids by common, contract, and private carriers by motor vehicle in intrastate commerce:

All regulations in Parts 71–78 of this chapter applying to common, contract, and private carriers by motor vehicle in intrastate commerce shall apply to such carriers, except:

That common, contract, and private carriers by motor vehicle transporting flammable liquids in intrastate commerce shall not be subject to Parts 71–78 of this chapter.

(3) *Shipments accepted by motor vehicle for further transportation by other carriers.* When shipments are accepted by motor vehicle for further transportation by rail express (see also paragraph (c) of this section), rail baggage (see also paragraph (d) of this section), rail freight, or by water on board vessel, they must, in addition to Parts 71–78 of this chapter, comply with the applicable regulations for the service by which they are to be transported.

6. Amend § 77.804 paragraph (a) (15 F. R. 8362, Dec. 2, 1950) (49 CFR 77.804, 1950 Rev.) to read as follows:

§ 77.804 *Export shipments by domestic carriers by motor vehicle.* (a) Explosives and other dangerous articles authorized to be exported from the United States when packed, marked, labeled, and described, in accordance with rules and regulations in force at destination ports, must not be offered to any common, contract, or private carrier by motor vehicle for domestic transportation unless in full accordance with Parts 71–78 of this chapter.

7. Add Note 1 to § 77.805 paragraph (a) (15 F. R. 8362, Dec. 2, 1950) (49 CFR 77.805, 1950 Rev.) to read as follows:

NOTE 1: Because of the present emergency and until further order of the Commission, compressed gas cylinders 40 inches in length and 8 inches in diameter, charged with not more than 40 pounds of carbon dioxide and shipped by or to the Canadian Department of National Defense in accordance with Board of Transport Commissioners for Canada Order No. 76253, dated March 10, 1951, may be shipped to destinations in the United States or through the United States to points in Canada.

8. Amend § 77.807 paragraph (a) (3) (15 F. R. 8362, Dec. 2, 1950) (49 CFR 77.807, 1950 Rev.) to read as follows:

§ 77.807 *Emergency shipments.* (a) for the protection of the public against fire, explosion, or other or further hazard, with respect to shipments of explosives or other dangerous articles offered for transportation or in transit by any common, contract, or private carrier by motor vehicle, such carrier shall make immediate report to the Bureau of Explosives, 30 Vesey Street, New York, N. Y., for handling, any of the following emergency matters coming to their attention (see also §§ 77.853 to 77.870 for handling shipments in transit):

* * * * *

(3) Other like emergencies in which any common, contract, or private carrier by motor vehicle is or is likely to become involved, or may offer aid at its command.

9. Amend § 77.814 paragraph (a) Report Form (15 F. R. 8362, 8363, Dec. 2, 1950) (49 CFR 77.814, 1950 Rev.) to read as follows:

No. 3666

Report to

BUREAU OF SERVICE

INTERSTATE COMMERCE COMMISSION
WASHINGTON, D. C.

Fires, Explosions, and Leaking, Broken, or Seriously Damaged Containers

[that can be attributed in whole or in part to the transportation or storage of explosive or other dangerous articles]

Submitted by _____
(Name of carrier—corporate or business name)

_____, 19____
(Date)

Address _____
(Street and number)

_____
(City—town)

_____
(State)

Common carrier, I. C. C. certificate No. ____
Contract carrier, I. C. C. permit No. _____
Private carrier _____
Date of accident or discovery of damage ____
_____
Place _____
Commodity and quantity _____
Quantity destroyed _____
What marking or placards were on motor vehicle? _____
If a tank motor vehicle, what sign or other marking to indicate contents? _____
Show package markings:
Name of contents _____
I. C. C. Spec. No. _____
Label _____
Serial Nos. _____ Code Nos. _____
If carboy, show box maker's name_____
_____ and whether
straight sided _____or
ballon shaped _____
Name and address of shipper_____
Name of address of consignee _____
T. L. or L. T. L. shipment _____

RESULTS OF ACCIDENT

(State whether in transportation or storage)

Number of persons injured _____ killed _____

Property loss:
Reporting-carrier's vehicle _____ $_____
Other vehicles_____ $_____
Reporting-carrier's cargo_____ $_____
Other cargoes _____ $_____
Other property (described)_____ $_____
Total loss _____ $_____

Give all essential facts and details of handling (use additional sheet if necessary, stating: (1) Part of package damaged or leaking, and what was done to stop leak; (2) rate of leakage; (3) probable cause of fire, explosion, or leaking, broken, or seriously damaged container; (4) distance between source of ignition and point of leakage of flammable liquid or vapor; (5) description of package, packing or cushioning material, and method of loading and bracing in vehicle; (6) for tank motor vehicle, speed of vehicle, condition of highway, degree and elevation of curve, if any; (7) any defective condition of vehicle likely to contribute directly to accident; and (8) specification number, type, or other identifying description of tank, and date built, if shown.

Is this accident also being reported to the Commission on Form BMC–50? _____
(Yes or No)

This report is required by § 77.814 of regulations in Docket 3666. Information furnished on this form will not be open to public inspection.

(Signed) _____

SUBPART B—LOADING AND UNLOADING

10. Amend § 77.835 paragraphs (g), (h), and (k) (15 F. R. 8365, Dec. 2, 1950) (49 CFR 77.835, 1950 Rev.) to read as follows:

(g) *Blasting caps or electric blasting caps in the same motor vehicle with other high explosives.* Except as provided in paragraph (k) of this section, no blasting caps or electric blasting caps may be transported in or on a motor vehicle with any high explosive.

(h) *Lading within body covered, tailgate closed.* Except as provided in paragraph (k) of this section, all of that portion of the lading of any motor vehicle which consists of explosives shall be contained entirely within the body of the motor vehicle, and if such motor vehicle has a tailboard or tailgate, it shall be closed and secured in place during such transportation. Every motor vehicle transporting explosives must have a closed body or have the body thereof covered with a tarpaulin, and in either event care must be taken to protect the load from moisture and sparks.

(k) *Transportation of liquid nitroglycerin, desensitized liquid nitroglycerin, and diethylene glycol dinitrate, other than desensitized liquid explosives as defined in § 73.53 (e) of this chapter.* Liquid nitroglycerin, desensitized liquid nitroglycerin, and diethylene glycol dinitrate, other than desensitized liquid explosives as defined in § 73.53 (e) of this chapter, may be accepted for transportation and transported only by motor carriers other than common carriers. Such explosives must be loaded into or on a motor vehicle having the type of body specified in spec. MC–200 (§ 78.315 of this chapter). Liquid nitroglycerin, desensitized liquid nitroglycerin, and diethylene glycol dinitrate must not be loaded in excess of 10 quarts in any individual container nor shall the total quantity of such explosives exceed 900 quarts on one motor vehicle.

(1) Motor carriers, other than common carriers, engaged in geophysical, geological, seismograph, or well shooting operations transporting such explosives in accordance with this paragraph may also transport in the same motor vehicle in no greater quantity than is necessary for use on any particular trip, other explosives including percussion caps, detonators, blasting caps, electric blasting caps and tools or other supplies necessary for preparing and firing charges thereof: *Provided,* That such other explosives are packed as prescribed in the following table and are segregated, each kind from every other kind, and from tools and other supplies and are carried in a closed and covered bed or body which is firmly bolted or fastened above the lid of the compartment containing the liquid nitroglycerin, desensitized liquid nitroglycerin, or diethylene glycol dinitrate: *Provided further,* That in no case shall the net load exceed 7,500 pounds.

Materials for preparing and firing charges	Packing required
Other explosives.	1. Authorized outside shipping containers.
Percussion caps or detonators.	1. Cloth container having individual pockets for each percussion cap or detonator. 2. Container prescribed by Spec. MC–201.
Blasting caps or electric blasting caps.	1. Cloth container having individual pockets for each such cap. 2. Container prescribed by Spec. MC–201. 3. Authorized ICC outside shipping containers prescribed in § 73.66. 4. Authorized ICC inside shipping containers in an outside box made of 1 inch lumber lined with suitable padding material not less than ½ inch thick, or in an outside box made of not less than 12 gauge sheet metal lined with plywood or other suitable material not less than 3/8 inch thick so that no metal is exposed; either type of box must have hinged cover and fastening device and must be so loaded in the motor vehicle so that contents or box will be immediately accessible for removal.
Tools and other supplies.	Shall be properly secured in place so as to prevent their coming in contact with the percussion caps, detonators, blasting caps or electric blasting caps.

(2) Motor carriers, other than common carriers, engaged in geophysical, geological, seismograph, or well shooting operations transporting desensitized liquid explosives as defined in § 73.53 (e) of this chapter (see also § 73.62 of this chapter), or high explosives (see §§ 73.63, 73.64, and 73.65 of this chapter), may also transport in the same motor vehicle, in no greater quantity than is necessary for use on any particular trip, other explosives including percussion caps, detonators, blasting caps, electric blasting caps and tools or other supplies necessary for preparing and firing charges thereof: *Provided,* That such other explosives are packed as prescribed in the table in subparagraph (1) of this paragraph and are segregated each kind from every other kind, and from tools and other supplies and are carried in a closed and covered box which is firmly bolted or fastened to the motor vehicle body and separated from the desensitized liquid explosives or high explosives by not less than 3 feet: *Provided, further,* That the intervening space of 3 feet must be filled with dry sand or earth in bags or in a crib so constructed or lined as to prevent sifting of the sand or earth. The crib must be secured against movement.

11. Cancel Paragraphs (l) and (m) of § 77.835 (15 F. R. 8365, 8366, Dec. 2, 1950) (49 CFR 77.835, 1950 Rev.).

12. Amend § 77.840 paragraph (c) (15 F. R. 8367, Dec. 2, 1950) (49 CFR 77.840, 1950 Rev.) to read as follows:

(c) Tanks complying with specification 106A500 (§ 78.275 of this chapter), containing chlorine, anhydrous ammonia, sulfur dioxide, methyl chloride, dichlorodifluoromethane, monochlorodifluoromethane, monochlorotetrafluoroethane, vinyl chloride, inhibited, difluoroethane, difluoromonochloroethane, dispersant gas, n. o. s., or dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture), tanks complying with specification 110A500W (§ 78.293 of this chapter), containing dichlorodifluoromethane or monochlorodifluoromethane, or tanks complying with specification 106A800 (§ 78.276 of this chapter), containing hydrogen sulfide, may be transported on trucks or semitrailers only, when securely chocked or clamped thereon to prevent shifting, and provided adequate facilities are present for handling tanks where transfer in transit is necessary. See § 74.560 (b) (1) of this chapter, for rail freight-motor vehicle shipments.

SUBPART C—LOADING AND STORAGE CHART OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

13. Amend § 77.848, chart, footnotes a, b, c, and Notes 1, 2, and 3, (15 F. R. 8368, 8369, Dec. 2, 1950) (49 CFR 77.848, 1950 Rev.) to read as follows:

§ 77.848 *Loading and storage chart of explosives and other dangerous articles.* (a) Explosives or other dangerous articles must not be loaded, transported, or stored together, except as provided in this section.

The following table shows the explosives and other dangerous articles which must not be loaded or stored together.
The letter X at an intersection of horizontal and vertical columns shows that these articles must not be loaded or stored together, for example: Detonating fuzes, boosters (explosive) 7 horizontal column must not be loaded or stored with high explosives 2 vertical column.
Footnotes at bottom of the chart apply only to the items making reference to them.

		1 Low explosives or black powder	2 High explosives, and smokeless powder for small arms in quantity exceeding 50 pounds net weight	3 Initiating or priming explosives, wet: diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene	4 Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers	5 Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles or shell, ammunition for small arms with explosive bullets, or ammunition for small arms with explosive projectiles, or rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles or illuminating projectiles	6 Explosive projectiles, bombs, torpedoes, or mines, rifle or hand grenades (explosive), jet thrust units (jato), Class A	7 Detonating fuzes, boosters (explosive)	8 Ammunition for cannon with empty, inert-loaded or solid projectiles, or without projectiles, or rocket ammunition with empty projectiles, inert-loaded or solid projectiles or without projectiles	9 Smokeless powder for cannon, or not exceeding 50 pounds net weight of smokeless powder for small arms, or jet thrust units (jato), Class B	10 Fireworks, special	11 Small arms ammunition	12 Primers for cannon or small arms, empty cartridge bags, black powder igniters, empty cartridge cases, primed, empty grenades, primed, combination primers or percussion caps, toy caps, explosive cable cutters, explosive rivets	13 Percussion fuzes, tracer fuzes or tracers	14 Time or combination fuzes	15 Cordeau detonant fuse, safety squibs, fuse lighters, fuse igniters, delay electric igniters, electric squibs or instantaneous fuse	16 Fireworks, common	17 Flammable liquids or compressed flammable gases, red label	18 Flammable solids or oxidizing materials, yellow label	19 Acids, corrosive liquids, and alkaline caustic liquids, white label	20 Compressed nonflammable gases, green label	21 Poisonous gases or liquids, in cylinders, projectiles or bombs, poison gas label (see note 1)	22 Radioactive materials (Class D poisons) blue or red radioactive material label
CLASS A EXPLOSIVES																							
Low explosives or black powder	1	----	(c)	X	(c)	(c)	(c)	(c)	(c)	(c)	X	----	----------	----	----	-------	X	X	X	X	X	•X	X
High explosives, and smokeless powder for small arms in quantity exceeding 50 pounds net weight	2	(c)	----	X	dX	(c)	(c)	X	(c)	(c)	X	----	----------	----	----	-------	X	X	X	X	X	•X	X
Initiating or priming explosives, wet: diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene	3	X	X	----------	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers	4	(c)	dX	X	----	X	X	(c)	(c)	(c)	•X	----	----------	----	----	-------	•X	•X	•X	•X	•X	•X	X
Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles or shell, ammunition for small arms with explosive bullets, or ammunition for small arms with explosive projectiles, or rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles or illuminating projectiles	5	(c)	(c)	X	X	----------	(c)	X	(c)	(c)	X	----	----------	----	----	-------	X	X	X	X	X	•X	X
Explosive projectiles, bombs, torpedoes, or mines, rifle or hand grenades (explosive), jet thrust units (jato), class A	6	(c)	(c)	X	X	(c)	------	X	(c)	(c)	X	----	----------	----	----	-------	X	X	X	X	X	•X	X
Detonating fuzes, boosters (explosive)	7	(c)	X	X	(c)	X	X	----	(c)	(c)	X	----	----------	----	----	-------	X	X	X	X	X	•X	X
CLASS B EXPLOSIVES																							
Ammunition for cannon with empty, inert-loaded or solid projectiles, or without projectiles, or rocket ammunition with empty projectiles, inert-loaded or solid projectiles or without projectiles	8	(c)	(c)	X	(c)	(c)	(c)	(c)	-------	(c)	(c)	----	----------	----	----	-------	----	----	----	bX	----	•X	38
Smokeless powder for cannon, or not exceeding 50 pounds net weight of smokeless powder for small arms, or jet thrust units (jato), class B	9	(c)	(c)	X	(c)	(c)	(c)	(c)	(c)	------	(c)	----	----------	----	----	-------	----	----	----	bX	----	•X	----
Fireworks, special	10	X	X	X	aX	X	X	X	(c)	(c)	----	----	----------	----	----	-------	----	----	----	----	----	•X	----

See footnotes at end of table.

The following table shows the explosives and other dangerous articles which must not be loaded or stored together.
The letter X at an intersection of horizontal and vertical columns shows that these articles must not be loaded or stored together, for example: Detonating fuzes, boosters (explosive) 7 horizontal column must not be loaded or stored with high explosives 2 vertical column.
Footnotes at bottom of the chart apply only to the items making reference to them.

		1 Low explosives or black powder	2 High explosives, and smokeless powder for small arms in quantity exceeding 50 pounds net weight	3 Initiating or priming explosives, wet; diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene	4 Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers	5 Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles or shell, ammunition for small arms with explosive bullets, or ammunition for small arms with explosive projectiles, or rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles or illuminating projectiles	6 Explosive projectiles, bombs, torpedoes, or mines, rifle or hand grenades (explosive), jet thrust units (jato), Class A	7 Detonating fuzes, boosters (explosive)	8 Ammunition for cannon with empty, inert-loaded or solid projectiles, or without projectiles, or rocket ammunition with empty projectiles, inert-loaded or solid projectiles or without projectiles	9 Smokeless powder for cannon, or not exceeding 50 pounds net weight of smokeless powder for small arms, or jet thrust units (jato), Class B	10 Fireworks, special	11 Small arms ammunition	12 Primers for cannon or small arms, empty cartridge bags-black powder igniters, empty cartridge cases, primed, empty grenades, primed, combination primers of percussion caps, toy caps, explosive cable cutters, explosive rivets	13 Percussion fuzes, tracer fuzes or tracers	14 Time or combination fuzes	15 Cordeau detonant fuse, safety squibs, fuse lighters, fuse igniters, delay electric igniters, electric squibs or instantaneous fuse	16 Fireworks, common	17 Flammable liquids or compressed flammable gases, red label	18 Flammable solids or oxidizing materials, yellow label	19 Acids, corrosive liquids, and alkaline caustic liquids, white label	20 Compressed nonflammable gases, green label	21 Poisonous gases or liquids, in cylinders, projectiles or bombs, poison gas label (see note 1)	22 Radioactive materials (Class D poisons) blue or red radioactive material label
CLASS C EXPLOSIVES																							
Small arms ammunition	11	---	---	X	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Primers for cannon or small arms, empty cartridge bags—black powder igniters, empty cartridge cases, primed, empty grenades, primed, combination primers or percussion caps, toy caps, explosive cable cutters, explosive rivets	12	---	---	X	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Percussion fuzes, tracer fuzes or tracers	13	---	---	X	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Time or combination fuzes	14	---	---	X	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Cordeau detonant fuse, safety squibs, fuse lighters, fuse igniters, delay electric igniters, electric squibs, or instantaneous fuse	15	---	---	X	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Fireworks, common	16	X	X	X	[a]X	X	X	X	---	---	---	---	---	---	---	---	---	---	---	---	[c]X	---	---
OTHER DANGEROUS ARTICLES																							
Flammable liquids or compressed flammable gases, red label	17	X	X	X	[a]X	X	X	X	---	---	---	---	---	---	---	---	---	---	---	---	[c]X	---	---
Flammable solids or oxidizing materials, yellow label	18	X	X	X	[a]X	X	X	X	---	---	---	---	---	---	---	---	---	---	---	[b]X	[c]X	---	---
Acids, corrosive liquids, and alkaline caustic liquids, white label	19	X	X	X	[a]X	X	X	X	[b]X	[b]X	---	---	---	---	---	---	---	[b]X	---	---	[c]X	---	---
Compressed nonflammable gases, green label	20	X	X	X	[a]X	X	X	X	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Poisonous gases or liquids, in cylinders, projectiles or bombs, poison gas label (see note 1)	21	[c]X	[c]X	X	[c]X	[c]X	[c]X	[c]X	[c]X	[c]X	[c]X	---	---	---	---	---	[c]X	[c]X	[c]X	[c]X	---	---	---
Radioactive materials (class D poisons) blue or red radioactive material label	22	X	X	X	X	X	X	X	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---

[a] Blasting caps or electric blasting caps in quantities not exceeding 1,000 caps may also be loaded and transported with articles named in columns 10, 16, 17, 18, 19, and 20.
[b] Acids, corrosive liquids, and alkaline caustic liquids white label, must not be loaded above or adjacent to articles named in columns 8, 9 and 18.
[c] Explosives, Class A, and explosives, Class B, columns 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 must not be loaded or stored with chemical ammunition containing incendiary charges either with or without bursting charges. Chemical ammunition of the same classification containing incendiary charges may be loaded or stored together.
[d] Blasting caps, electric blasting caps, or detonators, column 4, may also be transported in the same motor vehicle with liquid nitroglycerin, desensitized liquid nitroglycerin, and diethylene glycol dinitrate, including desensitized liquid explosives as defined in § 73.53 (e) of this chapter, and high explosives, column 2, by motor carriers, other than common carriers, engaged in geophysical, geological, seismograph, or well shooting operations in conformity with § 77.835 (k).
[e] Gas identification sets may also be loaded and transported with articles named in columns 1, 2, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18 and 19.

NOTE 1: Cyanides or cyanide mixtures must not be loaded or stored with acids, corrosive liquids, or alkaline caustic liquids.

PART 78—SHIPPING CONTAINER SPECIFICATIONS

SUBPART C—SPECIFICATIONS FOR CYLINDERS

1. Amend § 78.51–10 paragraph (c) (15 F. R. 8406, Dec. 2, 1950) (49 CFR 78.51–10, 1950 Rev.) to read as follows:

(c) Cylinders with wall thickness less than 0.100 inch, the ratio of tangential length to outside diameter shall not exceed 4.0.

2. Amend § 78.51–17 paragraph (d) (15 F. R. 8407, Dec. 2, 1950) (49 CFR 78.51–17, 1950 Rev.) to read as follows:

(d) *Alternate guided-bend test.* An alternate guided-bend test jig, as illustrated in § 78.51–23 (a) and (b), may be used for testing the soundness of fillet welded lap joints and joggle butt joints. The test specimen shall be bent across the weld as illustrated in sketch A or B for fillet welded lap joints and as illustrated in sketches C and D for joggle butt joints. The specimen shall be bent until the elongation at the outer surface, adjacent to the root of the weld, between the lightly scribed gauge lines—a to b, shall be at least 20 percent; except that this percentage may be reduced for steels having a tensile strength in excess of 50,000 pounds per square inch, as provided in § 78.51–16. No tested specimen shall show a crack, or other defect, as specified in § 78.51–17 (c). The gauge lines shall be lightly scribed before bend-

ing. The amount of elongation may be conveniently determined with a Brinell microscope or any other suitable method may be employed.

3. Amend § 78.51–20 paragraph (a) Table I (15 F. R. 8407, Dec. 2, 1950) (49 CFR 78.51–20, 1950 Rev.) to read as follows:

TABLE I—AUTHORIZED MATERIALS

Designation	Chemical analysis—limits in percent				
	1315 [2 4]	HIS [2 4]	MAY [2 4]	NAX [2 4]	COR [2 4]
Carbon	0.10/0.20	0.12 max.	0.12 max.	0.20 max.	0.12 max.
Manganese	1.10/1.65	0.50/0.90	0.50/1.00	0.45/0.75	0.20/0.50.
Phosphorus	0.045 max.	0.05/0.12	0.08/0.12	0.045 max.	0.07/0.15.
Sulfur	0.05 max.	0.05 max.	0.05 max.	0.05 max.	0.05 max.
Silicon	0.15/0.35	0.15 max.	0.10/0.50	0.50/0.90	0.25/0.75.
Chromium			0.40/1.00	0.45/0.70	0.50/1.25.
Molybdenum		0.08/0.18			
Zirconium				0.05/0.25	
Nickel		0.45/0.75	0.25/0.75		0.65 max.
Copper	0.40 max.	0.95/1.30	0.50/0.70		0.25/0.55.
Aluminum		0.12/0.27			
Heat treatment authorized	[3]	[3]	[3]	[3]	[3]
Maximum stress	35,000.	35,000.	35,000.	35,000.	35,000.
	SCX [2 4]	4017 [2 4]	OTY [2 4 5]	RDT [2 4 5 6]	YOL [2 4 5 6]
Carbon	0.20 max.	0.13/0.20	0.15 max.	0.12 max.	0.15 max.
Manganese	0.60/1.00	0.75/1.10	0.90/1.40	0.50/1.00	0.30/0.60.
Phosphorus	0.045 max.	0.04 max.	0.09/0.135	0.040 max.	0.04 max.
Sulfur	0.045 max.	0.04 max.	0.04 max.	0.050 max.	0.05 max.
Silicon	0.15/0.30	0.25/0.35	0.10 max.		
Chromium	0.15/0.50				
Molybdenum	0.15/0.35	0.25/0.35		0.10/0.30	
Zirconium					
Nickel				0.50/1.20	1.50/2.00.
Copper	0.20/0.50		0.30/0.70	0.50/1.00	0.75/1.25.
Aluminum					
Heat treatment authorized	[3]	[3]	[3]	[3]	[3]
Maximum stress	35,000.	35,000.	35,000.	35,000.	35,000.

[1] A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, section 10, dated June 1945, are not exceeded or are approved by the Bureau of Explosives.
[2] This designation shall not be restrictive and the commercial steel is limited in analysis shown in the table.
[3] Any suitable heat treatment in excess of 1,100° F., except that liquid quenching is not permitted.
[4] Addition of other elements to obtain alloying effect is not authorized.
[5] Grain size 6 or finer according to A. S. T. M. Spec. E 19–46.
[6] Only fully killed steel authorized.

4. Amend § 78.55–2 paragraph (c) (15 F. R. 8417, Dec. 2, 1950) (49 CFR 78.55–2, 1950 Rev.) to read as follows:

(c) *Size.* The maximum water capacity of this type shall not exceed 12 pounds or 333 cubic inches. The maximum outside diameter of the shell shall be five inches and maximum length of shell 21 inches.

5. Amend § 78.59–12 paragraph (b) (15 F. R. 8420, Dec. 2, 1950) (49 CFR 78.59–12, 1950 Rev.) to read as follows:

(b) Pressure must be maintained for 30 seconds and sufficiently longer to insure complete expansion. Any internal pressure applied after heat-treatment and previous to the official test must not exceed 90 percent of the test pressure.

6. Amend § 78.59–16 paragraph (a) (15 F. R. 8420, Dec. 2, 1950) (49 CFR 78.59–16, 1950 Rev.) to read as follows:

§ 78.59–16 *Porous filling.* (a) Cylinders must be filled with an approved porous material of such structure that it will not disintegrate or sag when wet with solvent or when subjected to normal service. The porous filling material shall be uniform in quality and free of voids, except that a well drilled into the filling material beneath the valve is authorized, provided that such a well be filled with a material of such type that the functions of the filling material are not impaired. Overall shrinkage of the filling material is authorized, provided the total clearance between the cylinder shell and filling material, after solvent has been added, does not exceed ½ of 1 percent of the respective diameter or length but in no case to exceed ⅛ inch measured diametrically and longitudinally and that such clearances do not impair the functions of the filling material. In all cases, the filling material as installed in the cylinder must be approved by the Bureau of Explosives.

7. Amend § 78.60–4 paragraph (a) Table 1 (15 F. R. 8422, 8423, Dec. 2, 1950) (49 CFR 78.60–4, 1950 Rev.) to read as follows:

TABLE 1—AUTHORIZED MATERIALS

Designation	Chemical analysis—limits in percent				
	1315 [2 4]	HIS [2 4]	MAY [2 4]	NAX [2 4]	COR [2 4]
Carbon	0.10/0.20	0.12 max.	0.12 max.	0.20 max.	0.12 max.
Manganese	1.10/1.65	0.50/0.90	0.50/1.00	0.45/0.75	0.20/0.50.
Phosphorus	0.045 max.	0.05/0.12	0.08/0.12	0.045 max.	0.07/0.15.
Sulfur	0.05 max.	0.05 max.	0.05 max.	0.05 max.	0.05 max.
Silicon	0.15/0.35	0.15 max.	0.10/0.50	0.50/0.90	0.25/0.75.
Chromium			0.40/1.00	0.45/0.70	0.50/1.25.
Molybdenum		0.08/0.18			
Zirconium				0.05/0.25	
Nickel		0.45/0.75	0.25/0.75		0.65 max.
Copper	0.40 max.	0.95/1.30	0.50/0.70		0.25/0.55.
Aluminum		0.12/0.27			
Heat treatment authorized	[3]	[3]	[3]	[3]	[3]
Maximum stress	35,000.	35,000.	35,000.	35,000.	35,000.
	SCX [2 4]	4017 [2 4]	OTY [2 4 5]	RDT [2 4 5 6]	YOL [2 4 5 6]
Carbon	0.20 max.	0.13/0.20	0.15 max.	0.12 max.	0.15 max.
Manganese	0.60/1.00	0.75/1.10	0.90/1.40	0.50/1.00	0.30/0.60.
Phosphorus	0.045 max.	0.040 max.	0.09/0.135	0.040 max.	0.04 max.
Sulfur	0.045 max.	0.040 max.	0.040 max.	0.050 max.	0.05 max.
Silicon	0.15/0.30	0.25/0.35	0.10 max.		
Chromium	0.15/0.50				
Molybdenum	0.15/0.35	0.25/0.35		0.10/0.30	
Zirconium					
Nickel				0.50/1.20	1.50/2.00.
Copper	0.20/0.50		0.30/0.70	0.50/1.00	0.75/1.25.
Aluminum					
Heat treatment authorized	[3]	[3]	[3]	[3]	[3]
Maximum stress	35,000.	35,000.	35,000.	35,000.	35,000.

[1] A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, section 10, dated June 1945, are not exceeded or are approved by the Bureau of Explosives.
[2] This designation shall not be restrictive and the commercial steel is limited in analysis shown in the table.
[3] Any suitable heat treatment in excess of 1,100° F., except that liquid quenching is not permitted.
[4] Addition of other elements to obtain alloying effect is not authorized.
[5] Grain size 6 or finer according to A. S. T. M. Spec. E 19–46.
[6] Only fully killed steel authorized.

8. Amend § 78.60–14 paragraph (b) (15 F. R. 8423, Dec. 2, 1950) (49 CFR 78.60–14, 1950 Rev.) to read as follows:

(b) Pressure must be maintained for 30 seconds and sufficiently longer to insure complete expansion. Any internal pressure applied after heat-treatment and previous to the official test must not exceed 90 percent of the test pressure.

9. Amend § 78.60–20 paragraph (a) (15 F. R. 8424, Dec. 2, 1950) (49 CFR 78.60–20, 1950 Rev.) to read as follows:

§ 78.60–20 *Porous filling.* (a) Cylinders must be filled with an approved porous material of such structure that it will not disintegrate or sag when wet with solvent or when subjected to normal service. The porous filling material shall be uniform in quality and free of voids, except that a well drilled into the filling material beneath the valve is authorized: *Provided*, That such a well be filled with a material of such type that the functions of the filling material are not impaired. Overall shrinkage of the filling material is authorized, provided the total clearance between the cylinder shell and filling material, after solvent has been added, does not exceed ½ of 1 percent of the respective diameter or length but in no case to exceed ⅛ inch measured diametrically and longitudinally and that such clearances do not impair the functions of the filling ma-

terial. In all cases, the filling material as installed in the cylinder must be approved by the Bureau of Explosives.

SUBPART D—SPECIFICATIONS FOR METAL BARRELS, DRUMS, KEGS, CASES, TRUNKS, AND BOXES

10. Amend § 78.83–11 paragraph (a) (15 F. R. 8435, Dec. 2, 1950) (49 CFR 78.83–11, 1950 Rev.) to read as follows:

§ 78.83–11 *Marking.* (a) Marking on each container by embossing on head with raised marks, or by embossing on footring on drums equipped with footrings, or on metal plates securely attached to drum by welding after which the part to which the plate is attached must be annealed, as follows:

11. Amend § 78.107–9 paragraph (a) (3) (15 F. R. 8446, Dec. 2, 1950) (49 CFR 78.107–9, 1950 Rev.) to read as follows:

(3) Gauge of metal, Brown and Sharpe, at start of fabrication; rated capacity in gallons; year of manufacture (for example, 7–30–50).

12. Amend § 78.108–9 paragraph (a) (3) (15 F. R. 8447, Dec. 2, 1950) (49 CFR 78.108–9, 1950 Rev.) to read as follows:

(3) Gauge of metal, Brown and Sharpe, at start of fabrication; rated capacity in gallons; year of manufacture (for example, 7–30–50).

13. Amend § 78.109–9 paragraph (a) (3) (15 F. R. 8447, Dec. 2, 1950) (49 CFR 78.109–9, 1950 Rev.) to read as follows:

(3) Gauge of metal, Brown and Sharpe, at start of fabrication; rated capacity in gallons; year of manufacture (for example, 7–30–50).

14. Amend § 78.116–8 paragraph (b) (15 F. R. 8448, 8449, Dec. 2, 1950) (49 CFR 78.116–8, 1950 Rev.) to read as follows:

(b) Closing part (plug, cap, plate, etc. see Note 1) must be of metal as thick as prescribed for head of container: *Provided*, That thinner metal closures or closures of other material are authorized for containers of 12 gallons capacity or less when opening to be closed is not over 2.5'' diameter and closures, except threaded metal closures, are fitted with outside sealing devices which cannot be removed without destroying the closure or sealing device. Closures of a material other than metal must be of a type approved by the Bureau of Explosives for use, after satisfactory proof of efficiency.

(Note 1 to paragraph (b) remains unchanged.)

15. Amend § 78.125–5 paragraph (a) Table (15 F. R. 8451, Dec. 2, 1950) (49 CFR 78.125–5, 1950 Rev.) to read as follows:

Marked capacity not over (gallons)	Authorized gross weight (pounds)	Type of container	Welded side seam required	Minimum thickness in the black (gage, United States standard)	
				Body sheet	Head sheet
55	80	Straight side	No	24	24
	160	do	No	22	22
	300	do	No	20	20
	425	do	No	19	19
	480	do	Yes	19	19
	880	do	Yes	18	18

16. Amend § 78.126–5 paragraph (a) Table (15 F. R. 8452, Dec. 2, 1950) (49 CFR 78.126–5, 1950 Rev.) to read as follows:

Marked capacity not over (gallons)	Authorized gross weight (pounds)	Type of container	Welded side seam required	Minimum thickness in the black (gage, United States standard)	
				Body sheet	Head sheet
55	80	Straight side	No	26	26
	160	do	No	25	25
	220	do	No	24	24
	425	do	No	22	22
	480	do	Yes	22	22
	880	do	Yes	20	20

17. Amend § 78.127–5 paragraph (a) Table and footnote (15 F. R. 8452, Dec. 2, 1950) (49 CFR 78.127–5, 1950 Rev.) to read as follows:

Marked capacity not over (gallons)	Authorized gross weight (pounds)	Type of container	Welded side seam required	Minimum thickness in the black (gage, United States standard)	
				Body sheet	Head sheet
55	80	Straight side	No	26	26
55	160	do	No	26	26
55 [1]	275	do	No	24	24
55	425	do	No	24	24
55	480	do	Yes	24	24
55	880	do	Yes	22	22

[1] Because of the present emergency and until further order of the Commission.

18. Amend § 78.128–5 paragraph (a) Table (15 F. R. 8453, Dec. 2, 1950) (49 CFR 78.128–5, 1950 Rev.) to read as follows:

Marked capacity not over (gallons)	Authorized gross weight (pounds)	Type of container	Welded side seam required	Minimum thickness in the black (gage, United States standard)	
				Body sheet	Head sheet
55	80	Straight side	No	28	28
	160	do	No	28	28
	325	do	No	26	26
	425	do	No	24	24
	480	do	Yes	26	26
	880	do	Yes	24	24

19. Amend § 78.129–5 paragraph (a) Table (15 F. R. 8453, Dec. 2, 1950) (49 CFR 78.129–5, 1950 Rev.) to read as follows:

Marked capacity not over (gallons)	Authorized gross weight (pounds)	Type of container	Minimum thickness in the black (gage, United States standard)	
			Body sheet	Head sheet
10	45	Straight side	28	28
35	145	do	26	26
30	245	do	24	24
55	245	do	22	22

20. Amend § 78.136–9 paragraph (a) (3) (15 F. R. 8454, Dec. 2, 1950) (49 CFR 78.136–9, 1950 Rev.) to read as follows:

(3) Gauge of metal, Brown and Sharpe, at start of fabrication; rated capacity in gallons; year of manufacture (for example, 7–30–50).

SUBPART F—SPECIFICATIONS FOR FIBERBOARD BOXES, DRUMS AND MAILING TUBES

21. Amend § 78.205–28 paragraph (a) (15 F. R. 8476, Dec. 2, 1950) (49 CFR 78.205–28, 1950 Rev.) to read as follows:

§ 78.205–28 *Special box; authorized only for wet electric storage batteries of impregnated rubber, asphaltum composition, wooden-battery-box type, or aluminum-case type, having a net weight greater than 75 pounds.* (a) Must comply with this specification except as follows: Must be one-piece type of double wall corrugated fiberboard at least 400-pound test, or solid fiberboard testing at least 400 pounds; boxes may or may not have hand holes provided for in ends of box providing same will not materially weaken box, top of battery to be protected by wood frame, corrugated trays or scored sheets of corrugated fiberboard having minimum test of 200 pounds, top protection must bear evenly on connectors of battery to facilitate stacking of batteries; bottom of batteries to be protected by minimum of one excelsior pad

or double wall corrugated fiberboard pad; sides and ends to be cushioned between batteries and walls of box; combined thickness of cushioning material and walls of box must be not less than ½", cushioning to be of excelsior pads, corrugated fiberboard or other suitable cushioning material; no more than one battery to be packed per box, authorized gross weight 190 pounds.

22. Amend § 78.214–14 paragraph (a) (15 F. R. 8479, 8480, Dec. 2, 1950) (49 CFR 78.214–14, 1950 Rev.) to read as follows:

§ 78.214–14 *Flap closures.* (a) Flaps must butt or have full overlap excepting that inner flaps may overlap ½ inch.

SUBPART I—SPECIFICATIONS FOR TANK CARS

23. Add § 78.291 (15 F. R. 8523, Dec. 2, 1950) (49 CFR 78.291, 1950 Rev.) to read as follows:

§ 78.291 *Specification for tank cars having fusion-welded aluminum tanks Class ICC–103–AL–W.* This specification covers Class ICC–103–AL–W tank cars having fusion-welded aluminum tanks to which have been added Association of American Railroads details which are not inconsistent therewith. Wherever the word "approved" is used in this specification, it means approval by the Association of American Railroads' Committee on Tank Cars as prescribed in § 78.259 (b), (c), (d), and (e)—Procedure.

ICC–1. *Type.* (a) Tanks built under this specification must be cylindrical, with heads dished convex outward, and must have at least one expansion dome with manhole, and such other external projections as are prescribed herein.

AAR–1. *Lagging.* (a) Not a specification requirement. If applied, the tank shell and dome must be lagged with an approved insulation material of a thickness so that the thermal conductance is not more than 0.225 B. t. u. per square foot, per degree Fahrenheit differential in temperature, per hour.

AAR–1. (b) Before lagging is applied the tank surfaces to be lagged and the inside surface of the metal jacket shall be painted.

AAR–1. (c) The barrel, ends and dome of tank, except seatings of tanks on bolster and pads of fixtures, shall be lagged with insulating material.

AAR–1. (d) The lagging throughout shall be covered with a metal jacket not less than ⅛ inch in thickness.

AAR–1. (e) Openings through lagging shall be flashed around projections to prevent admission of water. Top of dome shall be so constructed that liquids cannot enter between dome wall and outer shell.

ICC–2. *Bursting pressure.* (a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be at least 300 pounds per square inch.

AAR–2. *Thickness of plates.* (a) The wall thickness in the cylindrical portion of the tank must be calculated by the following formula but in no case shall the wall thickness be less than that specified in paragraph ICC–4.

$$t=\frac{Pd}{2SE},$$

where

t = thickness in inches of thinnest plate.
P = specified min. bursting pressure pounds per square inch.
d = inside diameter in inches.
S = minimum ultimate tensile strength in pounds per square inch in zone adjacent to welds as given below.
E = efficiency of longitudinal welded joint = 90 percent.

Alloy 996A = 9,500 p. s. i.
Alloy 990A = 11,000 p. s. i.
Alloy M1A = 14,000 p. s. i.
Alloy GS11A = 24,000 p. s. i.

ICC–3. *Material.* (a) All plates for tank and expansion dome shall be of an aluminum alloy suitable for fusion welding and not subject to rapid deterioration by the lading.

ICC–3. (b) All rivets must be of aluminum alloy of suitable composition. They must be handled and driven in a manner that will insure the requisite strength.

AAR–3. *Material.* (a) All plates for the tank and expansion dome must conform to Specification A. S. T. M. No. B–178, latest issue (Aluminum and Aluminum Alloy Sheet and Plate for Use in Pressure Vessels).

AAR–3 (b) Aluminum alloy castings must conform to Specification A. S. T. M. No. B–26, latest issue (Aluminum-Base Alloy Sand Castings) or B–108, latest issue (Aluminum-Base Alloy Permanent Mold Castings).

AAR–3. (c) Aluminum alloy forgings must be of suitable composition.

ICC–4. *Thickness and width of plates.* (a) The minimum thickness of plates must be as follows:

	Inch
Bottom sheet	⅝
Shell sheet	½
Expansion dome sheet	½
Tank head (dished)	⅝
Tank head (ellipsoidal)	½
Expansion dome head (dished or ellipsoidal)	½

ICC–4. (b) The minimum width of bottom sheet of tank must be 60 inches, measured on the arc, but in all cases the width must be sufficient to bring the entire width of the longitudinal welded joint, including welds, above the cradle.

AAR–4. (a) For extreme diameter A. A. R. clearance requirements govern.

AAR–4. (b) For tanks built of one piece cylindrical sections, the thickness specified for bottom sheet must apply to the entire cylindrical shell.

AAR–4. (c) Car must have underframe.

ICC–5. *Tank heads.* (a) Tank heads must be of approved contour.

AAR–5. *Tank heads.* (a–1) Tank heads may be dished or ellipsoidal for pressure on concave side.

AAR–5. (a–2) Dished heads must have main inside radius not exceeding ten feet. The inside knuckle radius must be not less than five inches.

AAR–5. (a–3) Ellipsoidal tank head shapes shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell and the minor axis shall be one-half of this.

AAR–5. (b–1) The thickness of tank head must be determined by the following formulas but shall in no case be less than that specified in paragraph ICC–4 (a). The following formula shall be used in computing thickness of dished heads:

$$t=\frac{5PL}{6SE},$$

where

t = thickness of plate, inches.
P = bursting pressure, pounds per square inch.
L = main inside radius to which head is dished measured on concave side of head, inches.
S = minimum ultimate tensile strength in pounds per square inch in zone adjacent to welds. (See par. AAR–2 (a).)
E = efficiency of welded joint to shell = 90 percent.

AAR–5. (b–2) The thickness of an ellipsoidal head shall be determined by the following formula:

$$t=\frac{Pd}{2SE},$$

where

t = thickness of plate, inches.
P = specified minimum bursting pressure, pounds per square inch.
d = inside diameter, inches.
S = minimum ultimate tensile strength in pounds per square inch in zone adjacent to welds. (See par. AAR–2 (a).)
E = efficiency of welded joint to shell = 90 percent.

ICC–6. *Welding.* (a) All joints must be fusion welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results.

ICC–6 (b) Manhole ring, safety valve flange, and bottom outlet nozzle flange or other attachments may be riveted or fusion welded. Riveted joints must be made metal to metal without interposition of other material. Rivets must be calked inside. For computing rivet areas the effective diameter of a driven rivet is the diameter of its reamed hole, which hole must in no case exceed nominal diameter of rivet by more than 1/16 inch. Use of rivets of less than ⅝" nominal diameter prohibited. Fusion welding for securing these attachments in place must be of double welded butt joint type or double full-fillet lap joint type.

ICC–6. *Calking.* (c) All attachments riveted to the tank must have the rivets and the joints formed by attachments calked on the inside of tank.

AAR–6. *Welding.* (a) Fusion welding to be performed by fabricators certified by Association of American Railroads as qualified to meet the requirements of this specification. All joints must be fabricated by means of fusion welding in accordance with the following requirements:

AAR–6. *Definitions*—(b–1) *Fusion welding.* A process of welding metals in the molten, or molten and vaporous state without the application of mechanical pressure or blows.

AAR–6. (b–2) *Double-welded butt joint.* A joint formed by the fusion of two abutting edges with a filler metal added from both sides of the joint and with reinforcement on both sides. (For permission to remove reinforcements see par. AAR–6 (m–1).)

NOTE: A joint with filler metal added from one side only is considered equivalent to a double-welded butt joint when and if means are provided for accomplishing complete penetration and reinforcement on both sides of the joint.

AAR–6 (b–3) *Full-fillet joint.* A fusion weld of approximately triangular cross section the throat of which lies in a plane disposed approximately 45 degrees with respect to the surface of the parts joined, and built up to the full thickness of the plate or nozzle flange that is being joined to a parallel plate, having the throat not less than 0.7 the thickness of the edge of the plate being welded.

AAR–6. (b–4) *Throat.* The minimum thickness of a weld along a straight line passing through the bottom of the cross sectional space provided to contain a fusion weld.

AAR–6. (b–5) *Single full-fillet lap joint.* A single full-fillet-lap joint is one in which the overlapped edges of two plates are full-fillet welded along one edge only.

AAR–6. (b–6) *Double full-fillet lap joint.* A double full-fillet lap joint is one in which the overlapped edges of the plates to be

joined are full-fillet welded at the edge of each plate.

NOTE: When attachments, referred to in paragraph ICC–6 (b) have flanges thicker than the plates to which they are joined, and are secured in place by fillet welds, such welds shall be of the double full-fillet-lap-joint type in which the throat is not less than 0.7 the thickness of the plate to which the attachment is joined.

AAR–6. (b–7) *Plug weld.* A plug weld is one used to join two plates by welding through a hole in one of them to secure a bond and subsequently filling the hole with weld metal. Plug welds to be used only in conjunction with fillet welds.

AAR–6. (c) *Joint efficiency, maximum.* The efficiencies for computing the value of the various types of fusion-welded joints in tanks constructed in conformity with requirements of this specification shall not exceed the following:

Types of joints	*Efficiency of Joint (percent)*
Double-welded butt joint	90.0
Full-fillet joint:	
Single full-fillet lap joint without plug welds. (See fig. 21)	55.0
Single full-fillet lap joint with plug welds. (See fig. 20)	65.0
Double full-fillet lap joint	65.0

NOTE: Strength of fillet welds shall be computed on the throat dimension of the triangular section, using the strength in shear and in conjunction with the stresses given below, multiplied by the joint efficiency given above.

For end welds, the maximum shear stresses shall be 80.0 percent of the minimum ultimate tensile strength given in paragraph AAR–2 (a).

For side welds, the maximum shear stresses shall be 60.0 percent of the minimum ultimate tensile strength given in paragraph AAR–2 (a).

Plug-weld. The maximum load on each plug weld shall be computed for either shear or tension by the following formula:

$$L = 0.63\ (d - 1/4)^2 \times s,$$

where

L = total maximum load in shear or tension on each plug weld in pounds.
d = diameter of the bottom of the hole in which the plug is made in inches.
s = maximum stress in shear or tension, as the case may be, in pounds per square inch.
s for shear = 80 percent of minimum ultimate tensile strength. (See par. AAR–2 (a).)
s for tension = minimum ultimate tensile strength. (See par. AAR–2 (a).)

Welding must meet the following test requirements:

AAR–6. *Test plates.* (d–1) A test plate of the dimensions shown in figure 10 from aluminum of the same specifications and thickness as the shell plates prepared for welding may be attached to the shell plate being welded, as in figure 9, on one end of one longitudinal joint of each tank so that the edges to be welded in the test plate are a continuation of and duplication of the corresponding edges of the longitudinal joint. In this case the weld metal shall be deposited in the test plates continuously with the weld metal deposited in the longitudinal joint. The plates for test samples may be taken from any part of one or more plates of the same lot of material that is used in the fabrication of welded tanks and without reference to the direction of the mill rolling. As an alternate method, a detach-test plate may be welded as provided for in AAR–6 (d–2). When more than one welding operator is employed on a tank, the required test plates for the individual tanks shall be made by welding operator designated by the inspector.

AAR–6. (d–2) When a test plate is welded for the longitudinal joints, none need be furnished for circumferential joints in the same tank, providing the welding process, procedure, and technique are the same.

AAR–6. (d–3) When there are several tanks being welded in succession, or at any one time, the plate thicknesses of which fall within a range of ¼ inch, each 200 feet of longitudinal and circumferential seams may be considered as the equivalent of one tank and only the test plates required by paragraphs AAR–6 (d–1) and AAR–6 (d–2) need be made, provided they are welded in the same way as the joints in question. When the manufacturer is in the regular and continuous production of ICC–103–AL–W or ICC–103–A–AL–W tanks, only one test plate need be made for one tank out of twenty (20) of any of these classes, provided a minimum of one (1) test plate per week for any of these classes is made.

The test plates shall be so supported that warping due to welding shall not throw the finished test plate out of line by an angle of over five degrees.

AAR–6. *Test specimens.* (e) The coupons for tension and bend test shall be removed as shown in figure 10 and be of the dimensions shown in figures 10 and 11.

AAR–6. *Tension tests.* (f–1) Two types of tension-test specimens are required, one of the joint and the other of the weld metal. The tension specimen of the joint shall be transverse to the welded joint, and shall be the full thickness of the welded plate after the outer and inner surfaces of the weld have been machined to a plane surface flush with the plate.

AAR–6. (f–2) The tensile strength of the joint specimen in figure 10 shall not be less than the minimum ultimate tensile strength in zone adjacent to welds. (See par. AAR–2 (a).)

AAR–6. (f–3) The tension-test specimen of the weld metal shall be taken entirely from the deposited weld metal and shall meet the following requirements:

Tensile strength = at least that of the minimum ultimate tensile strength in zone adjacent to welds. (See par. AAR–2 (a).)

Elongation, minimum in 2", or 4D (D = diameter) for each aluminum alloy must be as follows:

	Percent
Alloy 996A	25
Alloy 990A	28
Alloy M1A	23
Alloy GS11A	5

For plate thicknesses less than ⅝ inch, the all-weld-metal tension test may be omitted.

AAR–6. *Bend tests.* (g–1) The bend-test specimen shall be transverse to the welded joint of the full thickness of the plate and shall be of rectangular cross section with the width 1½ times the thickness of the specimen. The inside and outside surfaces of the weld shall be machined to a plane surface flush with the plate. The edges of this surface shall be rounded to a radius not over 10 percent of the thickness of the plate. The specimen shall be bent cold under free bending conditions until the least elongation measured within or across approximately the entire weld on the outside fibers of the bend-test specimen is not less than the percentages specified in paragraph AAR–6 (f–3).

AAR–6. g–2) When a crack is observed in the convex surface of the specimen between the edges the specimen shall be considered to have failed and the test shall be stopped. Cracks at the corners of the specimen shall not be considered as a failure. The appearance of small defects in the convex surface shall not be considered as a failure if the greatest dimension does not exceed 1/16 inch.

AAR–6. *Specific gravity of weld metal.* (h) No specific gravity test required.

AAR–6. *Retests.* (i–1) Should any of the tests fail to meet the requirements by more than 10 percent, no retests shall be allowed. (See par. AAR–2 (a).)

AAR–6. (i–2) Should any of the tests fail to meet the requirements by 10 percent or less, retests shall be allowed. A second test plate shall be welded by the same operator who welded the plate which failed to meet the test requirements. The retest shall be made on specimens cut from the second plate.

AAR–6. (i–3) The retests shall comply with the requirements. For either of the tension retests, two specimens shall be cut from the second test plate, and both of these shall meet the requirements.

AAR–6. (i–4) When there is more than one specimen of the same type and when one or more of the group specimens fail to meet the requirements, the retest shall be made on an entire group of specimens which shall meet the requirements.

AAR–6. (i–5) If the percentage of elongation of any tension test specimen is less than that specified and any part of the fracture is more than ¾ inch from the center of the gauge length of the two-inch specimen, or is outside of the middle third of the gauge length of the full-size specimen as indicated by the scribe scratches marked on the specimen before testing, a retest shall be allowed.

AAR–6. *Nondestructive tests.* (j–1) All longitudinal and circumferential welded joints of the tank shell shall be examined throughout their entire length by the X-ray method of radiography. When a nozzle, expansion dome or fitting is attached to a tank by a flange or saddle inserted in and butt welded to the shell at the edge of the flange as shown in figure 22, the weld so made shall be radiographed. Radiographic examination of welds attaching other designs of nozzles, expansion domes or fittings to the tank shell may be omitted.

AAR–6. (j–2) Where excess metal is removed welded joints shall be prepared as follows: The weld reinforcements on both the inside and outside shall be ground, chipped and ground, or suitably machined to remove the irregularities of the weld surface so that it merges smoothly into the plate surface. The finished surface of the reinforcement may have a crown of uniform amount not to exceed approximately 1/16 inch.

ARR–6. (j–3) The films obtained by the use of X-rays shall be known as "exographs" or "radiographs".

AAR–6. (j–4) The weld shall be radiographed with a technique which will determine quantitatively the size of defects with thicknesses equal to and greater than two percent of the thickness of the base metal. To determine whether the radiographic technique employed is detecting defects of a thickness equal to and greater than two percent of the thickness of the base metal, suitable thickness gauges or penetrameters shall be placed on the side of the plate nearest the source of radiation and used in the following manner:

AAR–6. (j–4) (1) To determine whether the radiographic technique employed is detecting defects of a thickness equal to and greater than two percent of the thickness of the base material, thickness gauges or penetrameters of the type shown in figure 12 shall be placed on the side of the plate nearest the source of radiation and used as directed.

AAR–6. (j–4) (2) The material of the penetrameter shall be substantially the same as that of the plate under examination.

AAR–6. (j–4) (3) The thickness of the penetrameter shall not be more than two percent of the thickness of the plate.

AAR–6. (j–4) (4) There shall be three holes in each penetrameter of diameters equal respectively to two, three, and four times the penetrameter thickness, but in no case less than 1/16 inch. The smallest hole must be distinguishable on the radiograph.

AAR–6. (j–4) (5) Each penetrameter shall carry an identifying number representing, to two significant figures, the minimum thickness of plate for which it may be used.

AAR–6. (j–4) (6) The images of these identifying numbers shall appear clearly on the radiograph.

AAR–6. (j–4) (7) Each penetrameter shall be 1½ inches long and ½ inch wide. (See fig. 12.)

AAR–6. (j–5) Two penetrameters shall be used for each exposure, one at each end of the exposed length, parallel and adjacent to the weld seam with the small holes at the outer ends.

AAR–6. (j–6) The film during exposure shall be as close to the surface of the weld as is practicable. The distance of the film from the surface of the weld on the side opposite the source of radiation shall, if possible, be not greater than one inch. With the film not more than one inch from the weld surface the minimum distance between the source of radiation and the back of the weld shall be not less than 14 inches.

AAR–6. (j–7) There shall also be a plain indication on each film showing the job number, the shell, or shell section, and seam, as well as the manufacturer's identification, symbol or name.

AAR–6. (j–8) If it is necessary to expose the film at a distance greater than one inch from the weld, the following ratio of:

$$\frac{\text{Distance from source of radiation to weld surface toward radiation}}{\text{Distance from weld surface toward radiation to film}}$$

shall be at least 7 to 1.

AAR–6. (j–9) All radiographs shall be free from excessive mechanical processing defects which would interfere with proper interpretation of the radiograph.

AAR–6. (j–10) Identification markers, the images of which will appear on the film, shall be placed adjacent to the weld and their location accurately and permanently stamped near the weld on the outside surface of the shell, or shell section, so that a defect appearing on the radiograph may be accurately located in the actual weld.

AAR–6. (j–11) The radiographs shall be submitted to the inspector. If the inspector requests, the following data shall be submitted with the radiographs: (1) The thickness of the base metal, (2) the distance of the film from the surface of the weld, (3) the distance of the film from the source of radiation.

AAR–6. (j–12) The acceptability of welds examined by radiography shall be judged by comparing the radiographs with a standard set of radiographs for aluminum tanks, which may be obtained by purchase from Secretary, Mechanical Division, Association of American Railroads. In general, the standards of judgment shall be:

(1) Welds in which the radiographs show elongated inclusions or cavities shall be unacceptable if the length of any such imperfection is greater than $\frac{1}{3}T$, where T is the thickness of the weld. If the lengths of such imperfections are less than $\frac{1}{3}T$ and are separated from each other by at least $6L$ of acceptable weld metal, where L is the length of the longest imperfection, the weld shall be judged acceptable if the sum of the lengths of such imperfections is not more than T in a weld length of $12T$.

(2) Welds in which the radiographs show any type of crack or zones of incomplete fusion shall be unacceptable.

(3) Welds in which the radiographs show porosity shall be judged as acceptable or unacceptable by comparison with the standard set of radiographs.

AAR–6. (j–13) A complete set of radiographs for each tank shall be retained for not less than 20 years by the tank builder or by the car owner if he so requests.

AAR–6. *Qualification of welders.* (k–1) The manufacturer shall be responsible for the quality of the welding done by his organization and shall conduct tests of welding operators to determine their ability to produce welds of the required quality.

AAR–6. (k–2) The manufacturer shall satisfy the inspector that all the welding operators employed on a car tank have previously made test plates which comply with the requirements of this specification. Such test plates shall have been made within a period of six months, except that when the welding operator is regularly employed on production work embracing the same process and type of welding the tests may be effective for one year.

AAR–6. (k–3) It is the duty of the inspector to satisfy himself that only welding operators who are proved competent by these tests are used to weld any car tank and that all welding complies with the requirements of this specification.

AAR–6. (k–4) The inspector has the right at any time to call for and witness the making of welding operator's qualification test plates described in this paragraph by any welding operator, employed in connection with the inspector's contract and to observe the physical tests of the test plates. For such qualification tests the thickness of the test plate shall be approximately the thickness of the plate or parts on which the welding operator is to work.

AAR–6. (k–5) The tests conducted by one manufacturer shall not qualify a welding operator to do work for any other manufacturer.

AAR–6. *Preparation for welding.* (l–1) The plates may be cut to size and shape by machining, shearing or saw cutting. Oxygen Arc Method of cutting is allowed providing burned surface is cut back to clean up all evidence of burned edge. The plates or sheets to be joined shall be accurately cut to size and formed. In all cases the forming shall be done by pressure and not by blows, including the edges of the plates forming longitudinal joints of tanks.

AAR–6. (l–2) Particular care should be taken in the layout of joints in which fillet welds are to be used so as to make possible the fusion of the weld metal at the bottom of the fillet. Great care must also be exercised in the deposition of the weld metal so as to secure satisfactory penetration.

AAR–6. (l–3) If the thickness of the flange of a head to be attached to a tank shell by a butt joint exceeds the shell thickness by more than 25 percent (maximum ¼ inch), the flange thickness shall be reduced at the abutting edges either on the inside or the outside, as shown in figure 13 (b), or on both sides, as shown in figure 13 (a). Reduction of abutting edges as illustrated in figure 13 (c) is not permissible.

AAR–6 (l–4) The edges of the plates at the joints shall not have an offset from each other at any point in excess of 25 percent of the thickness of the plate (maximum ⅛ inch for longitudinal seams) and (maximum ¼ inch for girth joints).

AAR–6. (l–5) In all cases where plates of unequal thicknesses are abutted, and have offsets exceeding 25 percent of the plate thickness or ⅓″ whichever is lesser, the edge of the thicker plate shall be reduced in some manner so that it is approximately the same thickness as the other plate. In longitudinal tank joints the middle lines of the plate thickness shall be in alignment, within the fabricating tolerances specfied in paragraph AAR–6 (l–4).

AAR–6. (l–6) Bars, jacks, clamps, or other appropriate tools may be used to hold the edges to be welded in line. Tack welds may also be used to hold the edges in line, provided these tack welds are removed so that they do not become a part of the joint. The edges of butt joints shall be so held that they will not overlap during welding. Where fillet welds are used, the lapped plates shall fit closely and be kept together during welding.

AAR–6. (l–7) The surfaces of sheets or plates to be welded shall be cleaned thoroughly. When it is necessary to deposit metal over a previously welded surface, any foreign matter thereon shall be removed by a roughing tool, a chisel, an air chipping hammer, or other suitable means to prevent inclusion of impurities in the weld metal.

AAR–6. (l–8) The dimensions and shape of the edges to be joined shall be such as to allow thorough fusion and complete penetration.

AAR–6. (l–9) For double-welded butt joints the reverse sides shall be chipped or ground out so as to secure a clean surface of the originally deposited weld prior to the application of the first bead of welding on the second side. Such chipping or grinding out shall be done in a manner that will insure proper fusion of the weld metal. These requirements are not intended to apply to any process of welding by which proper fusion and penetration are otherwise obtained and no impurities remain at the base of the weld.

AAR–6. (l–10) If the welding is stopped for any reason, extra care shall be taken in restarting to get full penetration to the bottom of the joint and thorough fusion between the weld metal and the plates, and to the weld metal previously deposited.

AAR–6. *Longitudinal joints.* (m–1) Longitudinal joints shall be of the double-welded butt type and shall be reinforced at the center of the weld on each side of the plate by at least 1/16 inch up to and including ⅝-inch plate, and up to ⅛ inch for heavier plates. The reinforcement may be removed but if not removed shall be built up uniformly from the surface of the plate to a maximum at the center of the weld. Particular attention is called, however, to the importance of the provision that there shall be no valley or groove along the edge of or in the center of the weld, but that the deposited metal must be fused smoothly and uniformly into the plate surface. (If the reinforcement is built up so as to form a ridge with a valley or depression at the edge of the weld next to the plate, the result is a notch which causes concentration of stress and reduces the strength of the joint.) The finish of the welded joint shall be reasonably smooth and free from irregularities, grooves, or depressions. Where a welded butt joint is made the equivalent of a double-welded butt joint (see note in paragraph AAR–6 (b–2)) by using a backing-up strip and adding filler metal from one side only, the reinforcement shall not be less than 1/16 inch.

AAR–6. (m–2) Where tanks are made up of two or more courses with welded longitudinal joints, the joints of adjacent courses shall be not less than 60 degrees apart.

AAR–6. *Circumferential joints.* (n) Circumferential joints shall be of double-welded butt type. The details of all of these joints shall conform to the requirements of longitudinal joints given in AAR–6 (m–1).

AAR–6. *Inspection.* (o–1) Purchaser of tanks must provide for inspection by a competent inspector. The manufacturer shall submit the tank for inspection at such stages as may be designated by the inspector.

AAR–6. (o–2) Each tank must also be inspected at the time of the hydrostatic-pressure test by the inspector.

AAR–6. (o–3) The manufacturer shall certify that the welding on the tank has been done only by welding operators who have passed the test requirements and that the same material and technique used in making the tests were employed in fabricating the tank.

AAR–6. *Distortion.* (p) The shell of the completed tank shall be circular within a limit of plus or minus one percent of the inside diameter of the tank.

AAR–6. *Repairs during original welding.* (q–1) Pinholes, cracks, or other defects in welded joints shall be repaired only by chipping or machining out defect and rewelding.

AAR–6. (q–2) After repairs have been made the tank shall again be tested in the regular way, and if it passes the test the inspector shall accept it. If it does not pass the test the inspector can order supplementary repairs, or, if in his judgment the tank is not suitable for service, he may permanently reject it.

ICC–7. *Stress relieving.* Not a specification requirement.

ICC–8. *Tank mounting.* (a) The manner in which tank is supported on and securely attached to the car structure must be approved.

AAR–8. *Anchorage.* (a) See § 78.263 (m) to (p). The requirements of this section must be met by providing aluminum anchors. The total shear value of anchor must not be less than 1,320,000 pounds for cars with rail load limit of 169,000 pounds (single piece anchor). When multiple-piece anchorage is used, the minimum requirements prescribed for a single-piece anchorage shall be increased by 20 percent. When the rail load limit of a tank car is more than 169,000 pounds but does not exceed 210,000 pounds, all minimum requirements for a single-piece anchorage specified herein shall be increased by 25 percent. When the rail load limit of a tank car is over 210,000 pounds, all minimum requirements for single-piece anchorage specified herein shall be increased by 50 percent.

AAR–8. (b) Designs of anchorage employing other means of securement to tank than rivets, as described in § 78.263 may be used if approved.

ICC–9. *Expansion dome.* (a) The expansion dome must have a capacity, measured from the inside top of shell of tank to the inside top of dome or bottom of any vent pipe projection inside of dome, of at least two percent of the total capacity of the tank and dome combined, except that when safety valve or safety vent is applied to side of dome, the effective capacity of dome must be measured from top of safety valve or safety vent opening in the side of dome to inside top of shell of tank.

ICC–9. (b) The opening in manhole ring must be at least 16 inches in diameter. The opening in the tank shell within the dome must be at least 29 inches in diameter, and when the inside diameter of the dome exceeds 29 inches, the opening in the tank shell may be cut out to a diameter sufficiently greater than that of the dome to permit welding of tank shell to the base of the dome or to a tank shell reinforcing plate. Shell of tank about dome must be adequately reinforced.

ICC–9. (c) The dome head must be of approved contour.

AAR–9. (a) The dome shell thickness shall be calculated by the formula, paragraph AAR–2 (a).

AAR–9. (b) The dome head, if dished, must be dished to a radius not exceeding 96 inches. Thickness of the dished dome head shall be calculated by the formula, paragraph AAR–5 (b–1).

AAR–9. (c) Dome head may be an ellipsoid of revolution in which the major axis shall be equal to the diameter of the dome shell and the minor axis shall be one-half of this. The thickness in this case shall be determined by using formula of the main head. (See par. AAR–5 (b–2).)

AAR–9. (d) Tank shell shall be reinforced by the addition of a plate equal to or greater than shell in thickness and the cross sectional area shall exceed metal removed for dome opening, or tank shell shall be reinforced by a seamless saddle plate equal to or greater than shell in thickness and butt welded to tank shell. The reinforcing saddle plate shall be provided with a flued opening having a vertical flange of the diameter of the dome for butt welding shell of dome to the flange. The reinforcing saddle plate shall extend about the dome a distance measured along shell of tank at least equal to the extension at top of tank. Other approved designs may be used. Reinforcement should be computed as shown on figure 24A or figure 24B.

ICC–10. *Closure for manholes.* (a) The manhole cover must be of approved type and designed to make it practically impossible to remove the cover while the interior of the tank is subjected to pressure.

ICC–10. (b) Manhole covers and rings must be of aluminum alloys or other approved materials, cast or wrought.

ICC–10. (c) All covers not hinged to tank must be attached to outside of the dome head, by at least ⅜ inch chain or its equivalent.

ICC–10. (d) All joints between manhole covers and their seats must be made tight against leakage of vapor and liquid by use of gaskets of suitable material.

AAR–10. (a) Bolted type, bolted and hinged type or other approved type manhole cover must be used. See figures 5 and 6.

ICC–11. *Gaging, bottom outlet valve operating, venting, loading, and discharging, and air inlet devices extending through domes of tanks.* (a) Not specification requirements. When installed, these devices, including their valves, must be protected from accidental injury by being set into a securely covered recess, or by means of a cast, pressed, or forged housing of suitable material with cover securely attached. Housing, if welded to dome of tank, must be made of cast, forged or pressed metal and be of good weldable quality in conjunction with metal of dome. Openings in wall of housing must be equipped with screw plugs or other closures. Drain holes permitted. Discharging siphon pipe must be securely anchored.

AAR–11. (a) These devices must be of approved design.

ICC–12. *Venting, loading and discharging, and air inlet devices.* (a) These devices, when installed, must be closed by efficient valves or fittings made of approved materials not subject to rapid deterioration by the lading. Provision must be made for closing the openings of the valves or fittings.

AAR–12. (a) These devices must be of approved design.

ICC–13. *Bottom discharge outlets.* (a) The bottom discharge outlet, when installed, must be made of approved metals not subject to rapid deterioration by the lading, be of approved construction, and be provided with a valve at its upper end and a liquid-tight closure at its lower end.

ICC–13. (b) The valve operating mechanism and outlet nozzle construction must be such as to insure against unseating of valve due to stresses or shocks incident to transportation.

ICC–13. (c) Tanks used for the transportation of poisonous solids, when designed for bottom unloading, must have the openings securely closed against leakage.

AAR–13. (a) Bottom discharge outlet nozzle may be cast, pressed, forged, or built up of plates, pipe or tubing welded together. The nozzle must be of good weldable quality in conjunction with metal of tank.

AAR–13. (b) To provide for the attachment of unloading connections, the outlet valve nozzle, or some affixed attachment thereto, must be equipped with a flange or with external U. S. F. threads, four threads per inch.

AAR–13. (c) For outlet nozzles that project six inches or more from shell of tank a "V" groove must be cut (not cast) in the upper part of outlet valve nozzle at a point immediately below the lowest part of valve to a depth that will leave thickness of nozzle wall at the root of the "V" not over ⅜ inch. In the case of steam jacketed outlet nozzles this groove must be below the steam chamber but above the bottom of center sill construction. Where outlet nozzle is not a single piece, arrangement must be made to provide the equivalent of the breakage groove.

AAR–13. (d) The flange on the outlet nozzle must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of lading, or other causes, and which will insure that accidental breakage of the outlet nozzle will occur at or below the "V" groove.

AAR–13. (e) The valve must have no wings or stem projecting below the "V" groove in the outlet nozzle, unless they are scored or designed to break or bend without unseating valve. The valve and seat must be readily accessible or removable for repairs, including grinding.

AAR–13. (f) The valve operating mechanism must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of the liquid contents, or other causes, and should operate from the interior of the tank, but in the event the rod is carried through the dome, leakage must be prevented by packing in stuffing box and cap nut.

AAR–13. (g) In no case must extreme projection of bottom discharge outlet equipment extend to within twelve inches above top of rail. All bottom discharge outlet reducers and closures and their attachments must be secured to car by at least ⅜ inch chain or its equivalent, except that outlet closure plugs may be attached by ¼ inch chain. When the bottom discharge outlet closure is of the combination cap and valve type, the pipe connection to the valve must be closed by a plug or cap.

ICC–14. *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved materials mounted on expansion dome. Total valve discharge capacity must be sufficient to prevent building up of pressure in the tank in excess of 45 pounds per square inch.

ICC–14. (b) One safety valve must be provided for each tank of 6,650 gallons capacity or less, and two safety valves for each tank of over 6,650 gallons capacity.

ICC–14. (c) Each safety valve must be set to open at a pressure of 25 pounds per square inch. (For tolerance see paragraph ICC–18).

ICC–14. (d) Tanks used for the transportation of corrosive liquids, flammable solids, oxidizing materials or poisonous liquids or solids, class B, need not be equipped with safety valves, but if not so equipped must have one safety vent made of approved material at least two inches inside diameter closed with a frangible disc of suitable material, of a thickness that will hold a pressure of 45 pounds per square inch for a period of at least one hour, but will rupture within eight hours. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement. An additional sealed vent of approved design, to prevent use of unloading pressures in excess of 45 pounds per square inch, may be applied. All tanks equipped with vents must be stenciled "Not for Flammable Liquids."

AAR–14. (a) Safety valve must be of approved design. See paragraph AAR–18. For safety vent, closure of bolted type preferable, see figure 3–A. For screw type safety vent closure, see figure 3.

AAR–14. (b) Safety valves or safety vent flanges, if welded to dome, must be of cast, forged, or pressed metal and be of good weldable quality in conjunction with metal of dome.

ICC–15. *Fixtures, reinforcements, and attachments not otherwise specified.* (a) All attachments to tank and dome must be applied by approved means. When attachments are riveted the edges of plates must be beveled so that the angle of the calking edge will be between 60 and 70 degrees with the flat surface of the attachment. The extreme calking edge distance, measured from center line of rivet hole, must be at least one and one-half times the diameter of the hole and not more than that distance plus ¼ inch. The joints formed by attachment of all riveted external projections must be calked on the inside. Split calking prohibited. Interior heater systems, when installed, must be so constructed that the braking off of their external connections will not cause leakage of contents of tanks.

AAR–15. *Heater systems.* (a) See §§ 78.260 to 78.262, inclusive, Tank Car Heater Systems.

AAR–15. (b) Heater system and plug flanges, if welded to tank or dome, must be of cast, forged, or pressed metal and be of good weldable quality in conjunction with metal of tank or dome.

ICC–16. *Plugs for openings.* (a) All plugs must be solid, of cast, rolled or forged metal of approved material with standard pipe thread, and when in contact with lading must be of a length which will screw at least six threads inside the face of fitting or tank. Plugs when inserted from the outside of tank must have the letter "S" at least ⅜ inch in size stamped with steel stamp or cast on the outside surface to indicate the plug is solid.

ICC–17. *Test of tanks.* (a) Each tank must be tested, before being put into service, by completely filling tank and dome with water, or other liquid having similar viscosity, of a temperature which must not exceed 100° F. during the test, and applying a pressure of 60 pounds per square inch. Tank must hold the prescribed pressure for at least 10 minutes without leakage or evidence of distress. All rivets and closures, except safety valves or safety vents, must be in place while test is made.

ICC–17. (b) Calking of welded joints to stop leaks developed during the foregoing tests prohibited. Repairs in welded joints must be made as prescribed in paragraph ICC–6 (a).

ICC–17. (c) *Test of interior heater systems.* Before interior heater systems are placed in service, they must be tested with hydrostatic pressure and must be tight at 200 pounds per square inch.

AAR–17. *Hammer tests.* (a) Not a specification requirement.

AAR–17. (b) If tanks are to be lagged, the hydrostatic test of tank must be made before lagging is applied.

ICC–18. *Tests of safety valves.* (a) Each valve must be tested, before being put into service, by attaching to an air line and applying pressure. The valve must not leak below 20 pounds pressure (see § 73.31 (1), Note 1, of this chapter). The valve must open at the pressure prescribed in paragraph ICC–14 (c) with a tolerance of plus or minus 3 pounds.

AAR–18. (a) The above referred to note in § 73.31 (1) of this chapter reads in part as follows: "Safety valves now used on tank cars are reported to permit slow leakage of vapor and it appears that material changes in the design and construction of these valves are necessary to make them tight * * * the necessary changes must be made with the least possible delay".

ICC–19. *Retests of tanks, safety valves, and interior heater systems.* (a) Tanks, safety valves, and interior heater systems must be retested, as prescribed for original tests in paragraphs ICC–17 and ICC–18, at intervals of ten years or less after the original test. Tanks must also be retested before being returned to service after any repairs requiring welding, riveting, or calking of rivets. Interior heater systems must be retested after repairs. Reports must be rendered as prescribed in paragraph ICC–21.

AAR–19. (a) For lagged tanks, if the jacket and lagging are not removed, the tank must hold the prescribed pressure for at least 20 minutes. A drop in pressure shall be evidence of leakage, and such portion of the jacket and lagging must be removed as may be necessary to locate the leak and make repairs.

ICC–20. *Marking.* (a) Each tank must be marked, thus certifying that the tank complies with all the requirements of this specification. These marks must be as follows:

ICC–20. (b) ICC–103–AL–W in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. This mark must also be stencilled on the tank, or jacket if lagged, in letters and figures at least two inches high by the party assembling the completed car.

ICC–20. (c) Initials of tank builder and date of original test of tank in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in paragraph ICC–20 (b).

ICC–20. (d) Initials of company and date of additional tests performed by the party assembling the completed car, in those cases where the tank builder does not complete the fabrication of tank in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in paragraph ICC–20 (c) by the party assembling the completed car. These marks must also be stencilled on the tank, or jacket if lagged, in letters and figures at least two inches high immediately below the stencilled mark specified in paragraph ICC–20 (b) by the party assembling the completed car.

ICC–20. (e) Date on which the tank was last tested, pressure to which tested, place where test was made, and by whom, stencilled on the tank, or jacket if lagged.

ICC–20. (f) Date on which the safety valves were last tested, pressure to which tested, place where test was made, and by whom, stencilled on the tank, or jacket if lagged.

ICC–20. (g) Date on which interior heater systems were last tested, pressure to which tested, place where test was made, and by whom, stencilled on tank, or jacket if lagged.

ICC–20. (h) Identification mark, illustrated herein, for approved manhole closures must be stencilled on each side of dome, or jacket if lagged, in line with the ladders and in a color contrasting to color of dome.

ICC–20. (i) When a tank car and its appurtenances are designed and authorized for the transportation of a particular commodity only, the name of that commodity followed by the word "only," or such other wording as may be required to indicate the limits of usage of the car, must be stencilled on each side of the tank, or jacket if lagged, in letters at least two inches high, immediately above the stencilled mark specified in paragraph ICC–20 (b).

AAR–20. (a) For all other markings, see figure 1.

ICC–21. *Reports.* (a) Before a tank car is placed in service, the party assembling the completed car must furnish to car owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification. In case of welded repairs to, alterations of or additions to tanks or equipment therefore from original design and construction, all of which must be approved, there must be furnished to the same parties a report in detail of the welded repairs, alterations or additions made to each tank covered by a particular application, showing the initials and number of each tank involved. Reports of retests must be rendered to the Bureau of Explosives and and car owner.

AAR–21. *Application for approval.* (a) See § 78.259 (f), *Application for approval.*

AAR–21. *Certificate of construction.* (b) See § 78.259 (g), *Certificate of construction.*

AAR–22. *Car structure.* (a) See § 78.263 *Car structure.*

24. Add § 78.292 (15 F. R. 8523, Dec. 2, 1950) (49 CFR 78.292, 1950 Rev.) to read as follows:

§ 78.292 *Specification for tank cars having fusion-welded aluminum tanks Class ICC–103–A–AL–W.* This specification covers Class ICC–A–AL–W tank cars having fusion-welded aluminum tanks to which have been added Association of American Railroads details which are not inconsistent therewith. Wherever the word "approved" is used in this specification, it means approval by the Association of American Railroads' Committee on Tank Cars as prescribed in § 78.259 (b), (c), (d), and (e)—Procedure.

(a) *General requirements.* Tanks built under this specification must comply with all provisions of Specification ICC–103–AL–W, except as modified in the following paragraphs (paragraph numbers refer to like numbers in § 78.291 Specification ICC–103–AL–W):

ICC–6. (b) Manhole ring, safety vent flange, and bottom washout nozzle flange or other attachments may be riveted or fusion-welded. Riveted joints must be made metal to metal without interposition of other materials. Rivets, if used, must be calked inside. For computing rivet areas, the effective diameter of a driven rivet is the diameter of its reamed hole, which hole must in no case exceed nominal diameter of rivet by more than 1/16". Use of rivets of less than ⅝" nominal diameter prohibited. Fusion-welding for securing these attachments in place must be of double-welded butt joint type or double full-fillet lap joint type.

ICC–9. *Expansion dome.* (a) The expansion dome must have a capacity, measured from the inside top of shell of tank to the inside top of dome or bottom of any vent pipe projecting inside of dome, of at least one percent of the total capacity of the tank and dome combined, except that when safety vent is applied to side of dome, the effective capacity of dome must be measured from top of safety vent opening in the side of dome to inside top of shell of tank.

ICC–9. (b) The opening in manhole ring must be at least 16 inches in diameter. The opening in the tank shell within the dome must be at least 29 inches in diameter, and when the inside diameter of the dome exceeds 29 inches, the opening in the tank shell may be cut out to a diameter sufficiently greater than that of the dome to permit welding of tank shell to the base of the dome or to a tank shell reinforcing plate. Shell of tank about dome must be adequately reinforced. When the tank shell is not cut out to permit welding and the opening in the tank does not exceed 30 inches in diameter, dome pocket drain holes must be provided with nipples projecting inside the tank at least one inch.

ICC–9. (c) The dome head must be of approved contour. The dome head must be of aluminum alloys or other approved materials, cast or wrought.

ICC–10. *Closure for manholes.* (a) The manhole cover must be of approved type and designed to provide a secure closure of the manhole.

ICC–10. (b) Requirements of this paragraph optional.

AAR–10. (a) Bolted type, bolted and hinged type, or other approved type manhole cover must be used.

ICC–11. *Gaging, venting, loading and discharging, and air inlet devices extending through domes of tanks.* (a) These devices when installed must be tightly closed as prescribed in paragraph ICC–12. Protective housing not required, except when the characteristics of the commodity for which the car is authorized are such that these devices must be equipped with valves to provide for the loading, and unloading of the contents. Discharging siphon pipe must be securely anchored.

ICC–12. *Gaging, venting, loading and discharging, and air inlet devices.* (a) These devices when installed must be tightly closed with approved caps, plugs, valves, or other fittings. Provision must be made for closing pipe connections of valves. The venting device must be equipped as prescribed in paragraph ICC–14.

ICC–13. *Bottom discharge outlets.* (a) Bottom outlet for discharge of lading prohibited, but tank may be equipped with a bottom wash-out nozzle of aluminum alloy not subject to rapid deterioration by the lading, which must be of approved construction complying with the following requirements.

ICC–13. (b) The construction and closure of the bottom wash-out nozzle must be such that it is liquid tight and should the nozzle be broken, loss of contents will not occur.

ICC–13. (c) The extreme projection of the bottom wash-out nozzle must be at least 12 inches above the top of rail.

AAR–13. (a) Bottom wash-out nozzle may be cast, pressed, forged, or built up of plates, pipe or tubing welded together. The nozzle must be of good weldable quality in conjunction with metal in tank.

AAR–13. (b) This paragraph does not apply.

AAR–13. (c) For bottom wash-out nozzles that project 6 inches or more from shell of tank, a "V" groove must be cut (not cast) in the upper part of bottom wash-out nozzle at a point immediately below lowest part of inside closure seat to a depth that will leave thickness of nozzle wall at the root of the "V" not over ⅜ in. Where bottom wash-out nozzle is not a single piece, arrangement must be made to provide the equivalent of the breakage groove.

AAR–13. (d) The flange on the bottom wash-out nozzle must be of a thickness which will prevent distortion of the inside closure seat or closure casting by any change in contour of the shell, resulting from expansion of lading, or other causes, and which will insure that accidental breakage of the wash-out nozzle will occur at or below the "V" groove.

AAR–13. (e) The closure casting must not project below the "V" groove in the wash-out nozzle. The closure casting and seat must be readily accessible for repairs, including grinding.

AAR–13. (f) This paragraph does not apply.

AAR–13. (g) This paragraph does not apply.

ICC–14. *Safety devices.* (a) The tank must be equipped with a safety valve or safety vent at least 2 inches inside diameter mounted on top of expansion dome.

ICC–14. (b) At least one safety valve or vent must be provided for each tank.

ICC–14. (c) The safety valve, if used, must be set to open at a pressure of 45 pounds per square inch. (For tolerances see paragraph ICC–18).

ICC–14. (d) If tank is equipped with a safety vent it must be closed with a frangible disc of suitable material of a thickness that will hold a pressure of 45 pounds per square inch for a period of at least one hour but will rupture within eight hours. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement. An additional sealed vent of approved design, to prevent use of unloading pressures in excess of 45 pounds per square inch, may be applied. Tanks may also be equipped with an approved device that will permit continuous venting.

AAR–14. (a) Safety valve must be of approved design. For safety vent, closure of bolted type preferable, see figure 3A. For screw type safety vent closure, see figure 3.

AAR–14. (b) Safety valve or safety vent flanges, if welded to dome, must be of cast, forged, or pressed metal and be of good weldable quality in conjunction with metal of dome.

ICC–15. *Fixtures, reinforcements, and attachments not otherwise specified.* (a) All attachments to tank and dome must be applied by approved means. When attachments are riveted, the edges of plates must be beveled so that the angle of the calking edge will be between 60 and 70 degrees with the flat surface of the attachment. The extreme calking edge distance, measured from center line of rivet hole, must be at least one and one-half times the diameter of the hole and not more than that distance plus ¼ inch. The joints formed by attachment of all riveted external projections must be calked on the inside. All rivet heads on the inside and outside of tank and dome must be calked. Split calking prohibited. Heater systems, when installed, must be so constructed that the breaking off of their external connections will not cause leakage of contents of tanks.

ICC–18. *Tests of safety valves.* (a) Valve must be tested before being put into service, by attaching to an air line and applying pressure. The valve must open at the pressure prescribed in paragraph ICC–14 (c), with a tolerance of minus 3 pounds.

AAR–18. (a) This paragraph does not apply.

ICC–19. *Retests of tanks, safety valves and interior heater systems.* (a) Tanks, safety valves and interior heater systems must be retested as prescribed for original tests in paragraphs ICC–17 and ICC–18, except that commodity to be transported may be used for filling the tank and dome when testing tanks which have not been in service more than 12 years. The first retest must be conducted within four years after the original test, and subsequent retests at four-year intervals up to 12 years of service, thereafter at two-year intervals up to 20 years of service, and annually after 20 years of service. Tanks in service over 12 years must be internally inspected and interior heater systems inspected for defects which would make leakage or failure probable during transit and must be tested with water only. Tanks must also be retested before being returned to service after any repairs requiring welding, riveting or calking of rivets. Interior heater systems must be retested after repairs. Reports must be rendered as prescribed in paragraph ICC–21.

ICC–20. (b) ICC–103–A–AL–W in letters and figures at least ⅜" high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. This mark must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2" high by the party assembling the completed car.

ICC–20. (h) This paragraph does not apply.

25. Add § 78.293 (15 F. R. 8523, Dec. 2, 1950) (49 CFR 78.293, 1950 Rev.) to read as follows:

§ 78.293 *Specification for tank cars having metallic arc fusion-welded steel tanks Class ICC–110A–500–W.* This specification covers Class ICC–110A–500–W tank cars having metallic arc fusion-welded tanks to which have been added Association of American Railroads details which are not inconsistent therewith. Wherever the word "approved" is used in this specification, it means approval by the Association of American Railroads' Committee on Tank Cars as prescribed in § 78.259 (b), (c), (d), and (e)—Procedure.

ICC–1. *Type and general requirements.* (a) Tanks built under this specification must be cylindrical with dished heads, one of which may be dished convex to the pressure. All operating fittings must be located in one of the heads, and no openings of any sort are permitted in the cylindrical shell. Tanks must be securely attached to the car structure in a manner such that they may be removed for filling by the consignor and emptying by the consignee. Each tank must have a capacity of at least 1,600 pounds of water and not more than 2,600 pounds of water.

ICC–1. (b) The tanks must be fabricated by approved methods.

ICC–1. (c) For tanks made in foreign countries, a chemical analysis of material and all tests as specified must be carried out within the limits of the United States under the supervision of a competent and disinterested inspector.

ICC–2. *Material.* (a) All plates for the tank must be made of open-hearth or electric furnace boiler plate steel of flange quality, the carbon content of which does not exceed 0.30 percent. The steel shall otherwise conform to the requirements of either the current A. A. R. Specification M–115, entitled Steel, Carbon and Carbon-Silicon, Boiler and Firebox, for Locomotives, Stationary Boilers, and Other Pressure Vessels, or to the current A. S. T. M. Specification A–212, entitled High Tensile Strength Carbon-Silicon Steel Plates for Boilers and Other Pressure Vessels, Grades A and B, Flange and Firebox, or A. S. T. M. Standard Specification A–201 titled Carbon-Silicon Steel Plates of Intermediate Tensile Ranges for Fusion Welded Boilers and Other Pressure Vessels, Grade A, or A. S. T. M. Standard Specifications A–285 titled Low and Intermediate Tensile Strength Carbon Steel Plates of Flange and Firebox Qualities, Grade C. These plates may also be clad with other metals such as nickel, etc.

ICC–2. (b) All plates must have their heat number and the name or brand of the manufacturer legibly stamped on them at the rolling mill.

ICC–2. (c) Tanks made of clad plates must be stenciled "Tank clad with (naming material)."

AAR–2. *Lining.* (a) Not a specification requirement. If applied, must be approved as to material and method of application.

ICC–3. *Thickness of plates.* (a) The wall thickness of the cylindrical portion of the tank must be not less than 11/32" and, in addition, must be not less than that calculated by the following formula:

$$t = \frac{PR}{SE - 0.6P}$$

where

t = thickness in inches of thinnest plate.
P = calculated bursting pressure in pounds per square inch, 1,250 psig min.
R = inside radius in inches.
S = minimum specified ultimate tensile strength of plate in pounds per square inch.
E = efficiency of longitudinal welded joint (see par. ARR–5. (c).)

ICC–4. *Tank heads.* (a) The tank heads must be hot pressed with a straight flange of at least 1½" and with a radius of dish not greater than the diameter of the tank. The inside knuckle radius must be not less than 6 percent of the inside diameter of the vessel.

ICC–4. (b) The heads may be either torispherical or ellipsoidal in form and one may be reversed dished convex to the pressure, if desired. The thickness of the heads shall be not less than that determined by the following formulae:

(1) For torispherical heads concave to pressure

$$t=\frac{5PL}{6SE}$$

(2) For ellipsoidal heads concave to pressure and having a ratio of major to minor axis of 2 to 1

$$t=\frac{PR}{SE-0.6P}$$

where

t = minimum thickness in inches of finished head.
P = minimum bursting pressure 1,250 psig.
S = minimum specified ultimate tensile strength of plate material in pounds per square inch.
R = inside radius of vessel.
L = inside radius of dish.
E = 1.0 for heads made from one plate.

The thickness of heads convex to the pressure shall be 1⅔ times the thickness as calculated by the above formulae.

ICC–4. (c) Threads for openings in tank heads must be American Standard Taper, tapped to gauge, clean cut, even and without checks to insure tight joints. If the thickness of the heads is not sufficient to give an adequate length of thread, the thickness must be increased by welding into the head a plate of sufficient thickness and of the same material as the head. The outside diameter of such plate must be at least twice the nominal diameter of the threaded opening.

ICC–5. *Welding.* (a) All joints must be fusion welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results.

AAR–5. *Welding.* (a) Fusion welding to be performed by fabricators certified by Association of American Railroads as qualified to meet the requirements of this specification. All joints must be fabricated by means of fusion welding in accordance with the following requirements:

AAR–5. *Definitions*—(b–1) *Fusion welding.* A process of welding metals in the molten, or molten and vaporous state without the application of mechanical pressure or blows.

AAR–5. (b–2) *Double-welded butt joint.* A joint formed by the fusion of two abutting edges with a filler metal added from both sides of the joint and with reinforcement on both sides. (For permission to remove reinforcement see paragraph AAR–5 (m–1)).

NOTE: A joint with filler metal added from one side only is considered equivalent to a double-welded butt joint when and if means are provided for accomplishing complete penetration and reinforcement on both sides of the joint.

AAR–5. (b–3) *Full-fillet joint.* A fusion weld of approximately triangular cross section the throat of which lies in a plane disposed approximately 45 degrees with respect to the surfaces of the parts joined, and built up to the full thickness of the plate or nozzle flange that is being joined to a parallel plate, having the throat not less than 0.7 the thickness of the edge of the plate being welded.

AAR–5. (b–4) *Throat.* The minimum thickness of a weld along a straight line passing through the bottom of the cross sectional space provided to contain a fusion weld.

AAR–5. (b–5) *Single full-fillet lap joint.* A single full-fillet lap joint is one in which the overlapped edges of two plates are full-fillet-welded along one edge only.

AAR–5. (b–6) *Double full-fillet lap joint.* A double full-fillet lap joint is one in which the overlapped edges of two plates are full-fillet-welded at the edge of each plate.

NOTE: When attachment having flanges thicker than the plates to which they are jointed, are secured in place by fillet welds, such welds shall be of the double full-fillet lap joint type in which the throat is not less than 0.7 the thickness of the plate to which the attachment is joined.

AAR–5. (b–7) *Plug weld.* A plug weld is one used to join two plates by welding through a hole in one of them to secure a bond and subsequently filling the hole with weld metal. Plug welds are to be used only in conjunction with fillet welds.

AAR–5. *Joint efficiency, maximum.* (c) The efficiencies for computing the value of the various types of fusion-welded joints in tanks constructed in conformity with requirements of this specification shall not exceed the following:

Type of joint	*Efficiency of joint (percent)*
Double-welded butt joint:	
With 100 percent radiographic examination	90.0
With radiograph examination of longitudinal joints only	80.0
Full-fillet joint:	
Single full-fillet lap joint without plug welds (see fig. 21)	55.0
Single full-fillet lap joint with plug welds (see fig. 20)	65.0
Double full-fillet lap joint	65.0

NOTE: Strength of fillet welds shall be computed on the throat dimension of the triangular section, using the strength in shear and in conjunction with the stresses given below, multiplied by the joint efficiency given above.

For end welds, the maximum shear stresses shall be 80 percent of the tensile strength of the plate used.

For side welds, the maximum shear stresses shall be 60 percent of the tensile strength of the plate used.

Plug weld. The maximum load on each plug weld shall be computed for either shear or tension by the following formula:

$$L=0.63\ S\ (d-\tfrac{1}{4})^2$$

where

L = total maximum load in shear or tension on each plug weld, in pounds.
d = diameter of the bottom of the hole in which the plug is made, in inches.
S = maximum stress in shear or tension, as the case may be, in pounds per square inch.

S for shear = 44,000
S for tension = 55,000

Welding must meet the following test requirements:

AAR–5. *Test plates.* (d–1) A test plate of the dimensions shown in figure 10 from steel of the same specification and thickness as the shell plates prepared for welding, may be attached to the shell plate being welded, as in figure 9, on one end of one longitudinal joint of each tank so that the edges to be welded in the test plate are a continuation of and duplication of the corresponding edges of the longitudinal joint. In this case the weld metal shall be deposited in the test plates continuously with the weld metal deposited in the longitudinal joint. The plates for test samples may be taken from any part of one or more plates of the same lot of material that is used in the fabrication of welded tanks and without reference to the direction of the mill rolling. As an alternate method, a detached test plate may be welded as provided for in AAR–5 (d–2). When more than one welding operator is employed on a tank, the required test plates for the individual tanks shall be made by the welding operator designated by the inspector.

AAR–5. (d–2) When a test plate is welded for the longitudinal joints, none need be furnished for circumferential joints in the same tank, providing the welding process, procedure, and technique are the same.

AAR–5. (d–3) When there are several tanks being welded in succession, or at any one time, the plate thicknesses of which fall within a range of ¼", each 200 ft. of longitudinal and circumferential seams may be considered as the equivalent of one tank and only the test plates required by paragraph AAR–5 (d–1) and AAR–5 (d–2) need be made, provided they are welded in the same way as the joints in question. The test plates shall be so supported that warping due to welding shall not throw the finished test plate out of line by an angle of over 5 degrees.

AAR–5. (d–4) Where the welding has warped the test plates they shall be straightened before being stress relieved. The test plates shall be subjected to the same stress-relieving operation as required by AAR–5 (p). At no time shall the test plates be heated to a temperature higher than that used for stress relieving the tank.

AAR–5. *Test specimens.* (e) The coupons for tension and bend tests shall be removed as shown in figure 10 and be of the dimensions shown in figures 10 and 11.

AAR–5. *Tension test.* (f–1) Two types of tension test specimens are required, one of the joint and the other of the weld metal. The tension specimen of the joint shall be transverse to the welded joint, and shall be the whole thickness of the welded plate after the outer and inner surfaces of the weld have been machined to a plain surface flush with the plate.

AAR–5. (f–2) The tensile strength of the joint specimen in figure 10 shall not be less than the minimum of the specified tensile range of the plate used. (The tension test of the joint specimen as specified herein is intended as a test of the welded joint and not of the plate. If the specimen breaks in the plate and the weld shows no sign of weakness, the test may be accepted as meeting the requirements even though the stress at which failure occurs is less than the minimum of the specified range.)

AAR–5. (f–3) The tension test specimen of the weld metal shall be taken entirely from the deposited weld metal and shall meet the following requirements:

Tensile strength = at least that of the minimum of the range of the plate which is welded.

Elongation, minimum = 20 percent in 2 inches.

For plate thicknesses less than ⅝ inch, the all-weld-metal tension test may be omitted.

AAR–5. *Bend tests.* (g–1) The bend-test specimen shall be transverse to the welded joint of the full thickness of the plate and shall be of rectangular cross-section with the width one and one-half times the thickness of the specimen. The inside and outside surfaces of the weld shall be machined to a plain surface flush with the plate. The edges of this surface shall be rounded to a radius not over 10 percent of the thickness of the plate. The specimen shall be bent cold under free bending conditions until the least elongation measured within or across approximately the entire weld on the outside fibers of the bend-test specimen is 30 percent.

AAR–5. (g–2) When a crack is observed in the convex surface of the specimen between the edges, specimens shall be considered to have failed and the test shall be stopped. Cracks at the corner of the specimen shall not be considered as a failure. The appearance of all defects in the convex surface shall not be considered as a failure if the greatest dimension does not exceed 1/16 inch.

AAR–5. *Specific gravity of welded metals.* (h) No specific gravity test required.

AAR–5. *Retests.* (i–1) Should any of the tests fail to meet the requirements by more than 10 percent, no retests shall be allowed.

AAR–5. (i–2) Should any of the tests fail to meet the requirements by 10 percent or less, retests shall be allowed. A second test plate shall be welded by the same operator who welded the plate which failed to meet the test requirements. The retest shall be made on specimens cut from the second plate.

AAR–5. (i–3) The retest shall comply with the requirements. For either of the tension retests, two specimens shall be cut from the second test plate, and both of these shall meet the requirements.

AAR–5. (i–4) When there is more than one specimen of the same type and when one or more of the group specimens fail to meet the requirements by 10 percent or less, the retest shall be made on an entire group of specimens, which shall meet the requirements.

AAR–5. (i–5) If the percentage of elongation of any tension test specimen is less than that specified and any part of the fracture more than ¾ inch from the center of the gauge length of the 2-inch specimen, or is outside of the middle third of the gauge length of the full-size specimen as indicated by the scribe scratches marked on the specimen before testing, a retest shall be allowed.

AAR–5. *Nondestructing tests.* (j–1) All longitudinal welded joints in the vessel shall be examined throughout their entire length by the X-ray or the gamma ray method of radiography. Other welded joints need not be examined by radiographic methods provided an efficiency of 80 percent is used in the design of the vessel. If an efficiency of 90 percent is used in the design of the vessel, the circumferential welded joints of the tanks shall also be radiographed. When a fitting is attached to a tank by a flange or plate inserted in and butt-welded to the head at the edge of the flange, the weld so made shall be radiographed. Radiographic examination of welds attaching other designs of nozzles or fittings to the tank head may be omitted.

AAR–5. (j–2) Where excess metal is removed welded joints shall be prepared as follows: The weld reinforcements on both the inside and outside shall be ground, chipped and ground, or suitably machined to remove the irregularities of the weld surface so that it merges smoothly into the plate surface. The finished surface of the reinforcement may have a crown of uniform amount not to exceed approximately 1/16 inch.

AAR–5. (j–3) The films obtained by the use of X-rays shall be known as "exographs", and those obtained by the use of gamma rays as "gamma graphs". Both types of film shall be generally termed "radiographs".

AAR–5. (j–4) The weld shall be radiographed with a technique which will determine quantitatively the size of defects with thicknesses equal to and greater than 2 percent of the thickness of the base metal. To determine whether the radiographic technique employed is detecting defects of a thickness equal to and greater than 2 percent of the thickness of the base metal, suitable thickness gauges or penetrameters shall be placed on the side of the plate nearest the source of radiation and used in the following manner:

AAR–5. (j–4) (1) To determine whether the radiographic technique employed is detecting defects of a thickness equal to and greater than 2 percent of the thickness of the base material, thickness gauges or penetrameters of the type shown in figure 12 shall be placed on the side of the plate nearest the source of radiation and used as directed.

AAR–5. (j–4) (2) The material of the penetrameter shall be substantially the same as that of the plate under examination.

AAR–5. (j–4) (3) The thickness of the penetrameter shall be not more than 2 percent of the thickness of the plate.

AAR–5. (j–4) (4) There shall be three holes in each penetrameter of diameters equal respectively to two, three, and four times the penetrameter thickness, but in no case less than 1/16 inch. The smallest hole must be distinguishable on the radiograph.

AAR–5. (j–4) (5) Each penetrameter shall carry an identifying number representing, in two significant figures, the minimum thickness of plate for which it may be used.

AAR–5. (j–4) (6) The images of these identifying numbers shall appear clearly on the radiograph.

AAR–5. (j–4) (7) Each penetrameter shall be 1½ inches long and ½ inch wide. (See figure 12.)

AAR–5. (j–5) Two penetrameters shall be used for each exposure, one at each end of the exposed length, parallel and adjacent to the weld seam with the small holes at the outer ends.

AAR–5. (j–6) The film during exposure shall be as close to the surface of the weld as is practicable. The distance of the film from the surface of the weld on the side opposite the source of radiation shall, if possible, be not greater than 1 inch. With the film not more than 1 inch from the weld surface the minimum distance between the source of radiation and the back of the weld shall not be less than 14 inches.

AAR–5. (j–7) There shall also be a plain indication on each film showing the job number, the shell, or shell section, and seam, as well as the manufacturer's identification, symbol, or name.

AAR–5. (j–8) If it is necessary to expose the film at a distance greater than 1 inch from the weld, the following ratio of:

$$\frac{\text{Distance of source from radiation to weld surface toward radiation}}{\text{Distance from weld surface toward radiation to film}}$$

shall be at least 7 to 1. When a grid of the Buckey type is employed to reduce scattered radiation, the above ratio may be reduced to 5. These conditions are imposed so as to limit the allowable distortion and magnification of any defects in the welded seam.

AAR–5. (j–9) All radiographs shall be free from excessive mechanical processing defects which would interfere with proper interpretation of the radiograph.

AAR–5 (j–10) Identification markers, the images of which will appear on the film, shall be placed adjacent to the weld and their location accurately and permanently stamped near the weld on the outside surface of the shell, or shell section, so that a defect appearing the radiograph may be accurately located in the actual weld.

AAR–5. (j–11) The radiographs shall be submitted to the inspector. If the inspector requests, the following data shall be submitted with the radiographs: (1) The thickness of the base metal, (2) the distance of the film from the surface of the weld, (3) the distance of the film from the source of radiation.

AAR–5. (j–12) Acceptability of welds examined by radiography shall be judged by comparing the radiographs with a standard set of radiographs which may be obtained by purchase from Secretary, Mechanical Division, Association of American Railroads. In general, the standard of judgment shall be:

(1) Welds in which the radiographs show elongated slag inclusions or cavities shall be unacceptable if the length of any such imperfection is greater than ⅓ T, where T is the thickness of the weld. If the lengths of such imperfections are less than ⅓ T and are separated from each other by at least 6 L of acceptable weld metal, where L is the length of the longest imperfection, the weld shall be judged acceptable if the sum of the lengths of such imperfections is not more than T in a weld length of 12 T.

(2) Welds in which the radiographs show any type of crack or zones of incomplete fusion shall be unacceptable.

(3) Welds in which the radiographs show porosity shall be judged as acceptable or unacceptable by comparison with the standard set of radiographs.

AAR–5. (j–13) A complete set of radiographs for each tank shall be retained for not less than 20 years by the tank builder or by the car owner if he so requests.

AAR–5. *Qualification of welders.* (k–1) The manufacturer shall be responsible for the quality of the welding done by his organization and shall conduct tests of welding operators to determine their ability to produce welds of the required quality.

AAR–5. (k–2) The manufacturer shall satisfy the inspector that all the welding operators employed on a car tank have previously made test plates which comply with the requirements of this specification. Such test plates shall have been made within a period of six months, except when the welding operator is regularly employed on production work embracing the same process and type of welding the tests may be effective for one year.

AAR–5. (k–3) It is the duty of the inspector to satisfy himself that only welding operators who are proved competent by these test plates are used to weld any car tank and that all welding complies with the requirements of this specification.

AAR–5. (k–4) The inspector has the right at any time to call for and witness the making of welding operator's qualification test plates described in this paragraph by any welding operator employed in connection with the inspector's contract, and to observe the physical tests of the test plates. For such qualification tests the thickness of the test plate shall be approximately the thickness of the plate or parts on which the welding operator is to work.

AAR–5. (k–5) The tests conducted by one manufacturer shall not qualify a welding operator to do work for any other manufacturer.

AAR–5. *Preparation for welding.* (l–1) The plates may be cut to size and shape by machining or shearing, or by flame cutting. If shaped by flame cutting, the edges must be uniform and smooth and must be free of all loose scale and slag accumulations before welding. The discoloration which may remain on the flame-cut surface is not considered to be a detrimental oxidation. The plates or sheets to be joined shall be accurately cut to size and formed. In all cases the forming shall be done by pressure and not by blows, including the edges of the plates forming longitudinal joints of tanks.

AAR–5. (l–2) Particular care should be taken in the layout of joints in which fillet welds are to be used so as to make possible the fusion of the weld metal at the bottom of the fillet. Great care must also be exercised in the deposition of the weld metal so as to secure satisfactory penetration.

AAR–5. (l–3) If the thickness of the flange of a head to be attached to a tank shell by a butt joint exceeds the shell thickness by more than 25 percent (maximum ¼ inch), the flange thickness shall be reduced at the abutting edges either on the inside or the outside, as shown in figure 13 (b), or on both sides, as shown in figure 13 (a). Reduction of abutting edges as illustrated in figure 13 (c) is not permissible. For vessels 36 inches in inside diameter or smaller, the head to shell joints may be a single-welded butt joint with a backing-up strip, or, in cases where the head thickness is at least ⅛ inch greater than the shell thickness, the backing-up strip may be integral with the head flange machined in such a manner as to have the inner edge of the head flange project beyond the end of the shell plate to form a backing-strip as shown in figure 26 (a). The head shall be a snug fit into the shell. If the thickness of the head exceeds the thickness of the

shell by more than ¼ inch, the thickness of the integral backing-strip shall not exceed ¼ inch and the additional flange thickness shall be reduced on the outside, as shown in figure 26 (b).

AAR–5. (l–4) The edges of the plates at the joints shall not have an offset from each other at any point in excess of 25 percent of the thickness of the plate (maximum ⅛ inch).

AAR–5. (l–5) In all cases where plates of unequal thicknesses are abutted, and have offsets exceeding 1/16 inch, the edge of the thicker plate shall be reduced in some manner so that it is approximately the same thickness as the other plate except as noted for head to shell joints in paragraph AAR–5. (l–3). In longitudinal tank joints the middle lines of the plate thickness shall be in alignment, within the fabricating tolerances specified in paragraph AAR–5. (l–4).

AAR–5. (l–6) Bars, jacks, clamps, or other appropriate tools may be used to hold the edges to be welded in line. Tack welds may also be used to hold the edges in line, provided the tack welds are removed so that they do not become a part of the joints. The edges of butt joints shall be so held that they will not overlap during welding. Where fillet welds are used, the lapped plates shall fit closely and be kept together during welding.

AAR–5. (l–7) The surfaces of the sheets or plates to be welded shall be cleaned thoroughly of all scale, rust, or oil and grease for a distance of not less than ½ inch from the welding edge. Grease or oil may be removed with gasoline, lye, or the equivalent. A steel wire scratch brush may be used for removing light rust or scale, but for heavy scale, slag, and the like, a grinder, chisel, air hammer, or other suitable tool shall be used to obtain clean and bright metal. When it is necessary to deposit metal over a previously welded surface, any scale or slag therefrom shall be removed by a roughing tool, chisel, air chipping hammer, or other suitable means to prevent inclusion of impurities in the weld metal.

AAR–5. (l–8) The dimensions and shape of the edges to be joined shall be such as to allow thorough fusion and complete penetration.

AAR–5. (l–9) For double welded butt joints the reverse sides shall be chipped, ground, or melted out so as to secure a clean surface of the originally deposited weld prior to application of the first bead of welding on the second side. Such chipping, grinding, or melting out shall be done in a manner that will insure proper fusion of the weld metal. These requirements are not intended to apply to any process of welding by which proper fusion and penetration are otherwise obtained and no impurities remain at the base of the weld.

AAR–5. (l–10) If the welding is stopped for any reason, extra care shall be taken in restarting to get full penetration to the bottom of the joint and thorough fusion between the weld metal and the plates, and to the weld metal previously deposited.

AAR–5. *Longitudinal joints.* (m–1) Longitudinal joints shall be of the double-welded butt type and shall be reinforced at the center of the weld on each side of the plate by at least 1/16 inch up to and including ⅝ inch plate and up to ⅛ inch for heavier plates. The reinforcement may be removed, but if not removed shall be filled up uniformly from the surface of the plate to a maximum at the center of the weld. Particular attention is called, however, to the importance of the provision that there shall be no valley or grooves along the edge of or in the center of the weld, but that the deposited metal must be fused smoothly and uniformly into the plate surface. (If the reinforcement is built up so as to form a ridge with a valley or depression at the edge of the weld next to the plate, the result is a notch which causes concentration of stress and reduces the strength of the joints.) The finish of the welded joint shall be reasonably smooth and free from irregularities, grooves, or depressions. Where a welded butt joint is made the equivalent of a double-welded butt joint (see note in paragraph AAR–5 (d–2)) by using a backing-up strip and adding filler metal from one side only, the reinforcements shall not be less than 1/16 inch.

AAR–5. (m–2) Where tanks are made up of two or more courses with welded longitudinal joints, the joints of adjacent courses shall be not less than 60° apart.

AAR–5. *Circumferential joints.* (n) Circumferential joints shall be of the double-welded butt type. The details of all of these joints shall conform to the requirements of longitudinal joints given in AAR–5 (m–1) except as specified in AAR–5 (l–3).

AAR–5. *Stress relieving.* (o) Each tank must be stress relieved by heating uniformly to at least 1100° F. The tank shall be brought slowly up to the specified temperature and held at that temperature for a period of time proportioned on the basis of at least one hour per inch of maximum thickness, minimum 1 hour, and shall be allowed to cool slowly in a still atmosphere. Welded attachments must be welded in place before tank is stress relieved. Fusion welded anchors, if applied, must be welded in place before tank is stress relieved. The entire tank must be stress relieved by heating the complete tank as a unit.

AAR–5. *Inspection.* (p–1) Purchaser of tanks must provide for inspection by a competent inspector. The manufacturer shall submit the tank for inspection at such stages as may be designated by the inspector.

AAR–5. (p–2) Each tank must also be inspected at the time of hydrostatic pressure and hammer tests by the inspector.

AAR–5. (p–3) The manufacturer shall certify that the welding on the tank has been done only by welding operators who have had passed the test requirements and that the same material and technique used in making the test were employed in fabricating the tank.

AAR–5. *Distortion.* (q) The shell of the completed tank shall be circular within a limit of plus or minus one percent of the inside diameter of the tank.

AAR–5. *Repairs during original construction.* (r–1) Pin holes, cracks, or other defects in welded joints shall be repaired only by chipping, machining, or burning out the defect and rewelding. For metallic arc welding preheating or reheating is not required.

AAR–5. (r–2) Tanks shall be stress relieved after any welding repairs have been made.

AAR–5. (r–3) After repairs have been made the tank shall again be tested in the regular way, and, if it passes the test, the inspector shall accept it. If it does not pass the test the inspector can order supplementary repairs, or, if in his judgment the tank is not suitable for service, he may permanently reject it.

ICC–6. *Stress relieving.* (a) All welding of the tank and of attachments welded directly thereto must be stress relieved as a unit.

AAR–6. *Stress relieving.* (a) See paragraph AAR–5 (o).

ICC–7. *Anchorage.* (a) The manner in which tanks are supported on and securely attached to the car structure must be approved.

ICC–7. *Protective rings.* (b) A plate ring flange must be welded to the outside of each head and extending a greater distance beyond the head than any fitting or attachment to the head, including the housing referred to in the following paragraph. This flange must be at least as thick as the shell plates and must slope or curve inward toward the axis such that the diameter at the outboard end is at least 2 inches less than the maximum diameter.

ICC–8. *Protective housing and cover.* (a) All operating fittings shall be located in one head. Valves and other closures of openings in tank heads, except fusible plug vents and drain plugs, must be protected against accidental injury by a detachable cast or pressed steel housing at least 3/16 inch thick, which must not project beyond the protective ring on the end of the tank and must be securely fastened to tank head. This housing must be provided with an opening having an area equal to the total safety valve or vent discharge area.

ICC–8. (b) The upper head of tanks mounted vertically on the car structure must be completely covered by a light metal cover designed to exclude moisture, cinders, and other foreign matter, and to be displaced by pressure of gas discharged through safety valves or vent.

ICC–9. *Venting, and loading and discharging valves.* (a) These valves must be of approved type, made of metal not subject to rapid deterioration by lading, and must withstand a pressure of 500 pounds per square inch without leakage. The valves must be screwed directly into tank heads or attached to tank heads by other approved methods. Provision must be made for closing the pipe connections of the valves.

ICC–9. (b) Tanks must not be equipped with safety valves or vents, if prohibited for the service in which they are used.

ICC–10. *Safety valves and vents.* (a) The tank must be equipped with one or more safety valves or vents of approved type, made of metal not subject to rapid deterioration by the lading and screwed directly into tank heads or attached to tank heads by other approved methods. The total value of vent discharge capacity must be sufficient to prevent building up of pressure in tank in excess of ¾ of the test pressure; when safety vents of the fusible plug type are used, the required discharge capacity must be available in each head.

ICC–10. (b) Tanks mounted vertically on the car structure must have safety valves, or vents of the frangible disc type, which must be located on the upper head.

ICC–10. (c) Safety valves must be set to open and vents of the frangible disc type must function at a pressure of not exceeding 375 pounds per square inch. Vents of the fusible plug type must function at a temperature of not exceeding 175° F. (for tolerance see paragraph ICC–13).

ICC–11. *Fixtures.* (a) Siphon pipes and their couplings on the inside of the tank head and lugs on the outside of the tank head for attaching the valve protection housing may be fusion welded in place, provided they are properly heat-treated at the time the entire tank is heat-treated. All other fixtures and appurtenances, except as provided for in paragraphs ICC–7, ICC–8, ICC–9, ICC–10, and ICC–11 (b) are prohibited.

ICC–11. (b) A threaded drain plug for cleaning purposes made of metal not subject to rapid deterioration by the lading, not to exceed 2 inches nominal pipe size, may be included in the head concave to the pressure. (See par. ICC–4 (c).)

ICC–12. *Tests of tanks.* (a) After heat treatment each tank must be subjected to a hydrostatic test in a water jacket, or by other accurate method, operated so as to obtain reliable data. No tank shall have been subjected previously to internal pressure within 100 pounds of the final test pressure.

ICC–12. (b) The tank must be prepared for testing by completely filling with water, or other liquid having similar viscosity, having a temperature not exceeding 100° F. during the test.

ICC–12. (c) While subject to a hydrostatic pressure of 375 pounds per square inch, the tank shall be given a thorough hammer impact test. This impact test shall consist of striking the metal at 6 inch intervals on both sides of all butt welded joints and for

the full length of the joints. The weight of the hammer in pounds shall approximately equal the thickness of the thinnest plate of the joint in tenths of an inch, but not to exceed 10 pounds. The plates shall be struck with a sharp swinging blow. The edges of the hammer shall be rounded so as to prevent defacing the plate.

ICC–12. (d) Following the impact test the tank shall be hydrostatically tested at a final test pressure of 500 pounds per square inch. The tank must hold this pressure for at least 10 minutes without leakage or evidence of distress.

ICC–12. (e) The pressure gauge must permit reading to an accuracy of 1 percent. The expansion gauge must permit reading of the total expansion to an accuracy of 1 percent. The expansion must be recorded in cubic centimeters.

ICC–12. (f) The permanent volumetric expansion must not exceed 10 percent of the total volumetric expansion at final test pressure.

ICC–12. (g) Following the hydrostatic test each tank must be subjected to an internal air pressure test of at least 100 pounds per square inch under conditions favorable to detection of any leakage. No leaks shall appear.

ICC–12. (h) Caulking of welded joints to stop leaks developed during foregoing tests is prohibited. Repairs in welded joints must be made as prescribed in paragraph ICC–5 (a).

ICC–13. *Tests of safety valves and vents.* (a) Each valve must be tested by air or gas before being put into service and also at intervals as prescribed in paragraph ICC–14. The valve must open at a pressure of not exceeding 375 pounds per square inch and be vapor tight at 300 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination.

ICC–13. (b) For safety vents of the frangible disc type, a sample of the discs used must burst at a pressure of not exceeding 375 pounds per square inch and be vapor tight at 300 pounds per square inch.

ICC–13. (c) For safety vents of the fusible plug type, a sample of the fusible plugs used must function at a temperature of not exceeding 175° F. and be vapor tight at a temperature of 130° F.

ICC–14. *Retests, alterations, and upkeep of tanks, safety valves, and vents.* (a) Each tank must be subjected, at least once every five years, to the hydrostatic test as prescribed in paragraph ICC 12 (b) and the volumetric expansion test prescribed in paragraphs ICC 12 (d) and 12 (e). A tank must be condemned when it leaks or when the permanent expansion exceeds 10 percent of the total expansion. Report giving data showing the results of these tests must be rendered by party making tests to the owner of the tank and to the Bureau of Explosives, and each tank passing the test must be marked with the date (month and year) plainly and permanently stamped into the metal of one head or flange ring. For example, 1–51 for January, 1951. Dates of previous tests must not be obliterated.

ICC–14. (b) Safety valves must be retested, at least once every 2 years, in the manner prescribed in paragraph ICC–13 (a). Safety vents of the frangible disc and fusible plug types must be inspected after each loaded trip of tank as follows: Remove at least one vent for visual inspection and, if it shows signs of deterioration, all the vents on the tank must be removed and inspected and those which do not meet the requirements must be renewed.

ICC–14. (c) All prescribed markings on tanks must be kept legible. Copy of the said markings, in letters and figures of the prescribed size stamped on a brass plate secured to the tank, is authorized. Markings must not be changed except as follows:

(1) By application of additional marks not affecting the test pressure or water capacity; these must not obliterate previously applied marks.

(2) By application of test pressure marks, or alteration of such marks, to indicate a reduced test pressure; authorized only for tanks that have not failed in the 5-year test.

(3) By change of serial numbers or ownership marks, or both; report in sufficient detail so that previous serial number and ownership mark can be determined for each tank, arranged by lot numbers or by consecutive serial numbers, must be filed with the Bureau of Explosives.

ICC–15. *Marking.* (a) Each tank must be plainly and permanently marked, thus certifying that the tank complies with all the requirements of this specification. These marks must be stamped into the metal of one head or flange ring, in letters and figures at least ⅜ inch high, as follows:

ICC–15. (b) ICC–110A500–W.

ICC–15. (c) Serial number (immediately below foregoing).

ICC–15 (d) Inspector's official mark (immediately below serial number).

ICC–15. (e) Name, mark (other than a trade mark) or initials of company or person for whose use the tanks are being made, which must be recorded with the Bureau of Explosives.

ICC–15. (f) Date of tank test (month and year), such as 1–51 for January, 1951, so placed that dates of subsequent tests may easily be added thereto.

ICC–15. (g) Water capacity—0000 pounds.

ICC–15. (h) When a tank and its appurtenances are designed and authorized for the transportation of a particular commodity only, the name of that commodity, followed by the word "only" or such other wording which may be required to indicate the usage of the tank, must be stenciled on head of the tank containing operating fittings, in letters at least 1 inch high.

AAR–15. (a) For determining water capacity of tank in pounds the weight of a gallon (231 cu. in.) of water at 60° F. in air shall be 8.32828 pounds.

ICC–16. *Inspection and report.* (a) Purchaser of tank must provide for inspection by a competent inspector as follows:

(1) The inspector must carefully inspect all plates from which tanks are to be made and records pertaining thereto, and plates which do not comply with the requirements of this specification must be rejected.

(2) The inspector must secure complete certified records, including chemical analyses and physical tests on samples taken from each heat and steel used in the manufacture of the plate.

(3) The inspector must report capacity in pounds of water and tare weight of each tank and the minimum thickness of tank wall noted.

(4) The inspector must make such inspection as may be necessary to see that all the requirements of this specification are fully complied with, must see that the finished tanks are properly heat treated, and must witness all air and hydrostatic tests.

(5) The inspector must stamp his official mark on each accepted tank immediately below the Serial No. and make certified report (see paragraph ICC–16 (b)), to the builder, to the company or person for whose use the tanks are being made, to the builder of the car structure on which the tanks are to be mounted, if any, to the Bureau of Explosives, and to the Secretary, Mechanical Division, Association of American Railroads.

ICC–16. (b) Inspector's report required herein must be in the following form:

(Place) _____
(Date) _____

STEEL TANKS

It is hereby certified that drawings were submitted for these tanks under A. A. R. Application for Approval No. _____ and approved by the A. A. R. Committee on Tank Cars under date of _____
Built for _____ Company
Location at _____
Built by _____ Company
Location at _____
Consigned to _____ Company
Location at _____
Quantity _____
Size _____ inches outside diameter by _____ inches long.
Marks stamped into the head or chime of the tank are:
Specification ICC _____
Serial numbers _____ to _____ inclusive.
Inspector's mark _____
Test date _____
Water capacity (see record of Hydrostatic Tests).
Tare Weights (Yes or No). (See Record of Hydrostatic Tests).
These tanks were made by process of _____
_____

The steel used was identified as indicated by the attached list showing the serial number of each tank, followed by the heat number of the plate, head, and bottom used in the tank.

The steel used was verified as to chemical analysis and record thereof is attached hereto. The heat numbers were stamped into the metal.

All material, such as plates, billets, and seamless tubing, was inspected and each tank was inspected both before and after closing in the ends; all that was accepted was found free from seams, cracks, laminations, and other defects which might prove injurious to the strength of the tank. The processes of manufacture and heat treatment of tanks were supervised and found to be efficient and satisfactory.

The tank walls were measured and the minimum thickness noted was _____ inch. The outside diameter was determined by a close approximation to be _____ inches. The wall stress was calculated to be _____ pounds per square inch under an internal pressure of _____ pounds per square inch.

Hydrostatic tests, bend and tensile tests of material, and other tests as prescribed in this specification were made in the presence of the inspector and all material and tanks accepted were found to be in compliance with the requirements of this specification. Records thereof are attached hereto.

I hereby certify that all of these tanks proved satisfactory in every way and comply with the requirements of Interstate Commerce Specification No. _____

(Signed) _____
Inspector.

(Place) .....
(Date) .....

RECORD OF CHEMICAL ANALYSIS OF STEEL FOR TANKS

Numbered ..... to ..... inclusive.
Size ..... inches outside diameter by ..... inches long.
Made by ..... Company.
For ..... Company.

Heat No.	Chemical analysis								
	C	P	S	Si	Mn	Ni	Cr		

The analyses were made by

(Signed) .....

(Place) .....
(Date) .....

RECORD OF TENSILE TESTS OF MATERIAL IN TANKS

Numbered ..... to ..... inclusive.
Size ..... inches outside diameter by ..... inches long.
Made by ..... Company.
For ..... Company.

Heat No.	Yield point (pounds per square inch)	Tensile strength (pounds per square inch)	Elongation (percent in 8 inches)	Reduction of area (percent)	Bend test

(Signed) .....

(Place) .....
(Date) .....

RECORD OF HYDROSTATIC TESTS ON TANKS

Numbered ..... to ..... inclusive.
Size ..... inches outside diameter by ..... inches long.
Made by ..... Company.
For ..... Company.

Serial Nos. of tanks tested	Actual test pressure (pounds per square inch)	Total expansion (c. c.) [1]	Permanent expansion (c. c.) [1]	Percent ratio of permanent expansion to total expansion	Tare weight pounds [2]	Capacity in pounds of water

(Signed) .....

[1] If the tests are made by a method involving the measurement of the amount of liquid forced into the tank by the test pressure then the basic data, on which the calculations are made, such as the pump factors, temperature of liquid coefficient of compressibility of liquid, etc., must also be given.
[2] Do not include protective housing and cover but state whether with or without valves.

ICC–16. (c) Before a tank built under this specification is placed in service, the builder must furnish to the owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in proper form certifying that the tank and its equipment comply with all the requirements of this specification, including information as to the serial numbers, date of test, and ownership marks on the tanks.

In the event the owner of the tank instead of the builder elects to furnish appurtenances such as valve protection caps, loading and unloading valves, and safety valves or vents of the frangible disc or fusible plug type, the owner must furnish to the Bureau of Explosives and to the Secretary, Mechanical Division, Association of American Railroads, a report in proper form certifying that these appurtenances comply with all the requirements of this specification.

In case of alterations of or additions to tank or equipment therefor from original design and construction or of repairs, there must be furnished to the owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in detail of the repairs, alterations, or additions made to each tank covered by a particular application, showing the serial number of each tank involved and stating that heat treatment called for by the particular type of repair authorized has been performed and, that after repairs, alterations, or additions, the tests prescribed in paragraph ICC–12 were made, results of hydrostatic tests reported, and tanks marked as prescribed in paragraph ICC–14.

Reports of retests must be rendered to the Bureau of Explosives and tank owner.

AAR–16. *Applications for approval.* (a) See § 78.259 (f) *Application for approval.*

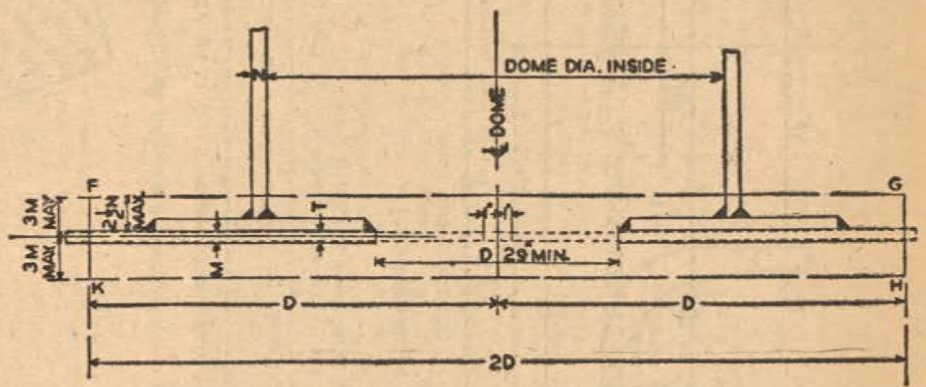
AAR–16. *Certificate of construction.* (b–1) See paragraph ICC–16 (b) for forms of certificates to be filed covering tanks only.

AAR–16. (b–2) For form of certificate covering car structure, see § 78.259 (g), *Certificate of construction.*

AAR–17. *Car structure.* (a) See § 78.263 *Car structure.*

26. Add Figures 24A, 24B, and 26, to Appendix C, Part 78, Subpart I (15 F. R. 8538, Dec. 2, 1950) (49 CFR Appendix C, Part 78, Subpart I, 1950 Rev.) as follows:

SECTION 35. Chart of retail beef cuts and the wholesale cuts from which they are obtained.



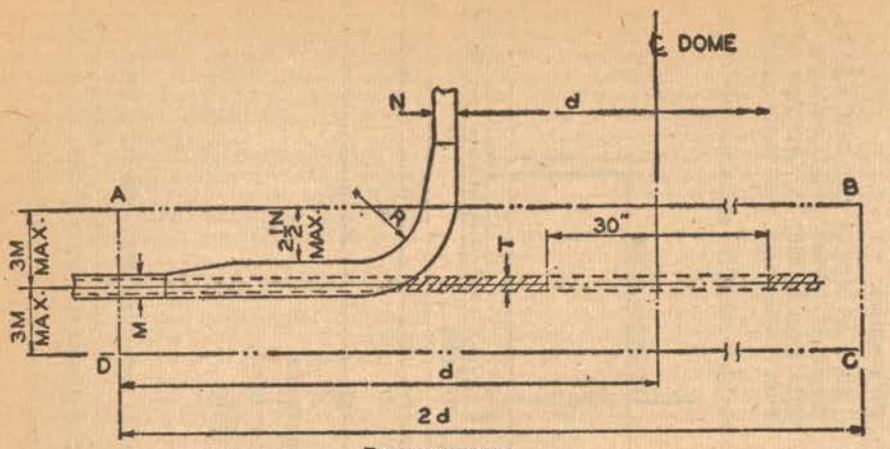
REINFORCEMENT

D = Diameter of cut out in tank shell (29" min.).
T = Shell thickness required by specification.
M = Actual shell thickness.
N = Actual dome shell thickness.
E = Efficiency of weld at top seam.

Cross section area available equals actual area in rectangle $FGHK$. Use $3M$ or $2\frac{1}{2}$" N—whichever is less) ..... =
Cross section area required equals $2T$ $(D–1)$ E excess area over requirements ..... =

FIGURE 24A. Dome reinforcement formula I. C. C. 103 AL–W–tanks.

SECTION 32. Beef skeletal chart of OPS wholesale beef cuts.



REINFORCEMENT

d = Inside diameter of dome.
T = Shell thickness required by specification.
M = Actual shell thickness.
N = Dome shell thickness.
E = Efficiency of welded joint at top seam in shell of tank.

Cross section area available equals actual area in rectangle $ABCD$. (Use $3M$ or $2\frac{1}{2}N$—whichever is less) ---------- =
Additional area required equals T $(2d-30)$ E ---------- =

Excess area over requirements ---------- =

FIGURE 24–B. Dome reinforcement formula I. C. C. 103 AL–W.

SECTION 34. Skeletal chart for making standard retail beef cuts.

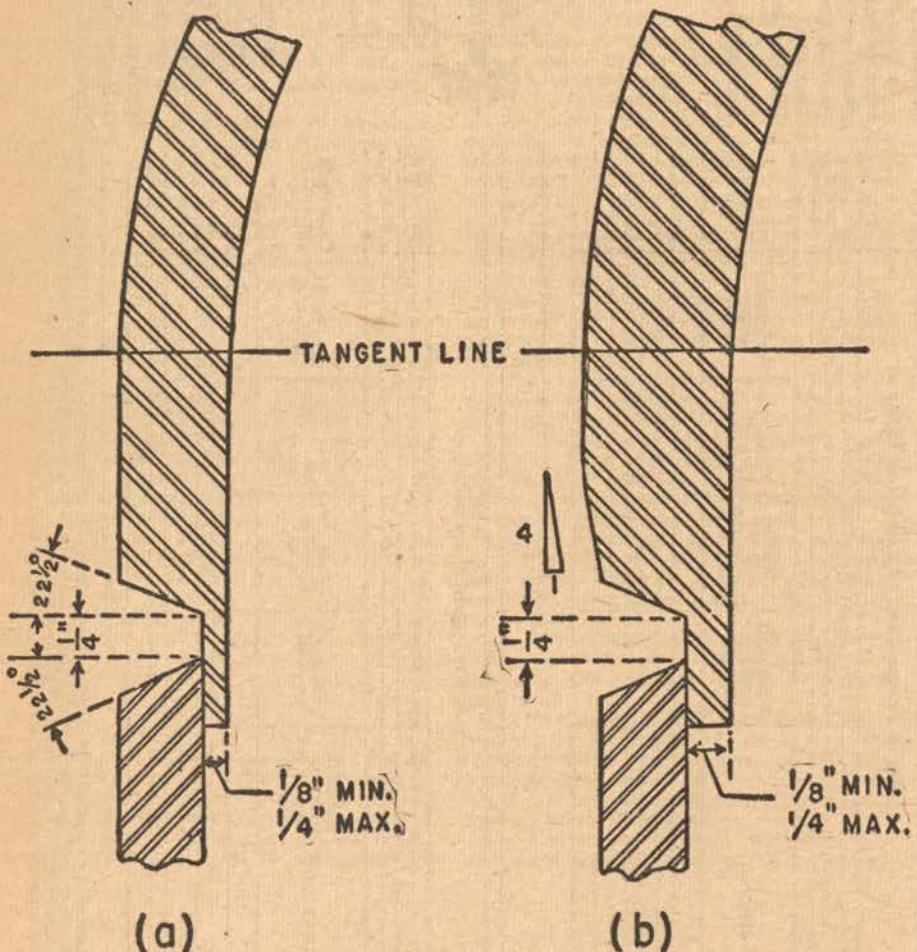


FIGURE 26. Optional welding for head-shell joints (when inside diameter is not over 86 inches).

[F. R. Doc. 51–4422; Filed, May 7, 1951; 8:45 a. m.]

DEPARTMENT OF THE TREASURY

Bureau of Internal Revenue

[26 CFR, Part 24]

CONSOLIDATED INCOME AND EXCESS PROFITS TAX RETURNS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 141 of the Internal Revenue Code (53 Stat. 58; 26 U. S. C. 141).

[SEAL] GEORGE J. SCHOENEMAN,
Commissioner of Internal Revenue.

[Regulations 129]

PART 24—CONSOLIDATED INCOME AND EXCESS PROFITS TAX RETURNS

GENERAL PROVISIONS

ADMINISTRATIVE PROVISIONS

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

SEC. 141, I. R. C. CONSOLIDATED RETURNS.

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

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

(c) *Computation and payment of tax.* In any case in which a consolidated return is made or is required to be made, the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under subsection (b) prescribed prior to the last day prescribed by law for the filing of such return; except that the tax imposed under section 15 or section 204 shall be increased by 2 per centum of the consolidated corporation surtax net income of the affiliated group of includible corporations. If the affiliated group includes one or more Western Hemisphere trade corporations (as defined in section 109), the increase of 2 per centum provided in the preceding sentence shall be applied only on the amount by which the consolidated corporation surtax net income of the affiliated group exceeds the portion (if any) of the consolidated corporation surtax net income attributable to the Western Hemisphere trade corporations included in such group. For the purposes of the tax imposed by section 430, the sum of the excess profits credit and the unused excess profits credit adjustment of the affiliated group shall not be increased under the last sentence of section 431 to an amount in excess of $25,000 for the entire group.

(d) *Definition of "Affiliated Group".* As used in this section, an "affiliated group" means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if—

(1) Stock possessing at least 95 per centum of the voting power of all classes of stock and at least 95 per centum of each class of the nonvoting stock of each of the includible corporations (except the common parent corporation) is owned directly by one or more of the other includible corporations; and

(2) The common parent corporation owns directly stock possessing at least 95 per centum of the voting power of all classes of stock and at least 95 per centum of each class of the nonvoting stock of at least one of the other includible corporations.

As used in this subsection, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(e) *Definition of "includible corporation".* As used in this section, the term "includible corporation" means any corporation except—

(1) Corporations exempt from taxation under section 101.

(2) Insurance companies subject to taxation under section 201 or 207.

(3) Foreign corporations.

(4) Corporations entitled to the benefits of section 251, by reason of receiving a large percentage of their income from sources within possessions of the United States.

(5) Corporations organized under the China Trade Act, 1922.

(6) Regulated investment companies subject to tax under Supplement Q.

(7) Any corporation described in section 449, or in section 454 (d), (f), and (g) (without regard to the exception in the initial clause of section 454), but not including such a corporation which has made and filed a consent, for the taxable year or any prior taxable year ending after June 30, 1950, to be treated as an includible corporation. Such consent shall be made and filed at such time and in such manner as may be prescribed by the Secretary.

(8) Regulated public utilities described in section 448 (d) which compute their excess profits credit under section 448 but not including any such regulated public utility which has made and filed a consent, applicable to the taxable year, to compute its excess profits credit without regard to section 448. The consent shall be made and filed at such time and in such manner as may be prescribed by the Secretary. The consent shall be applicable to the taxable year for which filed and to each consecutive subsequent taxable year for which a consolidated return is filed.

(f) *Includible insurance companies.* Despite the provisions of paragraph (2) of subsection (e), two or more domestic insurance companies each of which is subject to taxation under the same section of this chapter shall be considered as includible corporations for the purpose of the application of subsection (d) to such insurance companies alone.

(g) *Subsidiary formed to comply with foreign law.* In the case of a domestic corporation owning or controlling, directly or indirectly, 100 per centum of the capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of a contiguous foreign country and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated for the purpose of this chapter as a domestic corporation.

(h) *Suspension of running of statute of limitations.* If a notice under section 272 (a) in respect of a deficiency for any taxable year is mailed to a corporation, the suspension of the running of the statute of limitations, provided in section 277, shall apply in the case of corporations with which such corporation made a consolidated return for such taxable year.

(i) *Allocation of income and deductions.* For allocation of income and deductions of related trades or businesses, see section 45.

(j) *Includible regulated public utilities.* Despite the provisions of paragraph (8) of subsection (e), two or more regulated public utilities each of which has made and filed a consent, applicable to the taxable year, to compute its excess profits credit under section 448 only, shall be considered as includible corporations for the purpose of the application of subsection (d) to such regulated public utilities alone. The consent shall be made and filed at such time and in such manner as may be prescribed by the Secretary. The consent shall be applicable to the taxable year for which filed and to each consecutive subsequent taxable year for which a consolidated return is filed.

GENERAL PROVISIONS

§ 24.0 *Introductory.* (a) The regulations in this part, authorized by section 141 (b)[1] of the Internal Revenue

[1] In connection with the revision of section 141 of the Code as enacted by section 301 of the Excess Profits Tax Act of 1950, the report of the Committee on Ways and Means (Rept. No. 3142, 81st Cong., 2d Sess., p. 74), after describing certain substantive changes proposed, states:

"Aside from these substantive changes in section 141 for taxable years ending after June 30, 1950, and several clerical amendments to the section, the other general rules and provisions of the section are continued unchanged."

With respect to the corresponding section of the Revenue Act of 1928, the report of the Committee on Finance (S. Rept. No. 960, 70th Cong., 1st sess., p. 15) accompanying the revenue bill of 1928 contains the following statement (a similar statement being contained also in the statement of the managers on the part of the House, accompanying the conference report upon the bill, see H. Rept. No. 1882, 70th Cong., 1st sess., pp. 16–17):

"Among the regulations which it is expected that the Commissioner will prescribe are: (1) The extent to which gain or loss shall be recognized upon the sale by a member of the affiliated group of stock issued by any other member of the affiliated group or upon the dissolution (whether partial or complete) of a member of the group; (2) the basis of property (including property included in an inventory) acquired, during the period of affiliation, by a member of the affiliated group, including the basis of such property after such period of affiliation; (3) the extent to which and the manner in which net losses sustained by a corporation before it became a member of the group shall be deducted in the consolidated return; and the extent to which and the manner in which net losses sustained during the period for which the consolidated return is filed shall be deducted in any taxable year after the affiliation is terminated in whole or in part; (4) the extent to which and the manner in which gain or loss is to be recognized, upon the withdrawal of one or more corporations from the group, by reason of transactions occurring during the period of affiliation; and (5) that the corporations filing the consolidated return must designate one of their members as the agent for the group, in order that all notices may be mailed to the agent, deficiencies collected, refunds made, interest computed, and proceedings before the Board of Tax Appeals conducted as though the agent were the taxpayer."

The report of the Committee on Ways and Means (Rept. No. 1860, 75th Cong., 3d sess., p. 44) accompanying the revenue bill of 1938 (the pertinent provisions of which were reenacted without change in substance in the Internal Revenue Code) contains the following statement:

"Among the matters to be detailed in regulations which the Commissioner is expected to prescribe under the provisions of subsection (b) of this section are (a) the treatment of inter-company dividend distributions, (b) definitions of the 'net income,' the 'adjusted net income,' and the 'special class net income,' of the affiliated group, and (c) the computation of the 'net operating loss,' the 'basic surtax credit,' the 'dividend carry-over,' the 'dividends paid credit,' and the 'capital gains and losses,' insofar as these several factors may pertain to the case of an affiliated group."

In connection with the original enactment authorizing the filing of consolidated excess profits tax returns, the report of the Committee on Finance (Rept. No. 2114, 76th Cong., 3d sess., p. 17) accompanying the

Code, are prescribed as a supplement to the income tax regulations and the excess profits tax regulations applicable generally under the Code. They are applicable, in the case of all corporations (with certain statutory exceptions), to all taxable years ending after December 31, 1949. With respect to taxable years to which these regulations are applicable, they supersede all prior consolidated returns regulations.

(b) The several sections of the regulations in this part, have been given numbers corresponding respectively to the section numbers of prior consolidated returns regulations but with the Code number 24.

§ 24.1 *Privilege of making consolidated returns.* (a) Section 141 gives to the corporations of an affiliated group the privilege of making a consolidated income and excess profits tax return for the taxable year in lieu of separate returns. This privilege is given, however, upon the condition that all corporations which have been members of the affiliated group at any time during the taxable year for which the return is made consent to these regulations, and any amendments thereof duly prescribed prior to the last day prescribed by law for the filing of the return; and the making of the consolidated return is considered as such consent. The last day prescribed by law for the filing of the return includes the last day of the period of any extension of time granted by the Commissioner.

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

§ 24.2 *Definitions*—(a) *Code.* The term "Code" means the Internal Revenue Code, as amended, and the sections of statutory law referred to in these regulations, unless otherwise stated, are sections of that Code.

(b) *Affiliated group.* (1) The term "affiliated group" includes the common parent corporation and every other corporation for the period during which such corporation is a member of the affiliated group within the meaning of section 141 of the Code as amended; it does not include (i) any corporation which, under section 141, as amended, cannot be included in a consolidated return, (ii) an insurance company taxable under section 201 or 207 in the case of a consolidated return for corporations taxable under section 13, 14, or 204, (iii) a corporation taxable under section 13, 14, or 204 in the case of a consolidated return for insurance companies taxable under section 201 or 207, (iv) an insurance company taxable under section 201 in the case of a consolidated return for insurance companies taxable under section 27, (v) an insurance company taxable under section 207 in the case of a consolidated return for insurance companies taxable under section 201, (vi) a regulated public utility computing its excess profits credit under section 448 in the case of a consolidated return for corporations other than such regulated public utilities, or (vii) a corporation other than a regulated public utility consenting under section 141 (j) to compute its excess profits credit under section 448 in the case of a consolidated return for such regulated public utilities.

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

(3) An affiliated group of corporations, within the meaning of section 141 of the Code, is formed at the time that the common parent corporation, which is an includible corporation, becomes the owner directly of stock possessing at least 95 percent of the voting power of all classes of stock and at least 95 percent of each class of nonvoting stock (not including nonvoting stock which is limited and preferred as to dividends) of another includible corporation; a corporation becomes a member of such an affiliated group at the time that one or more members of such group become the owners directly of stock possessing at least 95 percent of the voting power of all classes of its stock and at least 95 percent of each class of its nonvoting stock (not including nonvoting stock which is limited and preferred as to dividends); and a corporation ceases to be a member of such an affiliated group at the time that the members of such group cease to own directly stock possessing at least 95 percent of the voting power of all classes of its stock, or at least 95 percent of each class of its nonvoting stock (not including nonvoting stock which is limited and preferred as to dividends).

(4) In the determination of the includible corporations of the affiliated group for a taxable year ending after June 30, 1950, a personal service corporation as described in section 449 or a corporation otherwise entitled to exemption from excess profits tax under section 454 (d), (f), or (g) shall be treated as an includible corporation only if it has made and filed pursuant to section 141 (e) (7) its consent to be treated as an includible corporation for such year or for a prior taxable year ending after June 30, 1950.

(5) A regulated public utility as described in section 448 (d) shall be treated as an includible corporation only if it has made and filed—

(i) In the case of an affiliated group consisting wholly of regulated public utilities or of one or more regulated public utilities together with other corporations, a consent to compute its excess profits credit without regard to section 448; or

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"Second Revenue Act of 1940" contains the following statement:

"The regulations which the Commissioner is authorized to prescribe are such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be returned, determined, computed, assessed, collected, and adjusted, in such manner as clearly to reflect the excess-profits tax liability and the various factors necessary for the determination of such liability, and in order to prevent avoidance of such tax liability in addition to the matters which, in the light of current and previous consolidated returns regulations, are expected to be covered in detail in the regulations to be issued by the Commissioner, are the extent to which and the manner in which the following items, among others, will be computed and given effect in determining the excess-profits-tax liability of an affiliated group: (a) Equity invested capital, borrowed capital, and invested capital, (b) admissible and inadmissible assets, and excluded capital, (c) net capital additions and reductions, (d) consolidated net operating losses, net operating losses incurred by members of the group in taxable years prior to that for which the consolidated return is filed, and the net operating loss deduction of members of the group in taxable years following that for which the consolidated return was filed, and (e) excess-profits net income and adjusted excess-profits net income."

The report of the Committee on Finance (Rept. No. 1631, 77th Cong., 2d sess., p. 133) accompanying the revenue bill of 1942, amending section 141, contains the following statement:

"The consolidated normal tax net income, the consolidated corporation surtax net income, and the consolidated capital gains and losses of the group are among those factors with respect to which the Commissioner, in view of experience with current and past consolidated returns regulations, is expected to prescribe regulations in order to reflect clearly the income and excess profits tax liability of the group and of each member thereof and the various factors necessary for the determination of such liability. In addition to these matters, your committee expects that such regulations will provide for the application of the excess profits relief provisions, and the provisions of section 710 (a) (1) (B) limiting excess profits taxes, in cases where consolidated returns are filed. Although the present regulations with respect to the determination of consolidated net income quite properly limit the deduction of the net operating loss carry-over of a member of a group from years prior to that in which its income is first included in a consolidated return to the amount of the separate income of such member, this section provides that such limitation shall not be applied to prevent the portion of the net operating loss carry-over which is attributable to a 1941 war loss of the member (see sec. 158 of the bill) being taken into account in computing consolidated net income."

(ii) In the case of an affiliated group consisting wholly of regulated public utilities, a consent to compute its excess profits credit under section 448 only, and without regard to sections 435 and 436.

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

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

(e) *Tax.* The term "tax" means the normal tax, the excess profits tax, and any surtax imposed by chapter 1, and the surtax imposed by subchapter A of chapter 2, and includes any interest, penalty, additional amount, or addition to the tax, payable in respect thereof.

(f) *Excess profits tax taxable year.* For excess profits tax purposes, in the case of an affiliated group filing a consolidated return for the taxable year, the prior taxable years of the group shall be the prior taxable years of the common parent corporation, whether or not consolidated returns were filed and whether or not the members of the group were affiliated for such prior taxable years. For any period during which the common parent was not in existence, the taxable year of the group shall be determined with respect to such members of the group as were in existence on the basis of the annual accounting period established by the common parent for its first taxable year. If the common parent was in existence on July 1, 1950, the first excess profits tax taxable year of the group is the first taxable year of the common parent ending after June 30, 1950. If the common parent was not in existence on July 1, 1950, the first excess profits tax taxable year of the group is the first taxable year of the group ending after June 30, 1950, determined under this paragraph, during which any member of the group was in existence.

(g) *Terms defined in Internal Revenue Code.* Terms which are defined in the Code shall, when used in the regulations in this part, have the meaning assigned to them by the Code, unless specifically otherwise defined.

§ 24.3 *Applicability of other provisions of law.* Any matter in the determination of which the provisions of the regulations in this part are not applicable shall be determined in accordance with the provisions of the Code or other law applicable thereto.

ADMINISTRATIVE PROVISIONS

§ 24.10 *Exercise of privilege*—(a) *When privilege must be exercised.* The privilege of making a consolidated return under these regulations for any taxable year of an affiliated group must be exercised at the time of making the return of the common parent corporation for such year. Under no circumstances can such privilege be exercised at any time thereafter. The filing of separate returns for a taxable year does not constitute an election binding upon the corporations in subsequent years. If the privilege is exercised at the time of making the return, separate returns cannot thereafter be made for such year. (See, however, § 24.18, relating to failure to comply with the regulations in this part.)

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

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

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

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

(d) *When affiliated group terminates.* For the purpose of the regulations in this part, an affiliated group shall be considered as terminated if the common parent corporation ceases to be the common parent or if there is no subsidiary affiliated with it.

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

(b) *Authorizations and consents.* (1) Each subsidiary must prepare duplicate originals of Form 1122, consenting to these regulations and authorizing the common parent corporation to make a consolidated return on its behalf for the taxable year and authorizing the common parent (or, in the event of its failure, the Commissioner or the collector) to make a consolidated return on its behalf (as long as it remains a member of the affiliated group), for each year thereafter for which, under § 24.11 (a), the making of a consolidated return is required. One of such forms as prepared by each subsidiary shall be attached to the consolidated return, as a part thereof; and the other shall be filed, at or before the time the consolidated return is filed, in the office of the collector for the district prescribed for the filing of a separate return by such subsidiary. No such consent can be withdrawn or revoked at any time after the consolidated return is filed.

(2) The filing of Form 1122 for a taxable year ending after June 30, 1950, by a subsidiary which is either a personal service corporation as described in section 449 or a corporation described in section 454 (d), (f), or (g) shall constitute the making and filing of its consent to be treated as an includible corporation under section 141 (e) (7).

(3) If the common parent corporation is a personal service corporation as described in section 449 or a corporation described in section 454 (d), (f), or (g), the making and filing of the consolidated return for a taxable year ending after June 30, 1950, shall constitute the making and filing of its consent to be treated as an includible corporation under section 141 (e) (7).

(4) A corporation which consents under section 141 (e) (7) to be treated

as an includible corporation for a taxable year ending after June 30, 1950, shall be treated as an includible corporation for all subsequent years, regardless of whether the affiliated group of which such corporation is a member during such subsequent years is the same as the affiliated group of which such corporation was a member when such consent was filed. No consent to be treated as an includible corporation under section 141 (e) (7) can be withdrawn or revoked at any time after the consolidated return is filed for the first taxable year for which the consent is filed.

(5) A subsidiary which is a regulated public utility as described in section 448 (d) shall indicate on its Form 1122 filed for a taxable year ending after June 30, 1950, whether it consents, pursuant to section 141 (e) (8), to compute its excess profits credit without regard to section 448, or, pursuant to section 141 (j), to compute such credit under section 448 only.

(6) If the common parent corporation is a regulated public utility as described in section 448 (d) or (e), the making and filing of a consolidated return for a taxable year ending after June 30, 1950, subject to the provisions of section 141 (e) (8), or to the provisions of section 141 (j), shall constitute the making and filing of its consent to compute its excess profits credit without regard to section 448, or to compute such credit under section 448, respectively.

(7) A consent made by a regulated public utility under either of the two preceding paragraphs cannot be withdrawn or revoked at any time after the consolidated return is filed, and shall be applicable to the taxable year for which such consent is made and to each consecutive subsequent taxable year for which a consolidated return is made or is required.

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

(d) *Persons qualified to swear to returns and forms.* Each return or form required to be made or prepared by a corporation must be sworn to by the persons authorized under section 52 to swear to returns of separate corporations. In cases where receivers or trustees in bankruptcy are operating the property or business of corporations, each return or form required to be made or prepared by such corporation must be executed by the receiver or trustee, as the case may be, pursuant to an order or instructions of the court, and be accompanied by a copy of such order or instructions.

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

§ 24.13 *Change in affiliated group during taxable year*[2]—(a) *General rule.* Except as hereinafter provided, a consolidated return must include the income of the common parent corporation and of each subsidiary for the entire taxable year of the affiliated group.

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

(c) *Complete termination of affiliated group prior to close of taxable year.* If an affiliated group is terminated prior to the close of the taxable year of the group, the consolidated return must include the income of the common parent corporation for its entire taxable year (excluding any portion of such year during which its income is included in the consolidated return of another affiliated group) and of each subsidiary for the period prior to the termination. (See paragraphs (c) and (d) of § 24.11, in determining whether the group has terminated.)

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

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

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

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

(h) *Time for making separate returns for periods not included in consolidated return.* If a corporation, during its taxable year (determined without regard to the affiliation), becomes a member of an affiliated group, the separate return required for the portion of such taxable year during which it was not a member of the group must be made on or before the 15th day of the third month following the close of its taxable year (determined without regard to the affiliation). For example, Corporation P, reporting its income on a calendar year basis, acquires on January 1, 1951, all the stock of Corporation S, which reports its income on a fiscal year basis ending March 31. P and S elect to make a consolidated return for the calendar year 1951. The separate return of S for the taxable period April 1, 1950, to December 31, 1950, should be made on or before June 15, 1951.

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

(b) If a change of accounting period is necessary in order to conform the accounting periods of the common parent and of its subsidiaries, and if the requirements of § 29.46-1 of this chapter (Regulations 111), relating to notice of change, cannot otherwise be complied with, such notice shall be furnished at or before the time of filing the consolidated return.

(c) With respect to computations for years involved in the change to the consolidated basis, see § 24.32.

§ 24.15 *Liability for tax*—(a) *Several liability of members of affiliated group.* Except as provided in paragraphs (b) and (c) of this section, the common parent corporation and each subsidiary, a member of the affiliated group during any part of a consolidated return period, shall be severally liable for the tax (including any deficiency in respect thereof) computed upon the consolidated net income of the group.

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

(b) *Liability of a corporation in bankruptcy or receivership.* If, at the time of filing a consolidated return, one or more, but not all, of the members of the affiliated group are in bankruptcy under the laws of the United States or in receivership in any court of the United States or of any State, Territory, or the District of Columbia, then the liability under paragraph (a) of this section of each such member of the group with respect to the period covered by such return shall not exceed such portion of the consolidated tax liability for such period as the several corporations included in the consolidated return may, subject to the approval of the Commissioner, agree upon, or, in the absence of such an agreement, an amount equal to its liability for such year computed as if a separate return had been filed.

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

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

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

§ 24.16 *Common parent corporation agent for subsidiaries*—(a) *Scope of agency of common parent corporation.* Except as provided in paragraphs (b), and (c) of this section—

The common parent corporation shall be for all purposes (other than the making of the subsidiary consent required by § 24.12 (b)), in respect of the tax for the taxable year for which a consolidated return is made or is required, the sole agent, duly authorized to act in its own name in all matters relating to such tax, for each corporation which during any part of such year was a member of the affiliated group. The corporations, other than the common parent, shall not have authority to act for or to represent themselves in any such matter. For example, all correspondence will be carried on directly with the common parent; notices of deficiencies will be mailed only to the common parent, and the mailing to the common parent shall be considered as a mailing to each such corporation; notice and demand for payment of taxes will be given only to the common parent, and such notice and demand shall be considered as a notice and demand to each such corporation; the common parent will file petitions and conduct proceedings before The Tax Court of the United States, and any such petition shall be considered as having also been filed by each such corporation; the common parent will file claims for refund or credit; refunds will be made directly to and in the name of the common parent and will discharge any liability of the Government in respect thereof to any such corporation; and the common parent in its name will give waivers, give bonds, and execute closing agreements, offers in compromise, and all other documents, and any waiver or bond so given, or agreement, offer in compromise, or any other document so executed, shall be considered as having also been given or executed by each such corporation. Notwithstanding the provisions of this paragraph, however, any notice of deficiency, in respect of the tax for a consolidated return period, will name each corporation which was a member of the affiliated group during any part of such period, and any assessment (whether of the original tax or of a deficiency) will be made in the name of each such corporation (but a failure to include the name of any such corporation will not affect the validity of the notice of deficiency or the assessment as to the other corporations); any notice and demand for payment will name each corporation which was a member of the affiliated group during any part of such period (but a failure to include the name of any such corporation will not affect the validity of the notice and demand as to the other corporations); and any distraint (or warrant in respect thereof), any levy (or notice in respect thereof), any notice of a lien, or any other proceeding to collect the amount of any assessment, after the assessment has been made, will name the corporation from which such collection is to be made. The provisions of this paragraph shall apply whether or not a consolidated return is made for any subsequent year, and whether or not one or more subsidiaries have become or have ceased to be members of the group at any time. Notwithstanding the provisions of this paragraph, the Commissioner may, if he deems it advisable, deal directly with any member of the group in respect of its liability, in which event such member shall have full authority to act for itself.

(b) *Effect of withdrawal of subsidiary.* For the purpose of the assertion, assessment, and collection of any deficiency, and of a credit or refund of any amount paid by a former subsidiary as a deficiency determined under § 24.15 (c), but for no other purpose, the agency of the common parent corporation in respect of any subsidiary which has ceased to be a member of the affiliated group shall be terminated upon the expiration of 30 days (or prior thereto if the Commissioner consents) from the date upon which such subsidiary files written notice with the Commissioner that it has ceased to be a member of the affiliated group and that it is terminating such agency. For example, if a subsidiary has ceased to be a member of the group (and if the 30-day period has expired) prior to the mailing of a notice of deficiency to the common parent, a separate notice of deficiency will be mailed in due course to the subsidiary in respect of its deficiency if it becomes necessary to enforce its liability.

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

§ 24.17 *Waivers*—(a) *Effect of waiver given by common parent corporation.* Any consent given by the common parent corporation (or by an agent in accordance with paragraph (c) of § 24.16) extending the time within which an assessment may be made or distraint or proceeding in court begun, in respect of the tax for a consolidated return period, shall be applicable (1) to each corporation which was a member of the affiliated group during any part of such period (whether or not any such corporation has ceased to be a member of the group), and (2) to each corporation the income of which was included in the consolidated return, or which filed Form 1122, for such period, even though it is subsequently determined that such corporation was not a member of the group.

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

§ 24.18 *Failure to comply with regulations*—(a) *Exclusion of a subsidiary from consolidated return.* If there has been a failure to include in the consolidated return the income of any subsidiary, or a failure to file any of the forms required by the regulations in this part, notice thereof shall be given the common parent corporation by the Commissioner, and the tax liability of each member of the affiliated group shall be determined on the basis of separate returns unless such income is included or such forms are filed within the period prescribed in such notice, or any extension thereof, or unless under § 24.11 a consolidated return is required for such year.

(b) *Common parent corporation incorrectly designated in consolidated return.* If a consolidated return includes a corporation as the common parent and such corporation was not (under the provisions of section 141) the common parent, the tax liability of each corporation included in the return will be computed in the same manner as if separate returns had been made, unless, upon application, the Commissioner approves the making of a consolidated return, or unless under § 24.11 a consolidated return is required for such year.

(c) *Inclusion of one or more subsidiaries not members of affiliated group.* If a consolidated return includes a corporation as a subsidiary and such corporation was not a member of the affiliated group during the consolidated return period, the tax liability of such corporation will be determined upon the basis of a separate return (but see paragraph (a) of this section), and the consolidated return shall be considered as including only the corporations which were members of the group during such period. If the consolidated return includes two or more corporations which are not members of the group but which constitute a separate affiliated group, the tax liability of the corporations constituting the separate group will be computed in the same manner as if separate returns had been made by such corporations, unless the Commissioner, upon application, approves the making of a consolidated return for the separate group, or unless under § 24.11 a consolidated return is required for the separate group.

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

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

§ 24.19 *Tentative carry-back adjustments*—(a) *Groups with constant membership; consolidated returns only.* In the case of an affiliated group the membership of which remains unchanged and for which consolidated returns are made or are required for the taxable years involved, any statement filed under section 3779 of the Code with respect to an expected carry-back and any application for a tentative carry-back adjustment filed under section 3780 shall be filed by the common parent corporation and shall disclose all material facts and circumstances relating to the group as a whole. Such statement or application shall be filed on the appropriate form prescribed for such purpose, Form 1138 or Form 1139, as the case may be. Any refunds allowable under any such application will be made directly to and in the name of the common parent. The making of any such refund will discharge any liability of the Government in respect thereof to the several affiliated corporations. The common parent corporation and its several subsidiaries shall be severally liable for any amounts assessed pursuant to section 3780 (b) or (c) or 294 (e), together with any interest or penalty assessed in connection therewith.

(b) *Groups with changing membership; cases involving a separate return period.* (1) The membership of an affiliated group may change during a taxable year for which a net operating loss or an unused excess profits credit arises, or in the preceding taxable year affected by such net loss or unused credit. Or an affiliated group making a consolidated return for the year of such net loss or unused credit may have made separate returns for the preceding year; or a group making separate returns for the year of the net loss or unused credit may have made a consolidated return for the preceding year. In any such case, the statement provided for in section 3779 (b) of the Code and the application for the tentative carry-back adjustment provided for in section 3780 (a) shall be a joint statement or application concurred in and executed by each corporation which was a member of the group at any time during either of the taxable years involved in the deferment or adjustment sought. The time for the payment of taxes shall be extended under section 3779 and the adjustment provided for in section 3780 shall be made only in accordance with an agreement of the several corporations involved to be made a part of such statement or application. Any refund allowable under any such application with respect to a consolidated return period will be made directly to and in the name of the common parent corporation, and the making of any such refund will discharge any liability of the Government in respect thereof to the several affiliated corporations. The common parent corporation and its several subsidiaries shall be severally liable for any amounts assessed pursuant to section 3780 (b) or (c) or 294 (e), together with any interest or penalty assessed in connection therewith.

(2) In the absence of an agreement between the several corporations, or in the event of their failure to set forth the provisions of such an agreement as a part of their statement or application, no extension of time for the payment of any tax under the provisions of section 3779 shall be granted, and no tentative adjustment shall be made under section 3780.

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

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

§ 24.30 *Computation of tax*—(a) *General rule.* In the case of an affiliated group which makes, or is required to make, a consolidated return for any taxable year, the tax liability of each corporation for the period during such year that it was a member of such group shall be computed, subject to the provisions of paragraph (b) of this section, upon the consolidated normal-tax net income and the consolidated corporation surtax net income of the group, or, in the case of the taxes imposed by section 102, section 201, subchapter A, and subchapter D, upon the consolidated undistributed section 102 net income, the consolidated adjusted normal-tax net income and the consolidated adjusted corporation surtax net income, the consolidated undistributed subchapter A net income, or the consolidated adjusted excess profits net income, as the case may be, determined in each case in accordance with the regulations in this part. In the case of an affiliated group realizing long-term capital gains and computing its tax under the alternative tax provisions of section 117 (c), the tax shall be computed with reference to the consolidated net income, and the excess of the consolidated net long-term capital gain over the consolidated net short-term capital loss.

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

(1) *In the case of Western Hemisphere trade corporations*—(i) *Years beginning after June 30, 1950, and calendar year 1950.* If the affiliated group filing a consolidated return for a taxable year beginning after June 30, 1950, or for the calendar year 1950, includes a Western Hemisphere trade corporation, as defined in section 109, the increase of 2 percent provided in section 141 (c) in the corporation surtax rate shall be applied only on that portion of the consolidated corporation surtax net income attributable to the members of the group other

than the Western Hemisphere trade corporation.

(ii) *Other taxable years.* In the case of an affiliated group filing a consolidated return for a taxable year other than one subject to the provisions of subdivision (i) of this subparagraph, and including as a member of the group a Western Hemisphere trade corporation, as defined in section 109, the surtax of the group shall be an amount which bears the same ratio to the surtax computed on the consolidated corporation surtax net income as the portion of the consolidated corporation surtax net income attributable to the other members of the group bears to the entire consolidated corporation surtax net income.

(2) *In case of abnormalities.* If the affiliated group for any taxable year is subject to the provisions of section 456 (relating to abnormalities)—

(i) The excess profits tax liability of the group for the taxable year in which the whole of the abnormal income would, without regard to section 456, be includible shall not exceed the sum of (*a*) the excess profits tax computed upon the consolidated adjusted excess profits net income of the group computed without the inclusion in gross income of the portion of the net abnormal income which is attributable to any other taxable year, plus (*b*) the aggregate of the increase in the excess profits tax which would have resulted for the taxable year (computed under subdivision (*a*)) and for each previous taxable year to which any portion of such net abnormal income is attributable, computed as if an amount equal to such portion had been included in the gross income for such previous taxable year of the corporation deriving such portion;

(ii) The excess profits tax liability of the group for any future taxable year shall be the excess profits tax computed upon the consolidated adjusted excess profits net income of the group computed with the inclusion in gross income of the net abnormal income attributable to such future taxable year, but shall not exceed the sum of (*a*) the excess profits tax computed upon the consolidated adjusted excess profits net income of the group computed without the inclusion in excess profits net income of the portion of the net abnormal income which is attributable to such year, and (*b*) the decrease in the excess profits tax for the previous taxable year in which the whole of such abnormal income would, without regard to section 456, be includible, which decrease resulted by reason of the exclusion of the whole or a part of the abnormal income from the gross income for such previous taxable year; but the amount of such decrease shall be diminished by the aggregate of the increases in the excess profits tax which would have resulted for the future taxable year (computed under subdivision (*a*)) and for the taxable years intervening between such previous taxable year and such future taxable year because of the inclusion in gross income of the portions of such net abnormal income attributable to such intervening years.

(iii) Whether or not an abnormality within the meaning of section 456 exists shall be determined in the light of the aggregate business and of the collective experience during the four previous taxable years of the several members of the group.

(3) *In case of Merchant Marine contracts.* If the affiliated group for any taxable year includes a corporation subject to the provisions of section 457, relating to corporations completing contracts under the Merchant Marine Act of 1936, the excess profits tax liability of the group shall be the tax under section 430 computed on the consolidated adjusted excess profits net income or the tax computed in accordance with the provisions of section 457 (b), whichever is the lesser. The computation under section 457 (b) shall be made as if the consolidated adjusted excess profits net income and the payments made or to be made to the Federal Maritime Board were the adjusted excess profits net income of and payments made or to be made by a separate corporation.

(4) *In case of profits from mining strategic minerals.* If the affiliated group for any taxable year includes a corporation a portion of the income of which is, pursuant to section 450, exempt from excess profits tax by reason of such corporation having engaged in the mining of strategic minerals, the excess profits tax liability of the group shall be an amount which bears the same ratio to the excess profits tax computed on the consolidated adjusted excess profits net income as the portion of the consolidated adjusted excess profits net income not exempt from excess profits tax bears to the entire consolidated adjusted excess profits net income. The portion of the consolidated adjusted excess profits net income not exempt from excess profits tax shall be determined in the same manner as if the consolidated adjusted excess profits net income were the adjusted excess profits net income of a separate corporation.

(c) *Limitation on excess profits tax.* The consolidated excess profits tax liability shall be whichever of the following amounts is the lesser:

(1) An amount equal to 30 percent of the consolidated adjusted excess profits net income, or

(2) An amount equal to the excess of 62 percent of the consolidated section 433 (a) excess profits net income for the taxable year over the tax which would be imposed for the taxable year under sections 13, 14, and 15, supplement G, and supplement Q, whichever are applicable to the affiliated group, computed (subject to section 108, if applicable, and to section 141 (c)) as if the amount of the consolidated normal-tax net income and the amount of the consolidated corporation surtax net income (or the amount subject to the rate of tax in such supplement) were equal to the amount of the consolidated section 433 (a) excess profits net income for such year.

(d) *Several liability.* With respect to the liability of the several members of the group, see § 24.15.

§ 24.31 *Bases of tax computation.* In the case of an affiliated group of corporations which makes, or is required to make, a consolidated return for any taxable year, and except as otherwise provided in the regulations in this part, the tax liability determined under § 24.30 shall be determined subject to the definitions and rules of computation set forth in paragraphs (a) and (b) of this section.

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

(i) Minus the sum of—

(*a*) Any consolidated net operating loss deduction,

(*b*) Any consolidated section 117 (j) net loss, relating to net losses from involuntary conversions and from sales or exchanges of property subject to the provisions of section 117 (j), and

(*c*) The aggregate amount of any contributions or gifts made by the several affiliated corporations during the taxable year, subject to the provisions of section 23 (q), but not in excess of 5 percent of the consolidated net income computed without regard to such contributions or gifts, and

(ii) Plus any consolidated net capital gain, or

(iii) Minus, in the case of an affiliated group including as members one or more corporations subject to the tax imposed by section 204, the combined additional capital loss deductions of such corporations authorized by section 204 (c) (5), but in an amount not in excess of the consolidated net capital loss.

(2) *Consolidated net operating loss deduction.* The consolidated net operating loss deduction shall be an amount equal to the aggregate of the consolidated net operating loss carry-overs and of the consolidated net operating loss carry-back to the taxable year reduced by the amount, if any, by which the consolidated net income (computed with the exceptions and limitations provided in section 122 (d) (1), (2), (3), and (4)) exceeds the consolidated normal-tax net income (computed without any net operating loss deduction and without the credits provided in section 26 (h), relating to dividends paid by public utilities on certain preferred stock, and section 26 (i), relating to western hemisphere trade corporations).

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

(i) The consolidated net operating losses, if any, for the five preceding taxable years (not including as a third, fourth, or fifth preceding taxable year any taxable year beginning prior to January 1, 1950) to the extent that the consolidated net operating loss for any such preceding taxable year was not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group, for the taxable year, and was not absorbed as a carry-over or carry-back by the consolidated or separate net income for preceding or intervening taxable years,

and, with respect to a net operating loss sustained by a corporation in a taxable

year for which a separate return was filed, or for which such corporation joined in a consolidated return filed by another affiliated group, but subject to the limitations prescribed in section 24.31 (b) (3),

(ii) The amount of the net operating losses, if any, of such corporation for the five preceding taxable years (not including as a third, fourth, or fifth preceding taxable year any taxable year beginning prior to January 1, 1950) to the extent that the net operating loss for any such preceding taxable year was not absorbed as a carry-over or carry-back by consolidated or separate net income for preceding or intervening taxable years.

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

(i) The amount of the consolidated net operating loss, if any, for the succeeding taxable year to the extent not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group, for the taxable year,

and with respect to a net operating loss sustained by a corporation which, for the succeeding taxable year, files a separate return or joins in a consolidated return filed by another affiliated group but subject to the limitations prescribed in § 24.31 (b) (3),

(ii) The amount of the net operating loss, if any, of such corporation for the succeeding taxable year.

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

(i) The combined net operating losses of the several affiliated corporations having net operating losses (computed subject to the exceptions, additions, and limitations provided in section 122 (d)), and

(ii) The consolidated section 117 (j) net loss, over the sum of—

(iii) The combined net income of the several affiliated corporations having net income (adjusted with respect to the exceptions, additions, and limitations provided in section 122 (d) in connection with the computation of net operating losses), and

(iv) The consolidated net capital gain.

(6) *Consolidated section 117 (j) net loss.* The consolidated section 117 (j) net loss shall be the excess of the aggregate of the recognized losses of the character described in section 117 (j) sustained by the several affiliated corporations over the aggregate of the recognized gains of the character described in section 117 (j) realized by the several affiliated corporations.

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

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

(ii) The consolidated section 117 (j) net gain, over the sum of—

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

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

(8) *Consolidated section 117 (j) net gain.* The consolidated section 117 (j) net gain shall be the excess of the aggregate of the recognized gains of the character described in section 117 (j) realized by the several affiliated corporations over the aggregate of the recognized losses of the character described in section 117 (j) sustained by the several affiliated corporations.

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

(i) The consolidated net capital losses, if any, for the five preceding taxable years to the extent that such losses were not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group, for the taxable year, and were not absorbed by net capital gains for intervening taxable years pursuant to the provisions of section 117 (e) (1), consolidated or separate, as the case may be,

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

(ii) The net capital losses, if any, sustained by such corporation for its five preceding taxable years to the extent that such losses were not absorbed by the net capital gains of such corporation (or, if the income of such corporation was included in a consolidated return, by the consolidated net capital gain) for intervening taxable years pursuant to the provisions of section 117 (e) (1).

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

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

(ii) The consolidated section 117 (j) net gain,

reduced, in the case of an affiliated group including as members one or more corporations subject to the tax imposed by section 204, but only for the purpose of net capital loss carry-over computations, by whichever of the following amounts is the lesser:

(iii) The combined additional capital loss deductions of such corporations authorized by section 204 (c) (5), or

(iv) The consolidated corporation surtax net income computed without regard to capital gains and losses.

(11) *Consolidated normal-tax net income.* The consolidated normal-tax net income shall be the consolidated adjusted net income minus—

(i) The consolidated section 26 (b) credit, relating to dividends received,

and, for taxable years beginning after June 30, 1950, and for the calendar year 1950—

(ii) In the case of an affiliated group including as a member a public utility as defined in section 26 (h) (2) (A), the consolidated section 26 (h) credit; and

(iii) In the case of an affiliated group including as a member a western hemisphere trade corporation as defined in section 109, the consolidated section 26 (i) credit.

(12) *Consolidated adjusted net income.* The consolidated adjusted net income shall be the consolidated net income minus the consolidated section 26 (a) credit, relating to interest on certain obligations of the United States and Government corporations.

(13) *Consolidated section 26 (a) credit.* The consolidated section 26 (a) credit, relating to interest on certain obligations of the United States and Government corporations, shall be an amount equal to the aggregate of the interest, of the class with respect to which credit is allowed by section 26 (a), received by the several affiliated corporations.

(14) *Consolidated section 26 (b) credit.* The consolidated section 26 (b) credit, relating to dividends received, shall be—

(i) An amount equal to 85 percent of the aggregate dividends, of the class with respect to which credit is allowed by section 26 (b) received by the several affiliated corporations, not including dividends on preferred stock of public utilities subject to the provisions of (ii), and

(ii) With respect to the aggregate dividends received by the several affiliated corporations on the preferred stock of a public utility described in section 26 (h)—

(*a*) For taxable years beginning after June 30, 1950, an amount equal to 59 percent of the aggregate of such dividends received in such year, or

(*b*) For the calendar year 1950, an amount equal to 57 percent of the aggregate of such dividends received in such year,

but in an amount not greater than 85 percent of the consolidated adjusted net income computed without regard to the consolidated net operating loss deduction.

(15) *Consolidated section 26 (h) credit.* The consolidated section 26 (h) credit, relating to dividends paid by public utilities on preferred stock, shall be—

(i) With respect to a taxable year beginning after June 30, 1950, and the calendar year 1950, an amount equal to 30 percent (33 percent for the calendar year 1950) of the lesser of—

(*a*) The aggregate of the dividends paid by members of the affiliated group which are public utilities within the meaning of section 26 (h) (2) (A) on preferred stock within the meaning of section 26 (h) (2) (B), or

(*b*) The portion of the consolidated adjusted net income attributable to such members minus the portion of the consolidated section 26 (b) credit attributable to such members; and

(ii) With respect to other taxable years, an amount equal to the aggregate of the dividends paid by members of the affiliated group which are public utilities within the meaning of section 26 (h) (2) (A) on preferred stock within the meaning of section 26 (h) (2) (B), but in an amount not greater than that portion of the consolidated corporation

surtax net income (computed without regard to this credit) attributable to such members.

(16) *Consolidated section 26 (i) credit.* For taxable years beginning after June 30, 1950, and the calendar year 1950, the consolidated section 26 (i) credit shall be an amount equal to 30 percent (33 percent for the calendar year 1950) of the portion of the consolidated normal-tax net income, computed without regard to this credit, attributable to those members of the affiliated group which are western hemisphere trade corporations.

(17) *Consolidated corporation surtax net income.* The consolidated corporation surtax net income shall be the consolidated net income minus the sum of—

(i) The consolidated section 26 (b) credit relating to dividends received (computed for taxable years beginning prior to July 1, 1950, other than the calendar year 1950, without regard to dividends received of the class with respect to which a public utility is allowed a dividends paid credit under section 26 (h));

(ii) In the case of an affiliated group including as a member a public utility as defined in section 26 (h) (2) (A), the consolidated section 26 (h) credit; and

(iii) In the case of an affiliated group including as a member a western hemisphere trade corporation as defined in section 109, for taxable years beginning after June 30, 1950, and for the calendar year 1950, the consolidated section 26 (i) credit.

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

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

(ii) The consolidated section 117 (j) net gain, over

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

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

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

(ii) The consolidated net capital loss carry-over, minus

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

(20) *Consolidated section 102 net income.* The consolidated section 102 net income shall be the consolidated net income, computed without regard to any capital loss carry-over and without regard to any net operating loss deduction, minus the sum of—

(i) The combined Federal income, war-profits, and excess-profits taxes (other than a tax imposed by subchapter E of Chapter 2 of the Code for taxable years beginning after December 31, 1940) paid or accrued during the taxable year by the several affiliated corporations, to the extent not allowed as a deduction by section 23, but not including the tax imposed by section 102 of the Code, or by a corresponding section of prior income tax laws,

(ii) The combined contributions or gifts of the several affiliated corporations, payment of which is made within the taxable year, not otherwise allowed as a deduction, to or for the use of donees described in section 23 (o) of the Code for the purposes therein specified, and

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

(21) *Consolidated undistributed section 102 net income.* The consolidated undistributed section 102 net income shall be the consolidated section 102 net income minus the consolidated basic surtax credit.

(22) *Consolidated subchapter A net income.* The consolidated subchapter A net income shall be the consolidated net income computed with the adjustments provided in section 505.

(23) *Consolidated undistributed subchapter A net income.* The consolidated undistributed subchapter A net income shall be the consolidated subchapter A net income minus the sum of—

(i) The consolidated dividends paid credit with the exceptions and limitations provided in section 504 (a),

(ii) The aggregate amount, subject to the provisions of section 504 (b), used or irrevocably set aside by the several affiliated corporations to pay or to retire indebtedness incurred prior to January 1, 1934, not including such portion of any such indebtedness as was owned on January 1, 1934, or at any time thereafter, directly or indirectly, by another member of the group, and

(iii) The aggregate amount of dividends paid by the several affiliated corporations after the close of the taxable year, subject to the provisions of section 504 (c).

(24) *Consolidated dividends paid credit.* The consolidated dividends paid credit shall be the sum of—

(i) The consolidated basic surtax credit, and

(ii) The consolidated dividend carry-over.

(25) *Consolidated basic surtax credit.* The consolidated basic surtax credit shall be the sum of—

(i) The excess of the aggregate amount of dividends paid by the several affiliated corporations during the taxable year (computed, in the case of the tax imposed by subchapter A, of Chapter 2, with the qualifications provided in section 504 (a), relating to dividends paid after the close of the taxable year) over the consolidated section 26 (h) credit, relating to dividends paid by public utilities on certain preferred stock, and

(ii) The combined consent dividends credit of the several affiliated corporations provided in section 28,

and, in an aggregate amount not exceeding the consolidated section 102 net income or the consolidated subchapter A net income, as the case may be, the sum of—

(iii) The consolidated net operating loss credit, and

(iv) In the case of an affiliated group including one or more holding company affiliates of a bank as defined in section 2 of the Banking Act of 1933, the consolidated section 26 (d) credit, relating to earnings or profits devoted to the acquisition of readily marketable assets other than bank stock.

(26) *Consolidated dividend carry-over.* The consolidated dividend carry-over for the taxable year shall be the sum of—

(i) The amount, if any, by which the consolidated basic surtax credit for the first preceding taxable year exceeds the consolidated subchapter A net income for such year, to the extent that such credit and such income are not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group, for the taxable year,

(ii) The amount of the consolidated basic surtax credit for the second preceding taxable year reduced by the consolidated subchapter A net income for such year and further reduced by the amount, if any, by which the consolidated subchapter A net income of the first preceding taxable year exceeds the sum of—

(*a*) The consolidated basic surtax credit for such year, and

(*b*) The excess, if any, of the consolidated basic surtax credit for the third preceding taxable year over the consolidated subchapter A net income for such year,

to the extent that any such basic surtax credit and any such subchapter A net income are not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group, for the taxable year,

and, with respect to the unused basic surtax credit of a corporation for taxable years for which separate returns were filed, or for which such corporation joined in a consolidated return filed by another affiliated group—

(iii) The amount, if any, by which the basic surtax credit of such corporation for the first preceding taxable year exceeds the subchapter A net income of such corporation for such year, and

(iv) The amount of the basic surtax credit of such corporation for the second preceding taxable year reduced by the subchapter A net income of such corporation for such year and further reduced by—

(*a*) The excess, if any, of the subchapter A net income of such corporation for the first preceding taxable year over the sum of—

(*1*) The basic surtax credit of such corporation for such year, and

(*2*) The amount, if any, by which the basic surtax credit of such corporation for the third preceding taxable year exceeds the subchapter A net income of such corporation for such year, or

(*b*) If the income of such corporation is included in the consolidated return for the first preceding taxable year, the excess, if any, of the consolidated subchapter A net income for the first preceding taxable year over the sum of—

(*1*) The consolidated basic surtax credit for such year, and

(*2*) The amount, if any, by which the basic surtax credit of such corporation

for the third preceding taxable year exceeds the subchapter A net income of such corporation for such year.

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

(i) The consolidated net operating loss for the preceding taxable year, computed for the purpose of the credit, to the extent not attributable to those corporation making a separate return, or joining in a consolidated return filed by another affiliated group, for the taxable year,

and, with respect to a corporation which filed a separate return or joined in a consolidated return filed by another affiliated group for the preceding taxable year,

(ii) The net operating loss of such corporation for such preceding taxable year, computed subject to the exceptions and limitations provided in section 26 (c) (2), and further limited, as the case may be, to that portion of the consolidated section 102 net income, or the consolidated subchapter A net income, attributable to such corporation for the taxable year,

but not in excess of the consolidated section 102 net income for the taxable year, or the consolidated subchapter A net income, as the case may be.

(28) *Consolidated net operating loss for purpose of credit.* The consolidated net operating loss, computed for the purpose of the net operating loss credit, shall be the excess of the sum of—

(i) The combined net operating losses of the several affiliated corporations having net operating losses, computed subject to the exceptions and limitations provided in section 26 (c) (2),

(ii) The consolidated section 117 (j) net loss, and

(iii) In the case of an affiliated group including as members one or more corporations subject to the tax imposed by section 204, the combined additional capital loss deductions of such corporations authorized by section 204 (c) (5),

over the sum of—

(iv) The combined net income, computed with respect to the exceptions and limitations provided in section 26 (c) (2) in connection with the computation of net operating losses, of the several affiliated corporations having net income, and

(v) The consolidated net capital gain.

(29) *Consolidated section 26 (d) credit.* The consolidated section 26 (d) credit, relating to bank affiliates, shall be an amount equal to the aggregate of the earnings or profits of members of the group which are holding company affiliates of a bank as defined in section 2 of the Banking Act of 1933 devoted to the acquisition of readily marketable assets other than bank stock (not including any asset acquired, directly or indirectly, from another member of the group), subject, in the case of each such affiliate, to the limitations imposed by section 26 (d) determined without regard to the qualifications expressed in (b) (1) (ii) and (iii) of this section.

(30) *Consolidated adjusted normal-tax net income of life insurance companies.* The consolidated adjusted normal-tax net income, in the case of an affiliated group consisting of corporations subject to the tax imposed by section 201, shall be the consolidated normal-tax net income minus the consolidated section 202 (b) credit, and plus the consolidated section 202 (c) adjustment.

(31) *Consolidated adjusted corporation surtax net income of life insurance companies.* The consolidated adjusted corporation surtax net income, in the case of an affiliated group consisting of corporations subject to the tax imposed by section 201, shall be the consolidated corporation surtax net income minus the consolidated section 203 (b) credit, and plus the consolidated section 202 (c) adjustment.

(32) *Consolidated section 202 (b) credit.* The consolidated section 202 (b) credit, relating to reserve and other policy liabilities, shall be the consolidated normal-tax net income multiplied by a figure to be determined and proclaimed by the Secretary for each taxable year pursuant to section 202 (b).

(33) *Consolidated section 202 (c) adjustment.* The consolidated section 202 (c) adjustment, relating to certain reserves provided in section 202 (c), shall be an amount equal to 3¼ percent of the combined unearned premiums and unpaid losses of the several affiliated corporations on contracts other than life insurance or annuity contracts, computed in the case of each corporation pursuant to the provisions of section 202 (c), but the combined unearned premiums shall not be considered to be less than 25 percent of the combined net premiums on such other contracts written during the taxable year.

(34) *Consolidated section 203 (b) credit.* The consolidated section 203 (b) credit, relating to reserve and other policy liabilities, shall be the consolidated corporation surtax net income multiplied by a figure to be determined and proclaimed by the Secretary for each taxable year pursuant to section 202 (b).

(35) *Consolidated section 433 (a) excess profits net income.* The consolidated section 433 (a) excess profits net income for any taxable year ending after June 30, 1950, shall be the consolidated normal-tax net income increased or decreased, as the case may be, by the consolidated section 433 (a) adjustment.

(36) *Consolidated section 433 (a) adjustment.* The consolidated section 433 (a) adjustment shall be the net amount of the aggregate adjustments provided in section 433 (a) (1) (D), (E), (F), (G), (I), (K), (L), (M), (N), (O), (P), and (Q), computed and determined in the case of the several affiliated corporations, except as otherwise provided in (b) of this section, in the same manner and subject to the same conditions as if separate returns were filed, increased or decreased, as the case may be, with respect to—

(i) The excess of the aggregate amount of the dividends received by the several corporations of the class with respect to which adjustment is provided for in section 433 (a) (1) (A), computed subject to the limitation relating to dividends in kind, over the consolidated section 26 (b) credit;

(ii) The sum of the consolidated section 26 (h) credit, relating to dividends paid by a public utility, and the consolidated section 26 (i) credit, relating to western hemisphere trade corporations;

(iii) The amount of—

(*a*) The consolidated net capital gain, or

(*b*) The combined additional capital loss deductions authorized by section 204 (c) (5), but not in excess of the consolidated net capital loss.

(iv) In the case of life insurance companies subject to the tax imposed by section 201—

(*a*) If the consolidated excess profits credit is based on income, the excess of the product of the figure determined and proclaimed under section 202 (b) and the consolidated section 433 (a) excess profits net income, computed without regard to this adjustment over the consolidated section 202 (c) adjustment, relating to certain reserves, or

(*b*) If the consolidated excess profits credit is based on invested capital, 50 percent of the excess of the product of the figure determined and proclaimed under section 202 (b) and the consolidated section 433 (a) excess profits net income, computed without regard to this adjustment, over the consolidated section 202 (c) adjustment;

(v) The consolidated net operating loss deduction adjustment.

(37) *Consolidated net operating loss deduction adjustment.* The consolidated net operating loss deduction adjustment shall be the difference between the amount of the consolidated net operating loss deduction for the taxable year otherwise computed under these regulations and the amount of such consolidated net operating loss deduction computed subject to the provisions of section 433 (a) (1) (J).

(38) *Consolidated adjusted excess profits net income.* The consolidated adjusted excess profits net income shall be the consolidated section 433 (a) excess profits net income minus whichever is the greater—

(i) The amount of $25,000, or

(ii) An amount equal to the sum of—

(*a*) The consolidated excess profits credit, and

(*b*) The consolidated unused excess profits credit adjustment.

(39) *Consolidated excess profits credit.* The consolidated excess profits credit shall be—

(i) In general—

(*a*) The consolidated excess profits credit based on invested capital, or

(*b*) In the case of an affiliated group one or more of the members of which would have been entitled in a separate return to an excess profits credit based on income, either the consolidated excess profits credit based on income or the consolidated excess profits credit based on invested capital, whichever results in the lesser excess profits tax; or

(ii) In the case of an affiliated group consisting wholly of regulated public utilities, in conformity with consents made under section 141 (e) (8) or sec-

tion 141 (j) applicable to the taxable year, either a credit determined under the general rule of this paragraph, or the consolidated section 448 excess profits credit.

(40) *Consolidated excess profits credit based on invested capital.* The consolidated excess profits credit based on invested capital shall be the sum of—

(i) The consolidated invested capital credit reduced by the consolidated inadmissible asset adjustment, and

(ii) The consolidated new capital credit.

(41) *Consolidated invested capital credit.* The consolidated invested capital credit shall be the sum of—

(i) Twelve precent of that portion of the consolidated invested capital not in excess of $5,000,000,

(ii) Ten percent of that portion of the consolidated invested capital in excess of $5,000,000 but not in excess of $10,000,000, and

(iii) Eight percent of that portion of the consolidated invested capital in excess of $10,000,000.

(42) *Consolidated invested capital.* The consolidated invested capital for the taxable year shall be—

(i) In general—

(*a*) The consolidated adjusted invested capital for such year, or

(*b*) At the election of the affiliated group exercised by the common parent corporation at the time of the making of the consolidated return for the taxable year, the consolidated historical invested capital for such year, or

(ii) In the case of an affiliated group of mutual insurance companies taxable under section 207, the sum of—

(*a*) The mean of the combined surplus of the several affiliated corporations, and

(*b*) Fifty percent of the mean of the aggregate of all reserves of the several affiliated corporations required by law,

such surplus and reserves being computed in the case of each affiliated corporation pursuant to the provisions of section 437 (b) (3) and as if such corporation were making a separate return.

(43) *Consolidated adjusted invested capital.* The consolidated adjusted invested capital for the taxable year shall be the sum of—

(i) The consolidated equity capital as of the beginning of the taxable year,

(ii) The combined capital addition for the taxable year of the several affiliated corporations,

(iii) Seventy-five percent of the consolidated average borrowed capital for the taxable year, and

(iv) The consolidated recent loss adjustment,

minus the sum of—

(v) The combined capital reduction for the taxable year of the several affiliated corporations, and

(vi) If the amount of the consolidated adjusted invested capital so determined, but without regard to this subdivision (subdivision (vi)), exceeds $5,000,000, the consolidated net new capital addition.

(44) *Consolidated equity capital.* The consolidated equity capital as of any time shall be—

(i) The aggregate of the total assets of the several affiliated corporations held at such time in good faith for the purpose of the business, reduced by the aggregate of the total liabilities of such corporations at such time, or

(ii) In the case of an affiliated group including one or more insurance companies (other than mutual and other than life or marine), an amount determined under (i) increased by the sum of—

(*a*) Fifty percent of the combined reserves of such insurance companies required by law (other than reserves used in computing borrowed capital under section 439 (b) (2)), and

(*b*) The combined organization expenses of such insurance companies.

(45) *Consolidated recent loss adjustment.* The consolidated recent loss adjustment shall be the excess of the combined net operating losses of the several affiliated corporations for the taxable years in the consolidated recent loss period, computed under section 437 (f), over the combined net income of such corporations for the taxable years in such period, computed under section 437 (f).

(46) *Consolidated recent loss period.* The consolidated recent loss period shall be whichever of the following results in the higher consolidated recent loss adjustment:

(i) The consolidated base period, or

(ii) The period beginning on January 1, 1940, and ending December 31, 1949.

(47) *Consolidated net new capital addition.* The consolidated net new capital addition for the taxable year shall be—

(i) The excess, divided by the number of days in the taxable year, of the aggregate of the consolidated daily new capital additions for each day of the taxable year, over the aggregate of the consolidated daily new capital reductions for each such day, reduced (but not below zero) by

(ii) The consolidated increase in inadmissible assets for the taxable year, less 25 percent of the excess, if any, of such consolidated increase in inadmissible assets over an amount computed under (i) without regard to the amounts determined under (48) (iii) and (49) (iii), relating to borrowed capital.

(48) *Consolidated daily new capital addition.* The consolidated daily new capital addition for any day of the taxable year shall be the sum of—

(i) The aggregate of the amounts of money and property (other than excluded equity capital) paid in to the several members of the affiliated group for stock or as paid-in surplus or as a contribution to capital, after the beginning of such taxable year and prior to such day;

(ii) The amount, if any, by which the consolidated equity capital at the beginning of the taxable year minus the amount of the aggregate of the excluded equity capital paid in to the several members of the group before the beginning of the taxable year and after the beginning of the first excess profits tax taxable year of the group exceeds the consolidated equity capital at the beginning of such first excess profits tax taxable year; and

(iii) Seventy-five percent of the excess of—

(*a*) The amount by which the consolidated daily borrowed capital for such day is greater than the consolidated daily borrowed capital for the first day of the first excess profits tax taxable year of the group, over

(*b*) The amount by which the consolidated excluded borrowed capital for such day is greater than the consolidated excluded borrowed capital for the first day of the first excess profits tax taxable year.

(49) *Consolidated daily new capital reduction.* The consolidated daily new capital reduction for any day of the taxable year shall be the sum of—

(i) The aggregate of the distributions by the several members of the affiliated group to shareholders (other than members of the group) previously made during such taxable year which are not out of the earnings and profits of such taxable year;

(ii) The amount, if any, by which the consolidated equity capital at the beginning of the first excess profits tax taxable year of the group plus the amount of the aggregate of the excluded equity capital paid in to the several members of the group after the beginning of such first excess profits tax taxable year and before the beginning of the taxable year exceeds the amount of the consolidated equity capital at the beginning of the taxable year; and

(iii) Seventy-five percent of the amount, if any, by which the consolidated daily borrowed capital for the first day of the first excess profits tax taxable year of the group exceeds the consolidated daily borrowed capital for such day.

(50) *Consolidated daily borrowed capital.* The consolidated daily borrowed capital for any day shall be the aggregate of the daily borrowed capital of the several members of the affiliated group for such day.

(51) *Consolidated excluded borrowed capital.* The consolidated excluded borrowed capital for any day shall be the aggregate of the excluded borrowed capital of the several members of the affiliated group for such day.

(52) *Consolidated increase in inadmissible assets.* The consolidated increase in inadmissible assets shall be the excess of the consolidated average inadmissible assets for the taxable year over the consolidated original inadmissible assets.

(53) *Consolidated average inadmissible assets.* The consolidated average inadmissible assets for the taxable year shall be the aggregate of the average inadmissible assets of the several members of the affiliated group for the taxable year.

(54) *Consolidated original inadmissible assets.* The consolidated original inadmissible assets shall be the aggregate of the original inadmissible assets of the several members of the affiliated group.

(55) *Consolidated historical invested capital.* The consolidated historical in-

vested capital for the taxable year shall be the sum of—

(i) The combined average invested capital for the taxable year of the several affiliated corporations computed in the case of each corporation without including any accumulated earnings and profits, and

(ii) The consolidated accumulated earnings and profits as of the beginning of such taxable year.

(56) *Consolidated accumulated earnings and profits.* The consolidated accumulated earnings and profits as of the beginning of the taxable year shall be an amount equal to the excess of the combined accumulated earnings and profits as of the beginning of such year of the several affiliated corporations having accumulated earnings and profits over the combined deficit in accumulated earnings and profits as of the beginning of such year of the several affiliated corporations having such deficits.

(57) *Consolidated inadmissible asset adjustment.* The consolidated inadmissible asset adjustment shall be an amount which bears the same ratio to the consolidated invested capital credit as the aggregate inadmissible assets of the several affiliated corporations bears to the aggregate admissible and inadmissible assets of such corporations.

(58) *Consolidated new capital credit.* The consolidated new capital credit for any taxable year shall be an amount equal to 12 percent of the consolidated net new capital addition for the taxable year except that such credit shall not be allowed—

(i) If the consolidated invested capital for the taxable year (computed without reduction by the amount of the consolidated net new capital addition) is $5,000,000 or less;

(ii) If the consolidated invested capital is the consolidated historical invested capital; or

(iii) If the affiliated group is composed of mutual insurance companies (other than life or marine).

(59) *Consolidated excess profits credit based on income.* The consolidated excess profits credit based on income for any taxable year shall be the sum of—

(i) Eighty-five percent of the consolidated average base period net income,

(ii) If the consolidated average base period net income is the consolidated section 435 (d) average base period net income or the consolidated alternative average base period net income, 12 percent of the amount of the consolidated base period capital addition, and

(iii) Twelve percent of the consolidated net capital addition for the taxable year,

minus 12 percent of the consolidated net capital reduction for the taxable year.

(60) *Consolidated average base period net income.* The consolidated average base period net income shall be the consolidated section 435 (d) average base period net income unless the affiliated group is entitled to the benefits of sections 435 (e), 442, 443, 444, 445, or 446, in which case the consolidated average base period net income shall be whichever of the following, applicable to the group, results in the lowest excess profits tax for the taxable year:

(i) The consolidated section 435 (d) average base period net income,

(ii) The consolidated section 435 (e) average base period net income,

(iii) The consolidated alternative average base period net income.

(61) *Consolidated section 435 (d) average base period net income.* The consolidated section 435 (d) average base period net income shall be one-third of the aggregate of the consolidated section 433 (b) excess profits net income for each month in the consolidated selected base period.

(62) *Consolidated selected base period.* The consolidated selected base period shall be—

(i) The 36 months in the consolidated base period remaining after eliminating the 12 consecutive months having the lowest aggregate consolidated section 433 (b) excess profits net income, or

(ii) The 36 consecutive months in the consolidated base period having the highest aggregate consolidated section 433 (b) excess profits net income,

whichever produce the higher aggregate consolidated section 433 (b) excess profits net income.

(63) *Consolidated base period.* The consolidated base period shall be the base period of the common parent corporation.

(64) *Consolidated section 433 (b) excess profits net income.* The consolidated section 433 (b) excess profits net income for any month shall be an amount equal to the excess of the combined excess profits net income of the several affiliated corporations for such month determined under section 433 (b) over the combined deficits in excess profits net income of such corporations for such month determined under section 433 (c).

(65) *Consolidated section 435 (e) average base period net income.* The consolidated section 435 (e) average base period net income shall be whichever of the following is the highest:

(i) The aggregate, divided by two, of the consolidated section 433 (b) excess profits net income for the last 24 months in the consolidated base period; or

(ii) The aggregate of the consolidated section 433 (b) excess profits net income for the last 12 months in the consolidated base period; or

(iii) The sum of the aggregate of the consolidated section 433 (b) excess profits net income for the six months beginning July 1, 1949, and ending December 31, 1949, and the aggregate of the consolidated weighted excess profits net income for the six months beginning January 1, 1950, and ending June 30, 1950; or

(iv) In the case of an affiliated group entitled to the benefits of section 435 (e) (2) (G), the sum of the aggregate of the consolidated section 433 (b) excess profits net income for the six months beginning July 1, 1948, and ending December 31, 1948, and the aggregate of the consolidated weighted excess profits net income for the six months beginning January 1, 1950, and ending June 30, 1950.

(66) *Consolidated weighted excess profits net income.* The consolidated weighted excess profits net income for any month shall be an amount equal to the excess of the combined weighted excess profits net income of the several affiliated corporations for such month over the combined weighted deficit in excess profits net income of such corporations for such month.

(67) *Consolidated base period capital addition.* The consolidated base period capital addition shall be the sum of—

(i) The amount by which the consolidated yearly base period capital for the first excess profits tax taxable year of the affiliated group exceeds, whichever is greater, the consolidated yearly base period capital for the immediately preceding taxable year or the consolidated yearly base period capital for the second preceding taxable year, and

(ii) Fifty percent of the amount by which the consolidated yearly base period capital for such first excess profits tax taxable year or the consolidated yearly base period capital for the immediately preceding taxable year, whichever is lesser, exceeds the consolidated yearly base period capital for the second preceding taxable year.

(68) *Consolidated yearly base period capital.* The consolidated yearly base period capital for a taxable year shall be the sum of—

(i) The consolidated equity capital at the beginning of the first day of such taxable year, and

(ii) An amount equal to 75 percent of the consolidated daily borrowed capital for such first day, reduced by the sum of—

(iii) The aggregate of the inadmissible assets of the several members of the affiliated group at the beginning of such first day minus 25 percent of the excess, if any, of such aggregate over the consolidated equity capital at the beginning of such first day,

(iv) Seventy-five percent of the consolidated controlled group indebtedness for such first day, and

(v) Seventy-five percent of the aggregate of the adjustments for interest on borrowed capital under section 435 (f) (5) of the several members of the group for such first day.

(69) *Consolidated controlled group indebtedness.* The consolidated controlled group indebtedness for any day shall be the aggregate of the indebtedness owed to each of the several members of the affiliated group by other corporations which are members on such day of the same controlled group, as defined in section 435 (g) (6), as such member of the affiliated group.

(70) *Consolidated net capital addition.* The consolidated net capital addition for the taxable year shall be—

(i) The excess, divided by the number of days in the taxable year, of the aggregate of the consolidated daily capital addition for each day of the taxable year over the aggregate of the consolidated daily capital reduction for each such day, reduced (but not below zero) by

(ii) The consolidated increase in inadmissible assets for the taxable year, less 25 percent of the excess, if any, of such consolidated increase in inadmis-

sible assets over an amount computed under (i) without regard to section 435 (g) (3) (C), relating to borrowed capital.

(71) *Consolidated net capital reduction.* The consolidated net capital reduction for the taxable year shall be—

(i) The excess, divided by the number of days in the taxable year, of the aggregate of the consolidated daily capital reduction for each day of the taxable year over the aggregate of the consolidated daily capital addition for each such day, reduced (but not below zero) by

(ii) The consolidated decrease in inadmissible assets for the taxable year, less 25 percent of the excess, if any, of such consolidated decrease in inadmissible assets over an amount computed under (i) without regard to section 435 (g) (4) (C) and (E), relating to borrowed capital and loans to members of a controlled group.

(72) *Consolidated daily capital addition.* The consolidated daily capital addition for any day of the taxable year shall be the sum of—

(i) The aggregate of the amounts of money and property paid in to the several members of the affiliated group for stock or as paid-in surplus or as a contribution to capital, after the beginning of such taxable year and prior to such day;

(ii) The amount, if any, by which the consolidated equity capital at the beginning of the taxable year exceeds the consolidated equity capital at the beginning of the first excess profits tax taxable year of the group; and

(iii) Seventy-five percent of the excess of the consolidated average borrowed capital for the taxable year over the consolidated daily borrowed capital for the first day of the first excess profits tax taxable year of the group.

(73) *Consolidated daily capital reduction.* The consolidated daily capital reduction for any day of the taxable year shall be the sum of—

(i) The aggregate of the distributions by the several members of the affiliated group to shareholders (other than members of the group) previously made during such taxable year which are not out of the earnings and profits of such taxable year;

(ii) The amount, if any, by which the consolidated equity capital at the beginning of the first excess profits tax taxable year of the group exceeds the consolidated equity capital at the beginning of the taxable year;

(iii) Seventy-five percent of the amount, if any, by which the consolidated daily borrowed capital for the first day of the first excess profits tax taxable year of the group exceeds the consolidated average borrowed capital for the taxable year;

(iv) The consolidated section 435 (g) (6) adjustment, relating to increase in certain inadmissible assets; and

(v) Seventy-five percent of the consolidated section 435 (g) (7) adjustment, relating to increase in certain loans to members of a controlled group.

(74) *Consolidated average borrowed capital.* The consolidated average borrowed capital for the taxable year shall be the aggregate of the consolidated daily borrowed capital for each day of the taxable year divided by the number of days in the taxable year.

(75) *Consolidated decrease in inadmissible assets.* The consolidated decrease in inadmissible assets shall be the excess of the consolidated original inadmissible assets over the consolidated average inadmissible assets for the taxable year.

(76) *Consolidated section 435 (g) (6) adjustment.* The consolidated section 435 (g) (6) adjustment for any day shall be whichever of the following amounts is the lesser:

(i) The excess of the consolidated controlled group stock for such day over the consolidated original controlled group stock; or

(ii) The excess of the aggregate of the inadmissible assets held by the several members of the group at the beginning of such day over the consolidated original inadmissible assets.

(77) *Consolidated controlled group stock.* The consolidated controlled group stock for any day of the taxable year shall be the aggregate of the adjusted basis of the stock held by the several members of the affiliated group at the beginning of such day which is stock in a corporation included in a controlled group (as defined in section 435 (g) (6)) which also includes a member of the affiliated group.

(78) *Consolidated original controlled group stock.* The consolidated original controlled group stock shall be the consolidated controlled group stock for the first day of the first excess profits tax taxable year of the group.

(79) *Consolidated section 435 (g) (7) adjustment.* The consolidated section 435 (g) (7) adjustment shall be the excess of the consolidated controlled group indebtedness for such day over the consolidated original controlled group indebtedness.

(80) *Consolidated original controlled group indebtedness.* The consolidated original controlled group indebtedness shall be the consolidated controlled group indebtedness for the first day of the first excess profits tax taxable year of the group.

(81) *Consolidated alternative average base period net income.* The consolidated alternative average base period net income shall be one-third of the aggregate of the consolidated alternative excess profits net income for each month in the consolidated alternative selected base period.

(82) *Consolidated alternative selected base period.* The consolidated alternative selected base period shall be—

(i) The 36 months in the consolidated base period remaining after eliminating the 12 consecutive months having the lowest aggregate consolidated alternative excess profits net income, or

(ii) The 36 consecutive months in the consolidated base period having the highest aggregate consolidated alternative excess profits net income,

whichever produce the higher aggregate consolidated alternative excess profits net income.

(83) *Consolidated alternative excess profits net income.* The consolidated alternative excess profits net income for any month shall be an amount equal to the sum of—

(i) The combined excess profits net income for such month determined under section 433 (b) for the several affiliated corporations other than the affiliated corporations described in (ii) and other than the affiliated corporations to which (iii) is applicable for such month,

(ii) In the case of any member of the affiliated group to which section 442 (d), 443, 444, 445, or 446 is applicable, one-twelfth of the average base period net income separately computed under such section for such member, and

(iii) In the case of any member of the group (other than a member described in (ii)) to which section 442 (c) is applicable, and for which such month is a month identified under section 442 (c) (3) the substitute excess profits net income for such month separately computed under section 442 (c) for such member,

minus the combined deficits in excess profits net income for such month determined under section 433 (c) for the several affiliated corporations other than the corporations described in (ii) and other than the affiliated corporations to which (iii) is applicable for such month.

(84) *Consolidated section 448 excess profits credit.* The consolidated section 448 excess profits credit shall be the sum of—

(i) The tax imposed upon the affiliated group by sections 13, 14, 15, and 141 (c) for the taxable year, and

(ii) The excess of the consolidated section 448 (b) gross amount over the consolidated section 448 inadmissible asset adjustment.

(85) *Consolidated section 448 (b) gross amount.* The consolidated section 448 (b) gross amount shall be the excess of an amount determined by multiplying the applicable percentage prescribed by section 448 (c) (determined as if the affiliated group were a single corporation) by the sum of—

(i) The consolidated adjusted invested capital for the taxable year computed without regard to the consolidated net new capital addition and without regard to the consolidated average borrowed capital, and

(ii) The consolidated average borrowed capital for the taxable year,

over the aggregate of the amount of the interest deduction of the several members of the group for the taxable year with respect to indebtedness included in the consolidated average borrowed capital.

(86) *Consolidated section 448 inadmissible asset adjustment.* The consolidated section 448 inadmissible asset adjustment shall be an amount which bears the same ratio to the consolidated section 448 (b) gross amount as the aggregate inadmissible assets of the several affiliated corporations bear to the aggregate admissible and inadmissible assets of such corporations.

(87) *Consolidated unused excess profits credit adjustment.* The consolidated unused excess profits credit adjustment shall be an amount equal to

the sum of the consolidated unused excess profits credit carry-overs and the consolidated unused excess profits credit carry-back to the taxable year.

(88) *Consolidated unused excess profits credit carry-over.* The consolidated unused excess profits credit carry-overs to the taxable year shall consist of—

(i) The consolidated unused excess profits credits, if any, for the five preceding taxable years (not including any taxable year ending prior to July 1, 1950) to the extent that the consolidated unused excess profits credit for any such preceding taxable year was not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group, for the taxable year, and was not absorbed as a carry-over or carry-back by the consolidated or separate adjusted excess profits net income for preceding or intervening taxable years,

and, with respect to an unused excess profits credit of a corporation for a taxable year for which a separate return was filed, or for which such corporation joined in a consolidated return filed by another affiliated group, but subject to the limitations prescribed in section 24.31 (b) (21),

(ii) The amount of the unused excess profits credits, if any, of such corporation for the five preceding taxable years (not including any taxable year ending prior to July 1, 1950) to the extent that the unused excess profits credit for any such preceding taxable year was not absorbed as a carry-over or carry-back by consolidated or separate adjusted excess profits net income for preceding or intervening taxable years.

(89) *Consolidated unused excess profits credit carry-back.* The consolidated unused excess profits credit carry-back to the taxable year shall consist of—

(i) The amount of the consolidated unused excess profits credit, if any, for the succeeding taxable year, to the extent not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group, for the taxable year,

and, with respect to an unused excess profits credit of a corporation which, for the succeeding taxable year, files a separate return or joins in a consolidated return filed by another affiliated group, but subject to the limitations prescribed in § 24.31 (b) (21),

(ii) The amount of the unused excess profits credit, if any, of such corporation for the succeeding taxable year.

(90) *Consolidated unused excess profits credit.* The consolidated unused excess profits credit for any taxable year ending after June 30, 1950, shall be an amount equal to the excess of the consolidated excess profits credit over the consolidated section 433 (a) excess profits net income for such taxable year, both computed on the basis of the consolidated excess profits credit applicable to such taxable year, and computed without the allowance of any consolidated net operating loss deduction for such taxable year, except that—

(i) In the case of a taxable year of the affiliated group of less than 12 months, such amount shall be reduced to an amount which is such part thereof as the number of days in the taxable year of the group is of the number of days in the 12 months period ending with the close of such taxable year;

(ii) In the case of a taxable year of the group beginning before July 1, 1950, and ending after June 30, 1950, such amount shall be reduced to an amount which is such part thereof as the number of days in such taxable year after June 30, 1950, is of the total number of days in such taxable year;

(iii) In the case of a taxable year of the group beginning before July 1, 1953, and ending after June 30, 1953, such amount shall be reduced to an amount which is such part thereof as the number of days in such taxable year before July 1, 1953, is of the total number of days in such taxable year; and

(iv) In the case of a taxable year for which the group is exempt from the excess profits tax, such amount shall be zero.

(b) *Computations.* In the case of affiliated corporations which make, or are required to make, a consolidated return, and except as otherwise provided in the regulations in this part—

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

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

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

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

(iv) There shall be disregarded all gains and losses from involuntary conversions and from sales and exchanges of property subject to the provisions of section 117 (j);

(v) In the computation of the deduction under section 23 (v), relating to amortizable bond premium, there shall be disregarded the bonds of one member of the group owned by another member of the group during the taxable year;

(vi) In the computation of the net income of a corporation for the taxable year in which it became the common parent corporation of the affiliated group filing a consolidated return, the aggregate deductions of such corporation for such year otherwise allowable in excess of the gross income of such corporation for such year shall be excluded to the extent that such excess is attributable to that portion of such year preceding the date upon which such corporation became the common parent corporation of the group. Any amount excluded under this subdivision shall, to the extent that it constitutes a net operating loss within the provisions of section 122 or a net capital loss within the provisions of section 117, be considered as a net operating loss or a net capital loss, as the case may be, separately sustained by such corporation and subject to the provisions of (a) (3) (ii) or (a) (9) (ii) of this section;

(vii) In the case of a corporation which became a member of the affiliated group subsequent to March 14, 1941, common parent corporation or subsidiary, as the case may be, allowable deductions shall be determined subject to the qualifications prescribed in subparagraph (11) of this paragraph; and

(viii) No deduction under section 23 (q) with respect to charitable or other contributions shall be taken into account.

Intercompany profits and losses which have been realized by the group through final transactions with persons other than members of the group, and intercompany transactions which do not affect the consolidated net income, consolidated normal-tax net income, consolidated corporation surtax net income, or consolidated adjusted excess profits net income, shall not be eliminated. As used in this paragraph, the term "net income" includes the case in which the allowable deductions of a member (not including any net operating loss deduction) exceed its gross income.

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

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

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

(iii) *Capital gains and losses.* Capital gains and losses, short-term capital gains and losses, long-term capital gains and losses, and the additional capital loss deduction authorized by section 204 (c) (5) shall be determined without regard to

(*a*) Gains or losses arising in intercompany transactions,

(*b*) Gains or losses from involuntary conversions and from sales or exchanges of property subject to the provisions of section 117 (j),

(*c*) The net capital loss carry-overs provided in section 117 (e) (1), and,

(*d*) In the case of a corporation which became a member of the affiliated group subsequent to March 14, 1941, common parent corporation or subsidiary, as the case may be, capital losses to the extent disallowed pursuant to the provisions of subparagraph (11) of this paragraph.

(iv) *Net operating loss.* In the computation of the net operating loss as defined, either in section 26 (c) (2) or in section 122 (a), the provisions of this section pertaining to the determination of net income shall apply.

(v) *Dividends paid.* In the computation of dividends paid, there shall be

excluded all dividends paid by one member of the group to another.

(vi) *Consent dividends credit.* In the computation of the consent dividends credit, no amounts shall be included with respect to consents given by other members of the group.

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

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

(ix) *Gains or losses under section 117 (j).* Gains and losses from involuntary conversions and from sales or exchanges of property subject to the provisions of section 117 (j) shall be determined without regard to—

(*a*) Gains or losses from intercompany transactions, and

(*b*) In the case of a corporation which became a member of the affiliated group subsequent to March 14, 1941, common parent corporation or subsidiary, as the case may be, such portion of any such loss as is disallowed pursuant to the provisions of subparagraph (11) of this paragraph.

(x) *Capital addition.* In the computation of the capital addition under section 437 (d), there shall be disregarded money and property paid in during the taxable year for stock, or as paid-in surplus, or as a contribution to capital, by one member of the group to another member of the group.

(xi) *Capital reduction.* In the computation of the capital reduction under section 437 (e), there shall be disregarded distributions made during the taxable year by one member of the group to another member of the group.

(xii) *Borrowed capital.* In the computation of the average borrowed capital under section 439 (a), in the computation of the daily borrowed capital under section 439 (b), and in the computation of excluded borrowed capital under section 438 (f), there shall be excluded from borrowed capital the amount of any outstanding indebtedness of the corporation owing to another member of the affiliated group.

(xiii) *Total assets for equity capital purposes.* In the computation of the total assets for consolidated equity capital purposes, the following rules shall apply:

(*a*) In the case of a corporation owning stock of another member of the affiliated group, there shall be subtracted an amount equal to the adjusted basis of such stock for determining gain.

(*b*) In the case of a corporation the stock of which is held by other members of the group with a basis for equity capital purposes determined to be a cost basis, the adjusted basis of its assets attributable to the stock so held on the date on which such corporation became a member of the group (whether such date falls before, on, or after July 1, 1950, and whether such date falls within a consolidated or separate return period) shall be determined as if, on such date, the adjusted basis of its assets were equal to the fair market value of such assets as of such date. If the aggregate cost basis of the stock of such corporation held by other members of the group as of the date on which such corporation became a member of the group differs, plus or minus, from the aggregate fair market value of all assets of such corporation (other than goodwill) reduced by the aggregate of its liabilities as of such date, the difference, to the extent attributable to such stock, shall be considered as an intangible asset of such corporation, positive goodwill or negative goodwill, as the case may be, which shall be taken into account in determining total assets. The adjusted basis of any assets held by such corporation during the taxable year with a basis fixed, in whole or in part, by reference to the basis of other assets held by such corporation as of the date on which it became a member of the group shall be properly adjusted, for consolidated equity capital purposes, so as to reflect the unrealized appreciation or depreciation in the value of such other assets recognized for consolidated equity capital purposes as of such date.

(*c*) If additional stock of a corporation is acquired by other members of the group subsequent to the date on which the corporation became a member of the group and is held by such other members with a basis determined for consolidated equity capital purposes to be a cost basis, an adjustment similar to that prescribed in (*b*) shall be made in determining the adjusted basis of the assets of such corporation attributable to such stock as of the date on which such stock was acquired.

(*d*) In the case of assets subject to the provisions of (*b*) or (*c*) which are transferred, either in a consolidated or separate return period, from one member of the group to another member of the group in a transaction in which the basis to the transferee is determined, in whole or in part, by reference to the basis of such assets in the hands of the transferor, the basis determined and adjusted under (*b*) or (*c*) in the case of the transferor shall be given effect for consolidated equity capital purposes in the determination of the basis of such assets in the hands of the transferee.

(xiv) *Net income and net operating loss for consolidated recent loss period.* In computing the net income and net operating loss for the consolidated recent loss period—

(*a*) In the case of two or more members of the affiliated group (including any component corporation of any such member as defined in section 461) affiliated with each other within the meaning of section 141 during any of the years in the consolidated recent loss period, whether or not consolidated returns were filed for any of such years, there shall be excluded intercompany profits and losses resulting from transactions between such corporations to the extent that such profits and losses would otherwise be taken into account;

(*b*) In the case of a corporation which became a member of the group after the beginning of the consolidated recent loss period, there shall be excluded its net income and net operating losses for the period prior to the date on which it became a member of the group, to the extent attributable to its stock held with a cost basis on such date;

(*c*) In the case of a corporation, additional stock of which is acquired with a cost basis after the date on which such corporation became a member of the group and after the beginning of the consolidated recent loss period, there shall be excluded its net income and net operating losses for the period prior to the date of acquisition of such stock, to the extent attributable to such stock.

(xv) *Money and property paid in for stock, etc., and excluded equity capital.* In computing (for the purpose of the consolidated adjusted invested capital, the consolidated net new capital addition, and the consolidated net capital addition and reduction) the amount of money and property paid in for stock or as paid-in surplus or as a contribution to capital, and in the computation of excluded equity capital—

(*a*) There shall be disregarded any amount paid in by one member of the affiliated group to another member of the group;

(*b*) In the case of a corporation which became a member of the group after the beginning of the first excess profits tax taxable year of the group, there shall be disregarded the amount paid in prior to the date on which it became a member of the group, to the extent attributable to its stock held with a cost basis on such date;

(*c*) In the case of a corporation, additional stock of which is acquired with a cost basis after the date on which such corporation became a member of the group and after the beginning of the first excess profits tax taxable year of the group, there shall be disregarded the amount paid in prior to the date of the acquisition of such stock, to the extent attributable to such stock;

(*d*) There shall be disregarded any amount paid in which consists of the stock of a corporation which is already a member of the group; and

(*e*) For the purpose only of computing the consolidated net capital addition or reduction, if a corporation becomes a member of the group during the taxable year, and if, during the taxable year and on or before the date on which it became a member of the group, stock of such corporation was paid in to other members of the group, the amount so paid in shall be disregarded for each day after such date.

(xvi) *Distributions of stock of members of affiliated group.* For the purpose of computing the consolidated adjusted invested capital, the consolidated net new capital addition, and the consolidated net capital addition or reduction, a distribution of stock of a member of the group shall be disregarded if such distribution does not break the affiliation.

(xvii) *Distributions prior to affiliation.* For the purpose of computing the consolidated adjusted invested capital, the consolidated net new capital addition, and the consolidated net capital addition or reduction, in the case of a corporation

which becomes a member of the group after the beginning of the taxable year, there shall be disregarded distributions made by such corporation during the taxable year and prior to the date such corporation became a member of the group, to the extent attributable to its stock held with a cost basis on such date.

(xviii) *Admissible and inadmissible assets.* In the computation of admissible and inadmissible assets—

(*a*) There shall be excluded all intercompany items;

(*b*) Inventories shall be computed pursuant to the provisions of § 24.39;

(*c*) Except for the purpose described in (*d*), such assets shall be determined under the rules applicable in determining total assets for consolidated equity capital purposes;

(*d*) For the purpose of computing the consolidated invested capital credit based upon the consolidated historical invested capital, proper adjustment shall be made with respect to any unrealized appreciation and depreciation in assets reflected in consolidated historical invested capital; and

(*e*) In determining the consolidated increase in inadmissible assets for the purpose of computing the consolidated net capital addition, the inadmissible assets of a corporation, a member of the affiliated group, for any day shall be decreased by the portion of the consolidated section 435 (g) (6) adjustment for such day attributable to such corporation.

(xix) *Average invested capital.* In the computation of average invested capital (which, under this section, may be a minus amount), the following rules shall apply:

(*a*) There shall be excluded any accumulated earnings and profits.

(*b*) Intercompany distributions made during the taxable year shall be disregarded.

(*c*) Money or property paid in for stock or as paid-in surplus or as a contribution to capital during the taxable year by one member of the group to another member of the group shall be disregarded.

(*d*) With respect to the stock of another member of the affiliated group held with a basis for consolidated invested capital purposes determined to be a basis other than cost, there shall be subtracted from equity invested capital otherwise computed an amount equal to such basis adjusted by an amount equal to the adjustments proper under section 115 (1) for determining earnings and profits, except that no adjustment shall be made with respect to—

(*1*) Transactions referred to in (*b*) and (*c*), and

(2) Losses of the issuing corporation subsequent to the acquisition of such stock which losses were included in a consolidated income or excess profits tax return.

(*e*) In the case of a member of the affiliated group the stock of which is held by other members of such group with a basis for consolidated invested capital purposes determined to be a cost basis, there shall be excluded as of the date on which such corporation became a member of the group that portion of its equity invested capital attributable to the shares of stock so held; there shall also be excluded, as of the date of any subsequent acquisition, that portion of its equity invested capital attributable to shares of stock similarly acquired and held by other members of the group; no addition shall be made on account of money or property (not including stock of another member of the group held with a basis determined to be a basis other than cost) thereafter paid in for stock held by any other member of the group or as paid-in surplus or a contribution to capital paid in with respect to shares of stock subject to the provisions of this sentence; and no reduction shall be made on account of any distribution thereafter made to any other member of the group.

(*f*) With respect to distributions made in a consolidated income or excess profits tax return period prior to the taxable year by one member of the affiliated group to another member of the group, the average invested capital of the distributee shall not be increased by any amount in excess of the amount by which the average invested capital of the distributor or its earnings and profits, accumulated before March 1, 1913, were decreased.

(*g*) The average invested capital of a corporation which is a member of the affiliated group for only a part of the taxable year shall be its aggregate daily invested capital computed with the adjustments set forth in this section for each day of such taxable year during which it is a member of the group (excluding the day on which it became a member) divided by the number of days in the taxable year of the group.

(xx) *Accumulated earnings and profits.* In the computation of accumulated earnings and profits or the deficit in accumulated earnings and profits as of the beginning of the taxable year, the following rules shall apply:

(*a*) In the case of a member of the affiliated group the stock of which is held by other members of such group with a basis for consolidated invested capital purposes determined to be a cost basis, there shall be excluded as of the date on which such corporation became a member of the group that portion of its earnings and profits, or deficit in earnings and profits, previously accumulated and properly allocable to the shares of stock so held; there shall also be excluded, as of the date of any subsequent acquisition, any earnings and profits, or deficit in earnings and profits, previously accumulated and properly allocable to any shares of stock similarly acquired and held by other members of the group.

(*b*) There shall be excluded profits and losses unrealized by the affiliated group reflected in the opening inventory of the taxable year, whether or not a consolidated return was filed for the preceding taxable years, together with all other unrealized profits and losses reflected in transactions between members of the affiliated group in prior taxable years for which a return was made or was required on a consolidated basis, whether under section 141 or under the provisions of any prior income or excess profits tax law.

(*c*) With respect to distributions from such accumulated earnings and profits made during the taxable year by one member of the affiliated group to another member of the group, such accumulated earnings and profits of the distributee shall be increased in an amount equal to that by which such accumulated earnings and profits of the distributor are decreased.

(*d*) With respect to distributions in stock, as defined by section 458 (f) (1), made prior to the taxable year by one member of the affiliated group to another member of the group, the accumulated earnings and profits of the distributee shall not be increased in any amount in excess of that by which the sum of the average invested capital and the accumulated earnings and profits of the distributor is decreased.

(*e*) With respect to distributions made in a prior taxable year for which a return was made or was required on a consolidated basis, whether under section 141 or under the provisions of any prior income or excess profits tax law, by one member of the group to another member of the group, the accumulated earnings and profits of the distributee shall not be increased by any amount in excess of the amount by which either the average invested capital or the earnings and profits of the distributor were decreased.

(*f*) If the invested capital of the affiliated group is computed pursuant to the provisions of subdivision (xix) (*e*) of this subparagraph, proper adjustment shall be made with respect to the amount of any realizations prior to the beginning of the taxable year upon any unrealized appreciation or depreciation in assets previously reflected in consolidated historical invested capital.

(*g*) In the case of a corporation which is a member of the affiliated group for only a part of the taxable year, the accumulated earnings and profits or the deficit in accumulated earnings and profits as of the beginning of the taxable year shall be an amount equal to its accumulated earnings and profits or its deficit in accumulated earnings and profits as of the beginning of the taxable year of the group or the beginning of the day following the day on which it becomes a member of the group, as the case may be, multiplied by the number of days of such year during which it is a member of the group (excluding the day on which it becomes a member) and divided by the total number of days in such year.

(*h*) In the case of distributions from earnings and profits made by a member of the group with respect to stock held by another member of the group with a cost basis, there shall be subtracted from the earnings and profits of the distributee an amount equal to the aggregate of such distributions as were made between the date of acquisition of such stock and the date as of which the distributor became a member of the group.

(xxi) *Equity invested capital.* In the computation of equity invested capital (which, under this section, may be a minus amount), effect shall be given to the adjustments prescribed in subdivision (xix) of this subparagraph (relating

to the computation of average invested capital) to the extent that such adjustments pertain to the computation of equity invested capital.

(xxii) *Determination of excess profits net income under section 433 (b) and (c).* In computing the excess profits net income under section 433 (b) or the deficit in excess profits net income under section 433 (c) of a corporation, the following rules shall apply:

(*a*) The excess profits net income under section 433 (b) for any month or the deficit in excess profits net income under section 433 (c) for any month shall be the excess profits net income under section 433 (b), or the deficit in excess profits net income under section 433 (c), as the case may be, for the taxable year of the corporation in which such month falls, divided by the number of full calendar months in such taxable year.

(*b*) If two or more members of the affiliated group (including any component corporation of any such member within the meaning of section 461) were affiliated with each other during any taxable year, whether or not a consolidated return was filed for such year, there shall be excluded intercompany profits and losses resulting from transactions between such corporations to the extent that such profits and losses would otherwise be taken into account.

(*c*) The amount of the adjustment under section 433 (b) (5), relating to repayment of processing taxes to vendees, shall be computed without regard to any repayment or credit to another member of the affiliated group.

(*d*) In the case of an affiliated group of life insurance companies determining the adjustment under section 433 (b) (14), there shall be computed a tentative adjustment as if such corporations were affiliated and were filing a consolidated return for such taxable year, and the adjustment of each corporation shall be the portion thereof attributable to such corporation.

(*e*) In the case of a corporation which is a member of the affiliated group for only a part of a taxable year for which the excess profits credit is being computed, the amount to be included with respect to the taxable year for which excess profits net income is being computed shall be limited to an amount which bears the same ratio to its excess profits net income or its deficit in excess profits net income for such year, as the case may be, as the number of days of the taxable year for which the credit is being computed during which it was a member of the group (excluding the day on which it becomes a member) bears to the total number of days in such taxable year.

(*f*) If the stock of a subsidiary corporation owned by other members of the group at any time during the taxable year for which the credit is being computed was acquired by such members, or by other members of the group, at any time on or after the first day of the taxable year for which excess profits net income is being computed, but only to the extent to which the consideration for such acquisition was not the issuance of the stock of the acquiring corporation (not including an acquisition from another member of the group which was affiliated with the acquiring corporation at the time of such acquisition, whether or not a consolidated return was filed for the year in which such acquisition occurred), or if the stock of another subsidiary owned at any time during the taxable year for which the credit is being computed was owned by such first subsidiary, the stock of which was so acquired, as of the date of such acquisition, there shall be excluded in the computation of the excess profits net income of each such subsidiary corporation, or of its deficit in excess profits net income, a proportionate part of the amount thereof otherwise computed, such proportionate part to be determined pursuant to the provisions of section 462 (j) (1), as if such subsidiaries were component corporations within the provisions of section 461 (b).

(xxiii) *Weighted excess profits net income and weighted deficit in excess profits net income.* The weighted excess profits net income and the weighted deficit in excess profits net income of a corporation for any month shall be the weighted excess profits net income, or the weighted deficit in excess profits net income, for the taxable year in which such month falls, divided by the number of full calendar months in such taxable year. The weighted excess profits net income and the weighted deficit in excess profits net income for any taxable year shall be the excess profits net income determined under section 433 (b), or the deficit in excess profits net income determined under section 433 (c), as the case may be, for such taxable year, reduced to an amount which is the same percentage thereof as the percentage, applicable to such taxable year, specified in section 435 (e) (2) (E).

(xxiv) *Controlled group indebtedness.* The indebtedness included in computing consolidated controlled group indebtedness for any day shall be determined under the following rules:

(*a*) The amount of such indebtedness shall be ascertained under the rules applicable in determining total assets for consolidated equity capital purposes;

(*b*) The indebtedness of one member of the affiliated group owed to another member of the group shall be disregarded; and

(*c*) There shall be included only indebtedness which constitutes daily borrowed capital for such day of the corporation owing such indebtedness.

(xxv) *Stock in member of controlled group.* For the purpose of determining the consolidated section 435 (g) (6) adjustment for any day, the adjusted basis of stock held by a member of an affiliated group in a corporation included in a controlled group (as defined in section 435 (g) (6)) which also includes a member of the affiliated group, shall be determined under the following rules:

(*a*) The adjusted basis of such stock shall be determined under the rules applicable in determining total assets for consolidated equity capital purposes; and

(*b*) Stock of a member of the affiliated group shall be disregarded.

(xxvi) *Average base period net income computed under section 442, 443, 444, 445, or 446.* In computing the average base period net income of any member of the affiliated group under section 442, 443, 444, 445, or 446, the following rules shall apply:

(*a*) In computing total assets as of any day after December 1, 1950 (the date of introduction in the House of Representatives of the Excess Profits Tax Bill of 1950)—

(*1*) The total assets otherwise computed shall be reduced by an amount equal to—

(i) The cash, and

(ii) The adjusted basis of those assets having a basis determined in whole or in part by reference to their basis in the hands of another member of the group,

acquired from another member of the group after December 1, 1950, properly adjusted with respect to any money paid or property (other than stock or securities of a member of the group) exchanged for such cash or assets; and

(*2*) The total assets otherwise computed shall be reduced by the outstanding indebtedness incurred after December 1, 1950, to another member of the group, properly adjusted with respect to any such indebtedness incurred in the transactions described in (*1*).

(*b*) If total assets are determined for any day after December 1, 1950, the total interest paid or incurred by such member for any period including such day shall be determined without regard to the amount paid or incurred to another member of the group with respect to indebtedness which reduced such total assets under (*a*) (2).

(*c*) In determining total facilities for the purpose of applying section 444 to a member of the group, any facility held by such member on the last day of the consolidated base period which was acquired from another member of the group with a basis determined in whole or in part by reference to its basis in the hands of such other member shall be deemed to have been held by the member to which section 444 is applicable from the date of its acquisition by a member of the group.

(*d*) If the stock of a subsidiary corporation owned by other members of the group at any time during the taxable year for which the credit is being computed was acquired by such members, or by other members of the group, at any time on or after the first day of the consolidated base period, but only to the extent to which the consideration for such acquisition was not the issuance of the stock of the acquiring corporation (not including an acquisition from another member of the group which was affiliated with the acquiring corporation at the time of such acquisition, whether or not a consolidated return was filed for the year in which such acquisition occurred), or if the stock of another subsidiary owned at any time during the taxable year for which the credit is being computed was owned by such first subsidiary, the stock of which was so acquired, as of the date of such acquisition, there shall be excluded in the computation of the average base period net income under such section of each such

subsidiary corporation, a proportionate part of the amount thereof otherwise computed, such proportionate part to be determined pursuant to the provisions of section 462 (j) (1), as if such subsidiaries were component corporations within the provisions of section 461 (b).

(e) For the purpose of such computations, if the taxable year of the member is different from the taxable year of the group, the taxable year of the group shall be used.

(xxvii) *Base period capital addition and net capital addition or reduction if alternative average base period net income is used.* In computing the base period capital addition or the net capital addition or reduction of a member of the group for the purpose of determining the consolidated base period capital addition or the consolidated net capital addition or reduction if the consolidated alternative average base period net income is used, the items involved in such computation shall be properly adjusted to reflect the amounts thereof which would be included in computing the consolidated base period capital addition or the consolidated net capital addition or reduction if such consolidated alternative average base period net income were not used. For the purpose of such computations, if the taxable year of the member is different from the taxable year of the group, the taxable year of the group shall be used.

(3) *Limitations on net operating loss carry-overs and carry-backs from separate return years.* In no case shall there be included in the consolidated net operating loss deduction for the taxable year as consolidated net operating loss carry-overs under paragraph (a) (3) (ii) of this section (relating to the net operating losses sustained by a corporation in years for which separate returns were filed, or for which such corporation joined in a consolidated return filed by another affiliated group), and as a consolidated net operating loss carry-back under paragraph (a) (4) (ii) of this section (relating to a net operating loss sustained by a corporation in the year subsequent to the last taxable year in respect of which its income is included in the consolidated return), an amount exceeding in the aggregate the net income of such corporation (computed with the exceptions and limitations provided in section 122 (d) (1), (2), (3), and (4)) included in the computation of the consolidated net income for the taxable year increased by its separate net capital gain and increased or decreased, as the case may be, with respect to its separate gains or losses from involuntary conversions and from sales or exchanges of property subject to the provisions of section 117 (j).

(4) *Minimum deduction involving carry-overs and carry-backs from separate return years.* If a portion of the consolidated net operating loss deduction arises as a carry-over pursuant to the provisions of paragraph (a) (3) (ii) of this section (relating to net operating losses sustained by a corporation in years for which separate returns were filed, or for which such corporation joined in a consolidated return filed by another affiliated group), or as a carry-back pursuant to the provisions of paragraph (a) (4) (ii) of this section (relating to a net operating loss sustained by a corporation in the year subsequent to the last taxable year in respect of which its income is included in the consolidated return), the consolidated net operating loss deduction shall not be less than the amount of such portion reduced by the amount, if any, by which the net income of such corporation (computed with the exceptions and limitations provided in section 122 (d) (1), (2), (3), and (4)) exceeds the normal-tax net income of such corporation (computed without any net operating loss deduction, but taking into account the additional capital loss deduction authorized by section 204 (c) (5)), or, in the case of two or more such corporations, the sum of such portions so reduced.

(5) *Limitation on absorption of net operating loss carry-overs.* In the computation of the consolidated net operating loss deduction for the taxable year, if there is involved a net operating loss sustained in a prior year by a corporation filing a separate return for such prior year, or joining in a consolidated return for such prior year filed by another affiliated group, together with a consolidated net income for a consolithere are involved net operating losses of two or more members of the group so separately sustained, no portion of the consolidated net operating loss, or, if dated return period of the group intervening between the year of the loss and the taxable year shall be taken into account more than once in giving effect to the provisions of paragraph (a) (3) (ii) of this section, relating to the computation of the consolidated net operating loss carry-overs originating in separate return years.

(6) *Limitation on absorption of unused basic surtax credits.* If, in the computation of the consolidated dividend carry-over for the second consolidated return period in respect of which the income of a corporation is included in the consolidated return of the group, there is involved a separate unused basic surtax credit of such corporation for the second preceding taxable year together with a consolidated unused basic surtax credit for the second preceding taxable year, or if, for the second consolidated return period in respect of which the income of two or more members of the group is included in the consolidated return of the group, there are involved the separate unused basic surtax credits of such corporations for the second preceding taxable year, no portion of the excess of the consolidated subchapter A net income over the consolidated basic surtax credit for the first preceding taxable year shall be taken into account more than once in giving effect to the provisions of paragraph (a) (26) (ii) and (iv) of this section (relating to the computation of that part of the consolidated dividend carry-over attributable to the unused basic surtax credits of the second preceding taxable year).

(7) *Apportionment of consolidated net operating loss.* If an affiliated group filing a consolidated return sustains a consolidated net operating loss within the provisions of section 26 (c), relating to the net operating loss credit, or within the provisions of section 122, relating to the net operating loss deduction, and if there are included as members of such group one or more corporations which made separate returns, or joined in a consolidated return filed by another affiliated group, either in the preceding taxable year or in a succeeding taxable year, the portion of such consolidated net operating loss attributable to such corporations severally shall be determined, such portion in the case of any such corporation being determined in an amount proportionate to the net losses (capital net losses and ordinary net losses alike) of the several affiliated corporations having net losses, to the extent that such losses were taken into account in the computation of the consolidated net operating loss.

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

(9) *Apportionment of unused consolidated basic surtax credit.* If an affiliated group filing a consolidated return has an unused consolidated basic surtax credit, and if there are included as members of such group one or more corporations which make separate returns, or join in a consolidated return filed by another affiliated group, in a succeeding taxable year, the portion of such unused consolidated basic surtax credit attributable to such corporations severally shall be determined for the purpose of the dividend carry-over, such portion in the case of any such corporation being determined in an amount proportionate to the dividends paid, the consent dividend credits, the several factors involved in the computation of the consolidated net operating loss credit, and the subchapter A net incomes of the several affiliated corporations, to the extent that such items were taken into account in the computation of the consolidated basic surtax credit and the consolidated subchapter A net income.

(10) *Limitation on net capital loss carry-over from separate return year.* In no case shall there be included in the computation of the consolidated net capital gain for the taxable year as a consolidated net capital loss carry-over under paragraph (a) (9) (ii) of this section (relating to net capital losses separately sustained) an amount exceeding in the aggregate net capital gains of such corporation (determined without regard to any net capital loss carry-over) included in the computation of

the consolidated net capital gain for the taxable year increased with respect to its separate net gains from involuntary conversions and from sales or exchanges of property subject to the provisions of section 117 (j).

(11) *Qualifications on deductions where group membership changed after March 14, 1941.* In the case of an affiliated group formed at any time subsequent to March 14, 1941, or having among its members in the taxable year one or more subsidiaries which became members of the group subsequent to March 14, 1941, the consolidated net income for the taxable year, and for prior and subsequent taxable years to the extent affected by carry-backs and carry-overs from the taxable year, shall be determined subject to the following qualifications:

(i) There shall be excluded in the case of the common parent corporation and in the case of any subsidiaries which were members of the group on March 14, 1941, those deductions from gross income otherwise allowable with respect to—

(*a*) Sales or exchanges of capital assets,

(*b*) Involuntary conversions and sales or exchanges of property subject to the provisions of section 117 (j),

(*c*) Securities subject to the provisions of section 23 (g) (4) or section 23 (*k*) (5), or

(*d*) Debts subject to the provisions of section 23 (k) (1),

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

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

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

such capital gains and losses and such ordinary net income being determined pursuant to the provisions of the regulations in this part but without regard to the provisions of subparagraphs (1) (iv) and (2) (iii) (*b*) of this paragraph and without regard to the losses in question;

(ii) There shall be excluded in the case of a subsidiary corporation which became a member of the affiliated group subsequent to March 14, 1941, those deductions from gross income otherwise allowable with respect to—

(*a*) Sales or exchanges of capital assets,

(*b*) Involuntary conversions and sales or exchanges of property subject to the provisions of section 117 (j),

(*c*) Securities subject to the provisions of section 23 (g) (4) or section 23 (k) (5), or

(*d*) Debts subject to the provisions of section 23 (k) (1),

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

(*e*) Being capital losses, exceed—

(*1*) The capital gains reduced by all other capital losses of such corporation for the taxable year, in the case in which such corporation was not, on March 14, 1941, a member of an affiliated group within the meaning of section 141, or

(*2*) In case such corporation was a member of an affiliated group on March 14, 1941, an amount which, together with like losses computed subject to the provisions of the regulations in this part in the case of other members of the group during the taxable year which were affiliated with such corporation on March 14, 1941, within the meaning of section 141, is equal to the aggregate capital gains reduced by the aggregate of all other capital losses of such corporation and of such other members of the group, or

(*f*) Being ordinary losses, exceed—

(*1*) The ordinary net income of such corporation for the taxable year increased in an amount equal to any excess of capital gains over capital losses for the taxable year, in the case in which such corporation was not, on March 14, 1941, a member of an affiliated group within the meaning of section 141, or

(*2*) In case such corporation was a member of an affiliated group on March 14, 1941, an amount which, together with like losses computed subject to the provisions of the regulations in this part in the case of other members of the group during the taxable year which were affiliated with such corporation on March 14, 1941, within the meaning of section 141, is equal to the ordinary net income of such corporation for the taxable year increased by the aggregate of the ordinary net income and decreased by the aggregate of the ordinary net losses of other members of the affiliated group during the taxable year which were affiliated with such corporation on March 14, 1941, within the meaning of section 141, and increased further in an amount equal to any excess of aggregate capital gains over aggregate capital losses of such corporations,

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

(iii) The portion of any loss otherwise allowable as a deduction for the taxable year which is disallowed pursuant to the provisions of subdivisions (i) and (ii) of this subparagraph shall, to the extent that it constitutes a net capital loss within the provisions of section 117 or a net operating loss within the provisions of section 122, be considered as a net capital loss or a net operating loss, as the case may be, in respect of those members of the group by reference to which the amount of the deduction disallowed under subdivisions (i) and (ii) of this subparagraph was determined, originating, for the purpose of the carry-back provisions, in a taxable year subsequent to the last taxable year in respect of which their income was included in a consolidated return, and, for the purpose of the carry-over provisions, in a taxable year prior to the first taxable year in respect of which their income was included in a consolidated return;

(iv) The provisions of subdivisions (i) and (ii) of this subparagraph shall not apply with respect to the common parent corporation of an affiliated group formed subsequent to March 14, 1941, or to the common parent corporation or subsidiaries of a group in existence on March 14, 1941, acquiring new members subsequent to March 14, 1941, or with respect to subsidiaries becoming members of the group subsequent to March 14, 1941—

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

(*b*) If, immediately after the corporation involved became a member of the group, common parent corporation or subsidiary, as the case may be, stock possessing at least 95 percent of the voting power of all classes of its stock then outstanding and at least 95 percent of each class of its nonvoting stock then outstanding is owned, directly or indirectly, by substantially the same interests by which such stock was owned on March 14, 1941;

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

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

(*e*) If, upon consideration of the facts and circumstances presented by the particular case, the Commissioner determines that the general purpose of the provisions of subdivisions (i) and (ii) would be better served in a particular respect by adherence to a date subsequent to March 14, 1941, such subdivisions shall be administered in that respect as if the appropriate date determined by the Commissioner were substituted in such subdivisions in lieu of the date March 14, 1941.

(12) *Basis of intercompany stockholdings.* For the purpose of computing the consolidated excess profits credit for the taxable year, the following rules shall apply:

(i) *Basis other than cost.* Stock of one member of the affiliated group held by another member of the group at any time during the taxable year shall be determined to be stock held with a basis other than cost if—

(*a*) Such stock is held with a basis fixed by reference to the basis of other property previously held by the corporation, but not including—

(*1*) Stock acquired from another corporation in exchange for property previ-

ously held with a cost basis if, at the time of such acquisition or immediately thereafter—

(*i*) The acquiring corporation or its shareholders were in control of the corporation from which such stock was acquired, or

(*ii*) The corporation from which such stock was acquired or its shareholders were in control of the acquiring corporation; or

(2) Stock held at a lower level in a corporate chain of three or more affiliated corporations to the extent that the lower-level corporation is connected with the affiliated group through intercompany stockholding interests at a higher level in such chain acquired subsequent to the date of acquisition of such lower-level stock and held with a cost basis; or

(*b*) Such stock is held with a basis fixed by reference to its basis in the hands of a preceding owner, but not including—

(*1*) Stock acquired from another member of an affiliated group of corporations in a taxable year for which the acquiring corporation and the transferring corporation filed a consolidated income or excess profits tax return if, immediately prior to such acquisition—

(*i*) Such stock was held by the transferring corporation with a cost basis, or

(ii) The stock of the transferring corporation or of any other member of the affiliated group holding stock in the transferring corporation, directly or indirectly, was held by other members of the group with a cost basis, whether or not the stock transferred was held by the transferring corporation with a cost basis,

but including stock so acquired which would have a basis other than cost if it had been acquired in an intercorporate liquidation described in (2) or in an exchange described in (3);

(2) Stock acquired in an intercorporate liquidation if, immediately prior to such liquidation—

(*i*) Such stock was held by the liquidated corporation with a cost basis, or

(*ii*) The stock of the liquidated corporation was held with a cost basis;

(3) Stock acquired from another member of a controlled group of corporations if, immediately prior to such acquisition—

(*i*) Such stock was held by the transferring corporation with a cost basis, or

(*ii*) The stock of the transferring corporation or of any other member of the controlled group holding stock in the transferring corporation, directly or indirectly, was held with a cost basis, whether or not the stock transferred was held by the transferring corporation with a cost basis, but including stock so acquired which would have a basis other than cost if it had been acquired in an intercorporate liquidation described in (2); or

(*4*) Stock held at a lower level in a corporate chain of three or more affiliated corporations to the extent that the lower-level corporation is connected with the affiliated group through intercompany stockholding interests at a higher level in such chain acquired subsequent to the date of acquisition of such lower-level stock and held with a cost basis.

(ii) *Cost basis.* Stock of one member of the affiliated group held by another member of the group at any time during the taxable year shall be determined to be stock held with a cost basis in all cases other than those in which the stock is determined to be stock held with a basis other than cost pursuant to the provisions of subdivision (i) of this subparagraph.

(iii) *Intercompany stock transfers.* In the case of stock of one member of the affiliated group held by another member of the group subject to the application of subdivision (i) (*b*) (*1*) (*ii*) of this subparagraph, relating to intercompany acquisitions during a consolidated return period, or (i) (*b*) (3) (*ii*), relating to acquisitions from another member of a controlled group of corporations, such stock shall have a basis for consolidated excess profits credit purposes in an amount equal to the basis which such stock would have in the hands of its present owner determined pursuant to the provisions of section 470 (a) and (b) or section 472 (c) (1) and (e) if such stock were acquired as the result of an intercorporate liquidation of the corporation transferring such stock and of each member of the group owning stock of the transferring corporation, directly or indirectly, through which such stock would have passed prior to its acquisition by its present owner.

(iv) *Definitions.* In determining whether stock of one member of the affiliated group held by another member of the group is held with a cost basis or a basis other than cost, the following definitions are applicable:

(*a*) The term "control" means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation (except nonvoting stock which is limited and preferred as to dividends).

(*b*) The term "controlled group" means one or more chains of corporations connected through stock ownership with a common parent corporation if stock possessing at least 80 percent of the voting power of all classes of stock entitled to vote and at least 80 percent of each class of the nonvoting stock of each of the corporations (except the common parent corporation) is owned directly by one or more of the other corporations and the common parent corporation owns directly stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of at least one of the other corporations. As used in the preceding sentence, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(*c*) The term "intercorporate liquidation" means the receipt by a corporation of property in complete liquidation of another corporation to which—

(*1*) The provisions of section 112 (b) (6), or the corresponding provisions of a prior revenue law, are applicable, including the case in which an election has been made pursuant to the last sentence of section 113 (a) (15) of the Revenue Act of 1936, as amended by section 808 of the Revenue Act of 1938, or

(2) A provision of law is applicable prescribing the nonrecognition of gain or loss, in whole or in part, upon such receipt, including a provision of the regulations applicable to a consolidated income or excess profits tax return, but not including the provisions of section 112 (b) (7) of the Revenue Act of 1938 relating to certain complete liquidations occurring during December 1938, the provisions of section 112 (b) (7) of the Internal Revenue Code relating to certain complete liquidations occurring during some one calendar month in 1944 or 1951, the provisions of section 112 (b) (9) relating to certain complete liquidations of railroad corporations, or the provisions of section 112 (b) (10) relating to reorganizations of corporations in certain receivership and bankruptcy proceedings,

but only if none of such property so received is a stock or a security in a corporation the stock or securities of which are specified in the law applicable to the receipt of such property as stock or securities permitted to be received (or which would be permitted to be received if they were the sole consideration) without the recognition of gain.

(v) *Rules applicable in determination of basis.* In determining the total assets of a member of an affiliated group for consolidated equity capital purposes under subparagraph (2) (xiii) of this paragraph (b), or in determining the extent to which the equity invested capital of a subsidiary corporation is to be excluded under subparagraph (2) (xix) (*e*) of this paragraph (b), by reference to intercompany stockholding interests at a higher level in the corporate chain held with a cost basis (subparagraph (12) (i) (*b*) (*4*) of this paragraph (b)), and in adjusting the accumulated earnings and profits of a corporation the stock of which is held with a cost basis, either by reference to the date as of which such corporation became a member of the affiliated group or the date of any subsequent acquisition of its stock (subparagraph (2) (xx) (*a*) of this paragraph (b)), or by reference to realizations upon unrealized appreciation or depreciation of assets previously reflected in consolidated invested capital (subparagraph (2) (xx) (*f*) of this paragraph (b)), such determination and adjustment shall be made subject to the following rules:

(*a*) The determination and adjustment shall be made by reference to those acquisitions and holdings of stock held in the corporate chain with a cost basis, and by reference to those acquisitions and holdings only, which, considering the time of such acquisitions and the position in the corporate chain in which such holdings appear, reflect the ultimate cost acquisition and the resulting ownership, direct or indirect, by the group of those economic interests of the group underlying such stockholding acquisitions.

Example (*1*). Suppose that A acquired for cash in 1930 all of the stock of B; that

P subsequently, in 1935, acquired for cash all of the stock of A; and that the P–A–B group files a consolidated return for 1951. P's cash acquisition and holding of the stock of A acquired in 1935 reflects the group acquisition and holding of the entire subsidiary chain. Every adjustment of earnings and profits prescribed by these regulations, and every determination made by reference to stock acquired and held with a cost basis, those in the cases of A and B alike, will be made with respect to the costs incurred in 1935 and with respect to that date. The cost of the stock of B incurred in 1930 is a matter of no significance in the computation of consolidated invested capital for the taxable year.

Example (2). Suppose a state of facts similar to that suggested in example (1), but varied to this extent: A acquired the stock of B in 1940 instead of 1930. This change in the order of acquisition renders the cash acquisition by A of the stock of B a matter of significance in the consolidated computation. The cash outlay incurred by P in 1935 did not serve to bring within the group that portion of the group enterprise reflected by the business and assets of B. The assets and the earnings and profits of B will be adjusted accordingly as of 1940 and by reference to the cost of its stock then incurred; those of A will be adjusted as of 1935 and by reference to 1935 costs.

Example (3). Suppose a state of facts similar to that suggested in example (1), but varied to this extent: A had acquired the stock of B with a basis other than cost. Adjustments to be made in the computation of consolidated equity capital, of equity invested capital, and of earnings and profits will be made precisely as in example (1), and for the same reasons, notwithstanding the character of A's stockholding interest in B. P holds the stock of B indirectly with a cost basis determined in character by reference to P's acquisition of the stock of A in 1935.

Example (4). Suppose a state of facts similar to that suggested in example (1), but varied to this extent: A had acquired the stock of B with a basis other than cost, and this acquisition was effected in 1940, instead of 1930, without breaking the affiliation between P and A. The stock of B acquired in 1940 is not to be considered as a part of the enterprise in respect of which P incurred costs in 1935. The higher-level holdings with a cost basis bear no significant relationship to the acquisition and holding by A of the stock of B. The stock of B is not to be considered to be held with a cost basis. No adjustment will be made in computing the earnings and profits of B.

Example (5). Suppose a state of facts similar to that suggested in example (1), but varied to this extent: P's acquisition of the stock of A in 1935 was made with a basis other than cost. B will be regarded for the purpose of the adjustments prescribed in subparagraph (2) (xiii) and (xix) (*e*) of this paragraph (b) as having become "a member of the group" as of 1930, the year in which its stock was acquired by A, regardless of the subsequent acquisition by P of the stock of A. The assets and the earnings and profits of B will be adjusted as of 1930, and by reference to the cost of its stock then incurred.

Example (6). If A had acquired the stock of B with a cost basis at a date subsequent to P's acquisition of the stock of A with a basis other than cost, the adjustment of B's assets and earnings and profits would be made by reference to the later date and by reference to the costs then incurred.

(b) The adjustment will be made by reference to the most recent acquisition of the required holdings of the stock of the corporation in the case of a corporation the stock of which was once held by other members of the affiliated group to the extent provided in section 141 (d), was later disposed of in whole or in part, and was subsequently reacquired.

(c) The adjustment will be made without regard to any exclusion of the corporation from the affiliated group in intervening years by reason of a loss of the voting control prescribed by section 141 (d) if such loss of voting control was attributable to the fact that stock which did not possess voting power at the time control was originally acquired later became entitled to vote.

(d) Except as otherwise provided in (*f*), if stock of the corporation held with a cost basis was acquired from another corporation which had held such stock with a cost basis, and if the cost basis with which such stock is held by the present owner is fixed by reference to the basis of such stock in the hands of such other corporation, the adjustment will be made as if the present owner had acquired such stock as of the date upon which such stock was acquired by such other corporation.

(e) If stock of the corporation held with a cost basis was acquired from another corporation in a liquidation subject to the provisions of section 112 (b) (6), or the corresponding provisions of a prior revenue law, and if the stock of the liquidated corporation was held by the acquiring corporation with a cost basis but the stock acquired was held by the liquidated corporation with a basis other than cost, the acquiring corporation shall be deemed to have acquired the stock received in the liquidation as of the date upon which it had acquired the stock of the liquidated corporation.

(f) If stock of the corporation held with a cost basis was acquired from another corporation in a liquidation subject to the provisions of section 112 (b) (6), or the corresponding provision of a prior revenue law, and if the stock so acquired was held by the liquidated corporation and the stock of the liquidated corporation was held by the acquiring corporation, both with a cost basis, the acquiring corporation shall be deemed to have acquired the stock received in the liquidation as of the date upon which such stock was acquired by the liquidated corporation, or as of the date upon which the acquiring corporation acquired the stock of the liquidated corporation with respect to which the distribution was made, whichever date was the later.

(g) If stock of the corporation held with a cost basis is deemed to be so held by virtue of the fact that the basis of such stock is fixed by reference to the cost basis of other stock in the hands of the present owner, such stock shall be deemed to have been acquired as of the date of acquisition of such other stock.

(h) If the basis of the stock of the corporation held by another member of the affiliated group was increased as the result of a statutory merger or consolidation of such corporation with another corporation, or as the result of a transaction having the effect of a statutory merger or consolidation, and if the stock of such other corporation was held by such member of the affiliated group with a cost basis, that portion of such member's stockholding interest in such corporation represented by the increase shall be deemed to have been acquired as of the date upon which such member acquired the stock of such other corporation.

Example. Suppose that P acquired all of the stock of A in 1930 with a basis other than cost in the amount of $10,000; that it acquired for $15,000 in cash in 1935 all of the stock of B; that it caused B to be merged into A in 1936 without the issuance by A of any additional shares of stock; and that the P-A group files a consolidated return for 1951. The $15,000 cost incurred by P in 1935 will be reflected in the increased basis with which P holds the stock of A. P will be deemed to have acquired for cash in 1935 a portion of its stockholding interest in A; the total assets of A for consolidated equity capital purposes will be adjusted accordingly; the earnings and profits of A, to the extent that they reflect the earnings and profits originally accumulated by B, will be adjusted as of 1935; and the earnings and profits of A will be further adjusted with respect to realizations by B and A upon the unrealized appreciation or depreciation in the assets of B as of 1935 reflected in the consolidated invested capital.

(13) *Consolidated computations involving changes in membership*—(i) *Equity capital.* For the purpose of computing the consolidated net new capital addition and the consolidated net capital addition or reduction—

(a) If the affiliated group at the beginning of the taxable year includes a corporation which was not a member of the group on the first day of the first excess profits tax taxable year of the group, the consolidated equity capital for such first day shall include such portion of the equity capital of such corporation for such first day as is not attributable to the stock of such corporation held with a cost basis by other members of the group on the day on which such corporation became a member of the group, and the consolidated equity capital shall not include the stock in such corporation held on such first day with a basis other than cost;

(b) If the affiliated group at the beginning of the taxable year does not include a corporation which was a member of the group on the first day of the first excess profits tax taxable year of the group, the consolidated equity capital for such first day shall be computed as if such corporation were not a member of the group.

(ii) *Borrowed capital.* The following rules shall apply with respect to borrowed capital:

(a) For the purpose of computing the consolidated daily new capital addition or reduction for any day of the taxable year—

(1) If the group includes for such day a corporation which was not a member of the group on the first day of the first excess profits tax taxable year of the group, the borrowed capital for such first day shall include such portion of the borrowed capital of such corporation for such first day as does not consist of indebtedness owed to corporations which are members of the group on such day of the taxable year;

(2) If the group does not include for such day a corporation which was a member of the group on the first day of

the first excess profits tax taxable year of the group, the borrowed capital for such first day of the members of the group shall be computed as if such corporation were not a member of the group.

(*b*) For the purpose of computing the consolidated net capital addition or reduction for any taxable year, if any corporation is a member of the affiliated group for only part of the taxable year, the consolidated daily borrowed capital of the group for the first day of the first excess profits tax taxable year of the group shall be the consolidated daily borrowed capital for such day computed as if such corporation were not a member of the group for such day, increased or decreased, as the case may be, by such portion of the difference between the consolidated daily borrowed capital so computed and the consolidated daily borrowed capital computed as if such corporation were a member of the group for such first day, as the number of days during the taxable year during which such corporation is a member of the group is of the total number of days in the taxable year.

(iii) *Capital addition or reduction.* (*a*) If a corporation becomes a member of the group after the beginning of the taxable year of the group, proper adjustment shall be made in computing the consolidated adjusted invested capital and the consolidated net new capital addition by reflecting as property paid in to the members of the group in a transaction described in section 438 (e) or as a distribution by such members, as the case may be, on the date such corporation becomes a member of the group, the difference between the adjusted basis of the stock of such corporation held with a basis other than cost immediately after such corporation becomes a member of the group and the portion of the equity capital of such corporation as of the beginning of the taxable year of the group not attributable to stock held with a cost basis immediately after such corporation became a member of the group.

(*b*) If a member of the group holds during the taxable year stock in a corporation which ceases to be a member of the group during the taxable year, proper adjustment shall be made in computing the consolidated adjusted invested capital and the consolidated net new capital addition by reflecting as property paid in to such member in a transaction described in section 438 (e), or as a distribution by such member, as the case may be, on the date such corporation ceased to be a member of the group, the difference between the adjusted basis of stock held immediately before such corporation ceased to be a member of the group and—

(*1*) If such corporation was a member of the group at the beginning of the taxable year, an amount equal to the portion of the consolidated equity capital at the beginning of the taxable year attributable to such corporation, or

(*2*) If such corporation became a member of the group after the beginning of the taxable year, the amount with respect to such corporation deemed paid in to a member of the group during the taxable year for stock or as paid-in surplus or as a contribution to capital,

properly adjusted in either case for capital changes with respect to such corporation occurring during the taxable year and prior to the date on which affiliation is broken.

(iv) *Consolidated increase or decrease in inadmissible assets.* For the purpose of computing the consolidated increase or decrease in inadmissible assets—

(*a*) In the case of a corporation which became a member of the group after the beginning of the first day of the first excess profits tax taxable year of the group and prior to the beginning of the taxable year, the consolidated original inadmissible assets shall include the inadmissible assets of such corporation on such first day (properly adjusted to reflect the adjusted basis recognized for consolidated equity capital purposes), and shall not include any stock in such corporation held by other members of the group;

(*b*) If the affiliated group at the beginning of the taxable year does not include a corporation which was a member of the group on the first day of the first excess profits tax taxable year of the group, the consolidated original inadmissible assets for such first day shall be computed as if such corporation were not a member of the group;

(*c*) In the case of a corporation which is a member of the affiliated group for only part of the taxable year, the consolidated original inadmissible assets—

(*1*) Shall include such portion of the amount of the adjusted basis of the inadmissible assets of such corporation on the first day of the first excess profits tax taxable year of the group (properly adjusted to reflect the adjusted basis of such assets recognized for consolidated equity capital purposes), and

(*2*) Shall not include such portion of the adjusted basis of the stock of such corporation held by other members of the group at the beginning of such first day,

as the number of days during the taxable year during which such corporation is a member of the group is of the total number of days in the taxable year.

(v) *Base period capital addition.* For the purpose of computing the consolidated base period capital addition—

(*a*) If the affiliated group at the beginning of the taxable year includes a corporation which was not a member of the group on the first day of a taxable year for which consolidated yearly base period capital is computed (the first excess profits tax taxable year of the group or either one of the two taxable years preceding such first taxable year)—

(*1*) The consolidated equity capital shall include with respect to such corporation only such portion of the equity capital of such corporation for such first day as is not attributable to the stock of such corporation held with a cost basis by other members of the group on the day on which such corporation became a member of the group, and the consolidated equity capital shall not include the stock in such corporation held on such first day with a basis other than cost;

(*2*) The consolidated daily borrowed capital for such first day shall include such portion of the borrowed capital of such corporation for such first day as does not consist of indebtedness owed to other members of the group;

(*3*) The aggregate of the inadmissible assets of the group for such first day shall include the portion of the inadmissible assets (properly adjusted to reflect the adjusted basis recognized for consolidated equity capital purposes) of such corporation for such first day as does not consist of stock of other members of the group, and shall not include any stock of such corporation held by other members of the group;

(*4*) The consolidated controlled group indebtedness for such first day shall include the portion of the indebtedness (properly adjusted to reflect the adjusted basis recognized for consolidated equity capital purposes) described in section 435 (f) (4) owed to such corporation on such first day, which does not consist of indebtedness owed by other members of the affiliated group; and

(*5*) The aggregate of the adjustments for interest on borrowed capital under section 435 (f) (5) shall include such adjustment determined under section 435 (f) (5) for such corporation on such first day, computed without regard to any borrowed capital owed to another member of the group;

(*b*) If the affiliated group at the beginning of the taxable year does not include a corporation which was a member of the group on the first day of a taxable year for which yearly base period capital is computed, the consolidated equity capital, the consolidated daily borrowed capital, the aggregate of the inadmissible assets, the consolidated controlled group indebtedness, and the aggregate of the adjustments for interest on borrowed capital under section 435 (f) (5) for such first day shall be computed as if such corporation were not a member of the affiliated group; and

(*c*) If a corporation is a member of the affiliated group for only part of the taxable year, the consolidated equity capital, the consolidated daily borrowed capital, the aggregate of the inadmissible assets, the consolidated controlled group indebtedness, and the aggregate of the adjustments for interest on borrowed capital under section 435 (f) (5) for the first day of each taxable year for which yearly base period capital is computed shall be determined as if such corporation were not a member of the group, and each such item so determined shall be increased or decreased, as the case may be, by an amount which is such portion of the difference between such item so determined and such item determined as if (*a*) were applicable as the number of days in the taxable year during which such corporation is a member of the group is of the total number of days in the taxable year.

(vi) *Section 435 (g) (6) inadmissible asset adjustment.* For the purpose of computing the section 435 (g) (6) adjustment for any day—

(*a*) In the case of a corporation which became a member of the group after the beginning of the first excess profits tax taxable year of the group and prior to such day, the consolidated original inadmissible assets shall include the inad-

missible assets of such corporation for such first day (properly adjusted to reflect the adjusted basis recognized for consolidated equity capital purposes), and shall not include any stock in such corporation held by other members of the group; and

(b) If the affiliated group at the beginning of such day does not include a corporation which was a member of the group on the first day of the first excess profits tax taxable year of the group, the consolidated original inadmissible assets for such first day shall be computed as if such corporation were not a member of the group.

(vii) *Stock in member of controlled group.* For the purpose of determining the consolidated section 435 (g) (6) adjustment for any day—

(a) In the case of a corporation which became a member of the affiliated group after the beginning of the first excess profits tax taxable year of the group and prior to such day, the consolidated original controlled group stock—

(1) Shall not include any stock of such corporation held by other members of the affiliated group on the first day of the first excess profits tax taxable year of the group, and

(2) Shall include the aggregate of the adjusted basis (properly adjusted to reflect the adjusted basis recognized for consolidated equity capital purposes) of the stock held by such corporation on such first day which was stock described in section 435 (g) (6) (A) of a member of a controlled group; and

(b) If the affiliated group for such day does not include a corporation which was a member of the group on the first day of the first excess profits tax taxable year of the group, the consolidated original controlled group stock shall not include any amount with respect to stock held by such corporation, and the stock of such corporation held by other members of the affiliated group on such first day shall be taken into account in determining the consolidated original controlled group stock as if such corporation were not a member of the affiliated group.

(viii) *Section 435 (g) (7) adjustment.* For the purpose of computing the consolidated section 435 (g) (7) adjustment for any day—

(a) In the case of a corporation which became a member of the group after the beginning of the first excess profits tax taxable year of the group and prior to such day, the consolidated original controlled group indebtedness shall include the indebtedness described in section 435 (g) (7) owed to such corporation on such first day (properly adjusted to reflect the adjusted basis of such indebtedness recognized for consolidated equity capital purposes), and shall not include any indebtedness described in section 435 (g) (7) owed by such corporation to any other member of the affiliated group; and

(b) If the affiliated group at the beginning of such day does not include a corporation which was a member of the group on the first day of the first excess profits tax taxable year of the group, the consolidated original section 435 (g) (7) indebtedness for such first day shall be computed as if such corporation were not a member of the affiliated group.

(ix) *Additional adjustment.* In computing an amount for which an adjustment is required by reason of the affiliated group including a corporation which was not a member of the group on a prior day or by reason of the group not including a corporation which was a member on a prior day, proper adjustment shall be made for the case in which—

(a) Such corporation was created on or after such prior day, directly or indirectly, by another member of the group in a transaction in which the bases of its assets are determined by reference to the bases of the assets in the hands of the other member of the group, or

(b) Such corporation was absorbed on or after such prior date by a member of the group in a transaction in which the bases of its assets became the bases of such assets in the hands of the transferee.

(14) *Consolidated section 435 (d) average base period net income.* In computing the consolidated section 435 (d) average base period net income, the following rules shall apply:

(i) In no case shall the consolidated section 433 (b) excess profits net income for any month be less than zero; and

(ii) The consolidated section 433 (b) excess profits net income for any month during no part of which any member of the group was in existence shall be zero.

(15) *Eligibility requirements for consolidated section 435 (e) average base period net income.* For the purpose of determining whether an affiliated group may compute its consolidated average base period net income by reference to the consolidated section 435 (e) average base period net income, the following rules shall apply:

(i) The group shall be eligible to use the consolidated section 435 (e) average base period net income computed under paragraph (a) (65) (i), (ii), or (iii) of this section, if at least one member of the affiliated group commenced business before the beginning of the consolidated base period, and if—

(a) The sum of the aggregate of the total assets of the several members of the affiliated group as of the beginning of the first day of the consolidated base period and the aggregate of the total assets as of such first day of any other corporation which was affiliated with a member of the group for the first taxable year of such member ending after June 30, 1950, if such other corporation commenced business prior to such first day, does not exceed $20,000,000; and either

(b) The aggregate of the total payroll (determined under section 435 (e) (4)) for the last half of the consolidated base period of those members of the group which had commenced business before the beginning of the consolidated base period is 130 percent or more of the aggregate of the total payroll of such members for the first half of the consolidated base period; or

(c) The aggregate of the gross receipts (determined under section 435 (e) (5)) for the last half of the consolidated base period of those members of the group which had commenced business before the beginning of the consolidated base period is 150 percent or more of the aggregate of the gross receipts of such members for the first half of the consolidated base period.

(ii) The group shall be eligible to use the consolidated section 435 (e) average base period net income computed under paragraph (a) (65) (i), (ii), or (iii) of this section if at least one member of the group commenced business before the beginning of the consolidated base period, and if—

(a) The aggregate of the net sales for the period beginning January 1, 1950, and ending June 30, 1950, of those members of the group which had commenced business before the beginning of the consolidated base period, equals or exceeds 75 percent of the average of the aggregate of the net sales for the calendar years 1946 and 1947 of such members of the group; and

(b) Forty percent or more of the aggregate of the net sales for the calendar year 1950 of those members of the group which had commenced business before the beginning of the consolidated base period is attributable to a product, or class of products (including any article in which such product or class of products is the principal component and including any article which is a component of such product or class of products), of a kind not generally available to the public at any time prior to January 1, 1946; and

(c) The aggregate of the net sales for the calendar year 1946 of the members described in (b) which is attributable to the product or class of products described in (b) is 5 percent or less of the aggregate of the net sales of such members so attributable for the calendar year 1949.

(iii) The group shall be eligible to use the consolidated section 435 (e) average base period net income computed under paragraph (a) (65) (iv) of this section if it is eligible to use the consolidated section 435 (e) average base period net income computed under paragraph (a) (65) (i), (ii), or (iii) of this section, solely by reason of (ii) of this subparagraph, and if the aggregate of the consolidated section 433 (b) excess profits net income for the 12 months in the calendar year 1949 is not more than 25 percent of the aggregate of the consolidated section 433 (b) excess profits net income for the 12 months in the calendar year 1948.

(16) *Computations under section 435 (e).* For the purpose of computing the consolidated section 435 (e) average base period net income, and for the purpose of applying subparagraph (15) of this paragraph relating to eligibility requirements, the following rules shall apply:

(i) For the purpose of computing the consolidated section 433 (b) excess profits net income for any month, the excess profits net income determined under section 433 (b), or the deficit in excess profits net income determined under section 433 (c), as the case may be, of any member of the affiliated group—

(a) Shall be disregarded if such member did not commence business before the

beginning of the consolidated base period; and

(*b*) Shall be computed as if the group included only those members which commenced business before the beginning of the consolidated base period.

(ii) In computing as of the beginning of the consolidated base period, the aggregate of the total assets of the corporations described in subparagraph (15) (i) (A) of this paragraph—

(*a*) There shall be included the cash and property other than cash held by each such corporation for the purpose of the business;

(*b*) Such property shall be included in an amount equal to its adjusted basis for determining gain upon sale or exchange; and

(*c*) There shall be disregarded stock of one such corporation held by another such corporation.

(iii) The consolidated section 435 (e) average base period net income shall not exceed the sum of—

(*a*) If those members of the affiliated group which were members of the group on June 30, 1950, would be eligible to use the consolidated section 435 (e) average base period net income on the basis of a computation limited to those members only, an amount which would be the consolidated section 435 (e) average base period net income or the consolidated section 435 (d) average base period net income, whichever is higher, if computed with respect to the excess profits net income or deficit in excess profits net income of those members only;

(*b*) If those members of the group which were not members of the group on June 30, 1950, but which were affiliated with each other on that day, would be eligible to use the consolidated section 435 (e) average base period net income on the basis of a computation limited to those members only, an amount which would be the consolidated section 435 (e) average base period net income or the consolidated section 435 (d) average base period net income, whichever is the higher, if computed with respect to the excess profits net income or deficit in excess profits net income of those members only;

(*c*) In the case of each member of the affiliated group which was not affiliated with any other member of the group on June 30, 1950, and which would be eligible to use the average base period net income computed under section 435 (e) if a separate return were filed, the average base period net income under section 435 (e) or the average base period net income under section 435 (d), whichever is the higher, computed separately for such member but subject to the rules provided in § 24.31 (b) (2); and

(*d*) An amount which would be the consolidated section 435 (d) average base period net income if computed without regard to the excess profits net income or deficit in excess profits net income of any member of the group which is described in (*a*), (*b*), or (*c*) above, or which did not commence business before the beginning of the consolidated base period.

(17) *Computation of consolidated alternative average base period net income.* For the purpose of determining the consolidated alternative average base period net income, the following rules shall apply:

(i) In the application of section 442 (c), 442 (d), 443, 444, or 446, in the case of those members of the affiliated group which commenced business before the beginning of the consolidated base period and which were affiliated with each other at the close of the consolidated base period and at all subsequent times involved in the application of such section—

(*a*) Such section shall be applied to all such members as a unit;

(*b*) All computations involved shall be made on the basis of the aggregate of the items separately determined for each such member; and

(*c*) Such section shall be considered applicable to such members only if such application results in a lower excess profits tax on the affiliated group for the taxable year.

Example. In the case of such members, the requirement of section 443 (a) (2) would be met as to all such members if the aggregate of the gross income or net income of such members attributable to new products or services of one or more of such members constitutes, respectively, more than 40 percent of the aggregate of the gross income, or 33 percent of the aggregate of the net income, separately computed for such members.

(ii) Section 442, 443, 444, 445, or 446 shall be considered applicable to any member of the affiliated group other than a member described in (i) only if such section would be applicable to such member if it filed a separate return, and only if the application of such section to such member results in a lower excess profits tax of the group for the taxable year.

(iii) Section 442, 443, 444, 445, or 446 shall not be considered applicable to the members of the group described in (i) or to any member of the group described in (ii) unless a proper application therefor is filed under section 447.

(iv) In the case of a corporation which is a member of the affiliated group for only a part of the taxable year for which the excess profits credit is being computed, and to which section 442, 443, 444, 445, or 446 is applicable, the amount to be included with respect to such corporation in computing the consolidated alternative average base period net income for the purpose of the consolidated excess profits credit for such taxable year shall be limited to an amount which bears the same ratio to the amount which would be included if such corporation were a member of the group throughout the taxable year as the number of days in the taxable year for which the credit is being computed during which it was a member of the group (excluding the day on which it became a member) bears to the total number of days in such taxable year.

(18) *Base period capital addition in case consolidated alternative average base period net income is used.* If the consolidated average base period net income is the consolidated alternative average base period net income, the consolidated base period capital addition shall be computed as if the affiliated group did not include any member for which an amount computed under section 442 (d), 443, 444, 445, or 446 is included in consolidated alternative average base period net income, or for which a substitute excess profits net income computed under section 442 (c) is included in consolidated alternative excess profits net income for any month in the first excess profits tax taxable year of the group or in the two immediately preceding taxable years. In the case of any member of the group for which a substitute excess profits net income computed under section 442 (c) (1) was included in consolidated alternative excess profits net income for any month in the second taxable year preceding the first excess profits tax taxable year of the group, the consolidated base period capital addition computed under the preceding sentence shall be increased by an amount equal to the base period capital addition separately computed for such corporation under section 435 (f) (3) (C).

(19) *Net capital addition or reduction in case consolidated alternative average base period net income is used.* If the consolidated average base period net income is the consolidated alternative average base period net income, the consolidated net capital addition or reduction shall be computed as if the affiliated group did not include any member for which an amount computed under section 443 or section 445 is included in computing consolidated alternative average base period net income. The consolidated net capital addition or reduction so computed shall be properly increased or decreased, as the case may be, by the net capital addition or reduction separately computed for each such member.

(20) *Computations under section 448.* In the computation of the consolidated section 448 excess profits credit, the consolidated section 448 gross credit, and the consolidated section 448 inadmissible asset adjustment, the following rules shall apply in the case of any member of the affiliated group described in section 448 (c) (1) (A), (c) (1) (B), (c) (2) or (c) (4), the corporate books of account of which are maintained in accordance with systems of accounts prescribed by an appropriate regulatory body or, if not so prescribed, are maintained in accordance with the uniform systems of accounts prescribed by the Federal Power Commission or the National Association of Railway and Utility Commissioners:

(i) The sum specified in paragraph (a) (85) of this section shall be computed without regard to any amount with respect to such member otherwise includible in such computation, and the sum so computed shall be increased or decreased, as the case may be, by an amount equal to—

(*a*) The sum of—

(*1*) The average outstanding common and preferred capital stock accounts for the taxable year plus the capital surplus and earned surplus accounts (or minus any deficits therein) at the beginning of the taxable year as properly recorded on

the corporate books of account of such member, and

(2) The average borrowed capital of such member for the taxable year, minus

(*b*) The average for the taxable year of the amount, as properly recorded on the corporate books of account, of the stock of other members of the group held by such member.

(ii) For the purpose of computing the consolidated section 448 inadmissible asset adjustment, the amounts attributable to the assets of such member shall be determined according to the amounts properly recorded in its corporate books of account.

(iii) In the case of any such member which is a member of the group for only part of the taxable year, the amount referred to in (i) shall be reduced to an amount which is such part thereof as the number of days in the taxable year during which such corporation is a member of the group (excluding the day on which it became a member of the group) is of the total number of days in the taxable year.

(21) *Limitation on separate carry-overs or carry-backs of unused excess profits credit.* In no case shall there be included in the consolidated unused excess profits credit adjustment for the taxable year—

(i) As a consolidated unused excess profits credit carry-over under (a) (88) (ii) of this section, relating to the unused excess profits credit of a corporation for a year for which a separate return was filed or for which such corporation joined in a consolidated return filed by another affiliated group, and

(ii) As a consolidated unused excess profits credit carry-back under (a) (89) (ii) of this section, relating to the unused excess profits credit of a corporation for a year for which a separate return was filed or for which such corporation joined in a consolidated return filed by another affiliated group,

an amount in excess of the portions thereof which could have been availed of by such corporation as unused excess profits credit carry-overs and as a carry-back if a separate return had been filed for such taxable year, but with its net income computed subject to the provisions of subparagraph (1) (i) of paragraph (b) of this section.

(22) *Limitation on consolidated unused excess profits credit in case of liquidation, etc.* If any member of the affiliated group distributes during the taxable year substantially all of its assets in liquidation or completes the conversion of substantially all of its assets into assets not held in good faith for the purpose of the business, appropriate adjustment shall be made in the computation of the consolidated unused excess profits credit for such taxable year in accordance with section 432 (e) upon the basis of the portion of the consolidated unused excess profits credit attributable to such corporation.

(23) *Limitation on absorption of unused excess profits credit carry-overs.* In the computation of the consolidated unused excess profits credit adjustment for the taxable year, if there is involved an unused excess profits credit for a prior year of a corporation filing a separate return for such prior year or joining in a consolidated return for such prior year filed by another affiliated group, together with a consolidated unused excess profits credit, or if there are involved such separate unused excess profits credits of two or more members of the group, no portion of the consolidated adjusted excess profits net income for a consolidated return period of the group intervening between the year of the unused excess profits credit and the taxable year shall be taken into account more than once in giving effect to the provisions of (a) (88) (ii) of this section, relating to the computation of the consolidated unused excess profits credit carry-overs originating in separate return years.

(24) *Qualifications on excess profits credit where group membership changed after March 14, 1941.* In the case of an affiliated group formed at any time subsequent to March 14, 1941, or having among its members one or more subsidiaries which became members of the group subsequent to March 14, 1941, the consolidated excess profits credit for the taxable year shall be determined subject to the following qualifications:

(i) The portion of the consolidated excess profits credit otherwise allowable with respect to the common parent corporation and with respect to any subsidiaries which were members of the group on March 14, 1941, shall not exceed—

(*a*) The portion of the consolidated section 433 (a) excess profits net income for the taxable year attributable to such common parent corporation, in the case of a group formed subsequent to March 14, 1941, or

(*b*) In the case of a group formed prior to March 15, 1941, but having among its members in the taxable year one or more subsidiaries which became members of the group subsequent to March 14, 1941, the aggregate of the portion of the consolidated section 433 (a) excess profits net income for the taxable year attributable to the common parent corporation and to the several subsidiary corporations which were members of the group on March 14, 1941.

(*1*) The portion of the consolidated excess profits credit otherwise allowable with respect to a subsidiary corporation which became a member of the group subsequent to March 14, 1941, shall not exceed—

(*a*) The portion of the consolidated section 433 (a) excess profits net income for the taxable year attributable to such subsidiary corporation in the case in which such subsidiary corporation was not on March 14, 1941, a member of an affiliated group within the meaning of section 141, or

(*b*) If such subsidiary corporation was a member of an affiliated group on March 14, 1941, an amount which, together with that portion of the consolidated excess profits credit computed subject to the provisions of these regulations and attributable to other members of the group during the taxable year which were affiliated with such subsidiary corporation on March 14, 1941, within the meaning of section 141, does not exceed the aggregate of the portion of the consolidated section 433 (a) excess profits net income for the taxable year attributable to such subsidiary corporation and to such other members of the group.

(iii) The portion of the consolidated excess profits credit otherwise allowable for the taxable year which is disallowed pursuant to the provisions of (i) and (ii) shall be considered as an unused excess profits credit in respect of those members of the group by reference to which the amount of the credit disallowed under (i) and (ii) was determined, originating, for the purpose of the unused excess profits credit carry-back provisions, in a taxable year subsequent to the last taxable year in respect of which their income was included in a consolidated return, and, for the purpose of the unused excess profits credit carry-over provisions, in a taxable year prior to the first taxable year in respect of which their income was included in a consolidated return.

(iv) The provisions of subdivisions (i) and (ii) shall not apply with respect to the common parent corporation of an affiliated group formed subsequent to March 14, 1941, or to the common parent corporation or subsidiaries of a group in existence on March 14, 1941, acquiring new members subsequent to March 14, 1941, or with respect to subsidiaries becoming members of the group subsequent to March 14, 1941—

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

(*b*) If, immediately after the corporation involved became a member of the group, common parent corporation or subsidiary, as the case may be, stock possessing at least 95 percent of the voting power of all classes of its stock then outstanding and at least 95 percent of each class of its nonvoting stock then outstanding is owned, directly or indirectly, by substantially the same interests by which such stock was owned on March 14, 1941;

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

(*d*) To the extent to which, upon consideration of the facts or circumstances presented by the particular case, the Commissioner determines that a consolidated excess profits credit computed with respect to the affiliated group but without regard to subdivisions (i) and (ii) will not serve to distort the excess profits tax liability of the group or of any of its members.

(*e*) If, upon consideration of the facts and circumstances presented by the particular case, the Commissioner determines that the general purpose of the provisions of subdivisions (i) and (ii) would be better served in a particular respect by adherence to a date subse-

quent to March 14, 1941, such subdivisions shall be administered in that respect as if the appropriate date determined by the Commissioner were substituted in such subdivisions in lieu of the date March 14, 1941.

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

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

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

(c) *Statements and schedules for subsidiaries.* The statement of gross income and deductions and the several schedules required by the instructions on the return must be prepared and filed by the common parent corporation in columnar form so that the details of the items of gross income, deductions, invested capital, and credits, for each member of the affiliated group, may be readily audited. Such statements and schedules shall include in columnar form a reconciliation of surplus for each such corporation, together with a reconciliation of the consolidated surplus. Consolidated balance sheets as of the beginning and close of the taxable year of the group, taken from the books of the members of the group, shall accompany the consolidated return prepared in a form similar to that required for reconciliation of surplus.

(d) *Net operating loss deduction, net operating loss credit, and dividend carry-over before or after consolidated return period.* The consolidated net operating loss (whether computed for the purpose of the deduction or the credit) of an affiliated group, or the unused consolidated basic surtax credit of such group, shall be used in computing the consolidated net operating loss deduction, the consolidated net operating loss credit, or the consolidated dividend carry-over, as the case may be, notwithstanding that one or more corporations, members of the group in the taxable year in which such loss or such unused basic surtax credit originates, make separate returns (or join in a consolidated return made by another affiliated group) for a subsequent taxable year (or, in the case of a carry-back computation, for the preceding taxable year), but only to the extent that such consolidated net operating loss or such unused consolidated basic surtax credit is not attributable to such corporations; and such portion of such consolidated net operating loss or such unused consolidated basic surtax credit as is attributable to the several corporations making separate returns (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year (or, in the case of a carry-back computation, for the preceding taxable year) shall be used by such corporations severally as carry-overs, or as carry-backs, in such separate returns, or in such consolidated returns, of the other affiliated group. Any unused basic surtax credit of a corporation separately produced for a year prior to a taxable year in respect of which its income is included in the consolidated return of the group shall be used in computing the dividend carry-over of such corporation (or the consolidated dividend carry-over of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such unused basic surtax credit was not absorbed in the computation of the consolidated dividends paid credit for the intervening consolidated return period. Any net operating loss separately sustained by a corporation prior to a first taxable year in respect of which its income is included in the consolidated return of the group (or, in the year immediately following a consolidated return year) shall be used in computing the net operating loss deduction of such corporation (or the consolidated net operating loss deduction of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such net operating loss was not absorbed (either as a carry-over or as a carry-back) in the computation of the consolidated net operating loss deduction for consolidated return periods.

(e) *Unused excess profits credit before or after consolidated return period.* The consolidated unused excess profits credit of an affiliated group shall be used in computing the consolidated unused excess profits credit adjustment notwithstanding that one or more corporations, members of the group in the taxable year in which such unused excess profits credit originates, make separate returns (or join in a consolidated return made by another affiliated group) for a subsequent taxable year (or, in the case of a carry-back computation, for the preceding taxable year), but only to the extent that such consolidated unused excess profits credit is not attributable to such corporations; and such portion of such consolidated unused excess profits credit as is attributable to the several corporations making separate returns (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year (or, in the case of a carry-back computation, for the preceding taxable year) shall be used by such corporations severally as carry-overs, or as carry-backs, in such separate returns, or in such consolidated return of the other affiliated group. Any unused excess profits credit of a corporation for a year prior to a taxable year in respect of which its income is included in the consolidated return of the group (or, for the year immediately following a consolidated return year) shall be used in computing the unused excess profits credit adjustment of such corporation (or the consolidated unused excess profits credit adjustment of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such unused excess profits credit was not absorbed (either as a carry-over or as a carry-back) in the computation of the consolidated unused excess profits credit adjustment for consolidated return periods.

(f) *Taxable year of less than 12 months.* Any period of less than 12 months for which either a separate return or a consolidated return is filed, under the provisions of § 24.13, shall be considered as a taxable year, and the excess profits net income or the consolidated section 433 (a) excess profits net income for such year, as the case may be, shall be placed on an annual basis pursuant to the provisions of section 433 (a) (2).

§ 24.32 *Method of computation of income for period of less than 12 months.* If a corporation, during the taxable year of the group, becomes a member or ceases to be a member of an affiliated group which makes or is required to make a consolidated return for such year, the income of such corporation to be included in the consolidated return shall be computed on the basis of its income as shown by its books if the accounts are so kept that the income for the period during which it is a member of the group can be clearly and accurately determined. If the accounts are not so kept, the income to be included in the consolidated return shall be computed on the basis of that proportion of its income (subject to the elimination of items exempt from taxation and the addition of items not allowable as deductions) for the full period covered by its books which the number of days for which its income is included in the consolidated return bears to the number of days in the full period covered by its books; but, in the discretion of the Commissioner, there may be eliminated before the proration is made items of income or deduction clearly and accurately determined to be attributable to particular periods, and, after the proration is made, such eliminated items will be added to (if items of income) or deducted from (if deductible items) the income determined by proration for the period to which such items are applicable. The credits allowable under sections 13 and 15 of the

Code shall be given for the period to which they are properly applicable under the facts in the case.

§ 24.33 *Gain or loss from sale of stock, or bonds or other obligations.* Gain or loss from the sale or other disposition (whether or not during a consolidated return period), by a corporation which during any period of time has been a member of an affiliated group which makes or is required to make a consolidated return, of any share of stock or any bond or other obligation issued or incurred by another corporation which during any part of such period was a member of the same group, shall be determined, and the extent to which such gain or loss shall be recognized and shall be taken into account shall also be determined, in the same manner, to the same extent, and upon the same conditions as though such corporations had never been affiliated (see sections 111 to 115, inclusive, and section 117, and the regulations thereunder), except—

(a) In the case of a disposition (by sale, or in complete or partial liquidation not involving cash in an amount in excess of the adjusted basis of both the stock and the bonds and other indebtedness liquidated, or otherwise) during a consolidated return period to another member of the group (see §§ 24.31 and 24.37);

(b) That the basis for determining the gain or loss, in the case of shares of stock, or in the case of bonds or other obligations, held during any part of a consolidated return period, shall be determined in accordance with §§ 24.34 and 24.35; and

(c) As provided in § 24.36 (imposing certain limitations upon losses otherwise allowable upon sales of stock, or bonds or other obligations).

§ 24.34 *Sale of stock; basis for determining gain or loss*—(a) *Scope of section.* This section prescribes the basis for determining the gain or loss upon any sale or other disposition (hereinafter referred to as "sale") by a corporation which is (or has been) a member of an affiliated group which makes (or has made) a consolidated return for any taxable year, of any share of stock issued by another member of such group (whether issued before or during the period that it was a member of the group and whether issued before, during, or after the taxable year 1929), and held by the selling corporation during any part of a period for which a consolidated return is made or required under these regulations. For the basis in the case of a sale of bonds, see § 24.35.

(b) *Sales made while selling corporation is member of affiliated group.* If the sale is made within a period during which the selling corporation is a member of the affiliated group, whether or not during a consolidated return period, and whether or not, as a result of such sale, the issuing corporation ceases to be a member of the group, the basis shall be determined as follows:

(1) The aggregate bases of all shares of stock of the issuing corporation held by each member of the affiliated group (exclusive of the issuing corporation), immediately prior to the sale, shall be determined separately for each member of the group, and adjusted in accordance with the Code, but without regard to any adjustment under the last sentence of section 113 (a) (11) relating to losses of the issuing corporation sustained by such corporation after it became a member of the group.

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

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

(ii) With respect to each of such taxable years for which consolidated returns were made or were required both for income and for excess profits tax purposes, the excess, if any, of all losses of such issuing corporation for such year, properly adjusted in the computation of consolidated excess profits net income or consolidated section 433 (a) excess profits net income, over the amount of such losses for such year computed under subdivision (i) of this subparagraph to the extent that such excess could not have been availed of by such corporation as a net operating loss in computing its excess profits net income for such taxable years if it had made a separate return for each of such years, and

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

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

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

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

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

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

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

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

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

(4) The basis of each share of stock held by the selling corporation (determined, as above, as of the time the selling corporation ceased to be a member of the group) shall then be adjusted in accordance with the Code (see, particularly, sections 111 to 115, inclusive) in order to determine the basis at the time of the sale.

(d) *Definition of "loss," "consolidated loss," and "net loss" or "net operating*

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

§ 24.35 *Sale of bonds or other obligations; basis for determining gain or loss.* In the case of a sale or other disposition by a corporation, which is (or has been) a member of an affiliated group which makes (or has made) a consolidated income tax or excess profits tax return for any taxable year, of bonds or other obligations issued or incurred by another member of such group (whether or not issued or incurred while it was a member of the group and whether issued or incurred before, during, or after the taxable year 1929) and held by the selling corporation during any part of a period for which a consolidated return is made or required under these regulations, the basis of each bond or obligation, for determining the gain or loss upon such sale or other disposition, determined in accordance with the Code, but without regard to any adjustment under the last sentence of section 113 (a) (11), shall be decreased (except as otherwise provided in this section) by the excess, if any, of the aggregate of the deductions computed under paragraph (b) (2) or (c) of § 24.34 over the sum of the aggregate bases of the stock of the debtor corporation as computed under paragraph (b) (1) or (c) of § 24.34, as the case may be, held by the members of the group. The adjustment with respect to so much of such deductions as is based upon losses sustained during the taxable year 1929 and subsequent taxable years for which the last day prescribed by law for the filing of the return fell on or before March 1, 1945 (the date on which Treasury Decision 5441 was filed with the Division of the Federal Register), and availed of on consolidated returns filed for such years shall be made only in those cases in which the sales or other disposition of such bonds or other obligations resulted in a loss. See, also, § 24.40, relating to disallowance of loss upon intercompany bad debts.

§ 24.36 *Limitation on allowable losses on sale of stock, or bonds or other obligations*—(a) *General rule.* No loss shall be allowed under § 24.33, § 24.34, or § 24.35 upon the sale or other disposition of stock or bonds or obligations to the extent that such loss is attributable to (1) transfers of assets within the affiliated group (by sale, gift, or otherwise) without consideration or at markedly fictitious values, during the period in which the corporations were affiliated (whether or not a consolidated return was made), or (2) a distribution during a period in which the corporations were affiliated of earnings or profits accumulated prior to the date upon which the distributing corporation became a member of the group.

(b) *Qualification of general rule.* Paragraph (a) of this section shall not be considered as in any way limiting the operation of the provisions of the Code relating to the basis for determining gain or loss upon the sale or other disposition of property (see sections 111 to 115, inclusive), but as being in amplification of and not in substitution for such provisions; subject, however, to this qualification: that to the extent that the transfers of assets referred to in paragraph (a) of this section are taken into account under the terms of the Code in making adjustments in the basis, such transfers will not be taken into account in denying losses under paragraph (a) of this section.

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

(i) Where such distribution is in complete liquidation and redemption of all of its stock (whether in one distribution or a series) and of its bonds and other indebtedness, if any, and falls without the provisions of section 112 (b) (6), and is the result of a bona fide termination of the business and operations of such member of the group, in which case the adjustments specified in §§ 24.34 and 24.35 shall be made, and § 24.36 shall be applicable; or

(ii) Where such a distribution without the provisions of section 112 (b) (6) is one made in cash in an amount in excess of the adjusted basis of the stock, and bonds and other indebtedness, in which case gain shall be recognized to the extent of such excess.

(2) When the business and operations of the liquidated member of the affiliated group are continued by another member of the group, it shall not be considered a bona fide termination of the business and operations of the liquidated member. With respect to the acquisition of its bonds by the issuing company, see § 24.41 (b).

(3) For the purpose of determining whether an affiliated corporation receiving property in a liquidating distribution qualifies under the provisions of section 112 (b) (6) (A), the aggregate amount of the stock of the liquidated corporation owned by the several members of the affiliated group on the date of the adoption of the plan of liquidation and at all times subsequent thereto and prior to the receipt of the property in liquidation shall be considered as owned by the distributee.

(b) *After consolidated return period.* In case any such distribution is made after a consolidated return period, whether in complete or partial liquidation, except a complete liquidation within the provisions of section 112 (b) (6), with respect to stock and with respect to bonds, debentures, notes, certificates, and other indebtedness of the liquidated corporation acquired prior to or during any taxable year subsequent to 1928 for which a consolidated income or excess profits tax return was filed, the adjustments specified in §§ 24.34 and 24.35 shall be made, and § 24.36 will be applicable.

§ 24.38 *Basis of property*—(a) *General rule.* Subject to the provisions of paragraphs (b) and (c) of this section and except as otherwise provided in §§ 24.34 and 24.39, the basis during a consolidated return period for determining the gain or loss from the sale or other disposition of property, or upon which exhaustion, wear and tear, obsolescence, amortization, and depletion are to be allowed, shall be determined and adjusted in the same manner as if the corporations were not affiliated (see sections 111 to 115, inclusive), whether such property was acquired before or during a consolidated return period. Except as otherwise provided in § 24.39, such basis immediately after a consolidated return period (whether the affiliation has been broken or whether the privilege of making a consolidated return is not exercised) shall be the same as immediately prior to the close of such period.

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

(c) *Basis after liquidation.* (1) Where property is acquired upon a distribution described in § 24.37 (a) in which gain or loss is recognized to the distributee, the basis of such property shall be its fair market value at date of acquisition.

(2) Where property is acquired upon a distribution in which gain or loss to the distributee is not recognized pursuant to the provisions of section 112 (b) (6), the basis of such property shall be the same as it would be in the hands of the transferor.

(3) Where property is acquired upon a distribution (not a complete liquidation within the provisions of section 112 (b) (6)) in which gain or loss to the distributee is not recognized as provided in

§ 24.37 (a), the basis of such property shall be the same as the basis (determined in accordance with sections 111 to 115, inclusive, and §§ 24.34 and 24.35) of the stock and the bonds and other obligations exchanged therefor, adjusted for—

(i) The transfer of assets within the affiliated group by the distributing corporation (by sale, gift, or otherwise) without consideration or at markedly fictitious values, during the period for which the corporations were affiliated (whether or not a consolidated return was made);

(ii) Distributions during a period in which the corporations were affiliated of earnings or profits accumulated prior to the date upon which the distributing corporation became a member of the group; and

(iii) Cash received in the distribution.

(4) Where property was acquired upon a distribution in which gain or loss to the distributee was recognized pursuant to the provisions of section 112 (b) (7), or the corresponding provisions of the Revenue Act of 1938, the basis of such property shall be the same as the basis (determined in accordance with sections 111 to 115, inclusive, and § 24.34) of the stock exchange therefor, adjusted for—

(i) The transfer of assets within the affiliated group by the distributing corporation (by sale, gift, or otherwise) without consideration or at markedly fictitious values, during the period for which the corporations were affiliated (whether or not a consolidated return was made);

(ii) Distribution during a consolidated return period of earnings or profits accumulated prior to the date upon which the distributing corporation became a member of the group;

(iii) Cash received in the distribution; and

(iv) The amount of gain recognized to the distributee in the liquidation.

(d) *Basis not affected by acquisition or sale of stock.* Neither the acquisition of stock of a corporation nor its sale or other disposition shall affect the basis of the property of such corporation for determining gain or loss or upon which exhaustion, wear and tear, obsolescence, amortization, and depletion are to be allowed.

§ 24.39 *Inventories*—(a) *Consolidated return for first year of affiliation.* If the income of an affiliated corporation is included in a consolidated return for the period immediately following the date upon which such corporation became a member of the affiliated group, the value of its opening inventory to be used in computing the consolidated net income shall be the proper value of the closing inventory used in computing its net income for the preceding taxable year.

(b) *Consolidated return after separate return by affiliates.* If a corporation which is a member of the affiliated group for the first consolidated return period was a member of the group in the preceding taxable year, the value of its opening inventory to be used in computing the consolidated net income for the first consolidated return period shall be the proper value of the closing inventory used in computing its net income for the preceding taxable year decreased in the amount of profits or increased in the amount of losses reflected in such inventory which arose in transactions between members of the affiliated group and which have not been realized by the group through final transactions with persons other than members of the group.

(c) *Separate returns made after consolidated returns.* If a corporation which was a member of an affiliated group in a consolidated return period makes or is required to make a separate return for the succeeding taxable year, the value of its opening inventory to be used in computing its net income for such succeeding taxable year shall be the proper value of its closing inventory used in computing consolidated net income for the last consolidated return period increased in the amount of profits or decreased in the amount of losses eliminated in the computation of such inventory as profits or losses arising in transactions between members of the affiliated group, but in an amount not exceeding, in the case of profits, either the amount of profits arising from such intercompany transactions reflected in the closing inventory of such corporation for such succeeding taxable year or the amount of such intercompany profits eliminated from its opening inventory for its first consolidated return period pursuant to the provisions of paragraph (b) of this section, and not exceeding, in the case of losses, either the amount of losses arising from intercompany transactions reflected in the closing inventory for such corporation for such succeeding taxable year or the amount of such intercompany losses eliminated from its opening inventory for its first consolidated return period pursuant to the provisions of paragraph (b) of this section.

(d) *Years in consolidated base period, etc.* For each of the years in the consolidated recent loss period, in the consolidated base period, or in any other period involved in the computation of the consolidated average base period net income, proper adjustment with respect to unrealized profits or losses in transactions between members of the affiliated group (including any component corporation of any such member as defined in section 461) which were affiliated with each other during such year shall be made in the opening and closing inventories of each such affiliated corporation.

§ 24.40 *Bad debts*—(a) *Deduction during consolidated return period.* No deduction shall be allowed during a consolidated return period to any member of the affiliated group on account of worthlessness in whole or in part of any obligation (including accounts receivable, bonds, notes, debts, and claims of whatsoever nature) of any other corporation which was a member of the group as of the last day of the taxable year or which was liquidated by the group during such year, except as a loss resulting from a bona fide termination of the business and operations of such other corporation, whether in liquidation or otherwise, in which case the loss shall be computed subject to the adjustments specified in § 24.35, and the provisions of § 24.36 shall be applicable.

(b) *Limitation of allowance after consolidated return period.* With respect to obligations (including accounts receivable) of a member of an affiliated group acquired in any way by another member of the group prior to or during any taxable year subsequent to 1928 for which a consolidated income or excess profits tax return was filed, the adjustments prescribed with respect to the allowance of losses upon the sale of bonds shall be applicable to the allowance of any bad debt deduction for any period subsequent to the consolidated return period. See § 24.35.

§ 24.41 *Sale and retirement by corporation of its bonds*—(a) *Issued at discount or premium.* If a corporation which during any taxable year has been a member of an affiliated group which makes or is required to make a consolidated return, has issued its bonds at a discount or premium (whether or not during a consolidated return period), deduction will be allowed for the amortization of the discount, and income included for the amortization of the premium, in the same manner, to the same extent, and upon the same conditions as if the corporation had never been affiliated, except that no deduction for amortization of discount shall be allowed, and no income shall be included for amortization of premium, during a period for which a consolidated return is made, on bonds of one member of the group owned by another member of the group.

(b) *Acquisition of bonds by issuing company.* If a corporation which has been a member of an affiliated group which makes or is required to make a consolidated return, acquires its bonds (whether or not from another member of such group and whether or not during a consolidated return period), gain or loss shall be recognized in the same manner, to the same extent, and upon the same conditions as if the corporation had never been affiliated, except that, if such bonds are acquired from another member of the group during a consolidated return period, and in a transaction other than a distribution in a liquidation in which gain or loss to the distributee is recognized pursuant to § 24.37 (a), in determining the gain or loss to the issuing company from such acquisition, the basis thereof to such other member of the group shall be deemed the purchase price.

§ 24.42 *Capital loss limitations and carry-over.* (a) The provisions of sections 23 (g) and (k), 117 (d), (e), and (j), 122 (d), and 204 (c) (5), with respect to gains and losses from sales or exchanges of capital assets shall be applied, in respect of such gains and losses sustained during a consolidated return period as if the affiliated group were the taxpayer.

(b With respect to a net capital loss sustained by a corporation in a taxable year prior to the first consolidated return period in respect of which its income is included in a consolidated

return, such loss (in an amount not in excess of the net capital gain of such corporation for succeeding consolidated return periods) shall, for the purposes of section 117 (e), relating to net capital loss carry-overs, be treated as if such net capital loss had been sustained by the affiliated group.

(c) A consolidated net capital loss of an affiliated group for a consolidated return period shall be considered as a consolidated short-term capital loss in subsequent consolidated return periods notwithstanding that one or more corporations, members of the group in the taxable year in which such loss was sustained, make separate returns for subsequent taxable years (or join in a consolidated return made by another affiliated group), but only to the extent that such consolidated net capital loss is not attributable to such corporations; and such portion of such consolidated net capital loss as is attributable to the several corporations making separate returns (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year shall be considered as a short-term capital loss in such separate returns, or in such consolidated return of the other affiliated group, but only to the extent that such portion of such consolidated net capital loss was not absorbed in intervening taxable years by net capital gains, consolidated or separate, as the case may be. Any net capital loss sustained by a corporation prior to the first taxable year in respect of which its income is included in the consolidated return shall be considered as a short-term capital loss in the separate return of such corporation (or the consolidated return of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such net capital loss was not absorbed in intervening taxable years by net capital gains, consolidated or separate, as the case may be.

§ 24.43 *Credit for foreign taxes.* The credit allowed to an affiliated group for taxes paid or accrued during the consolidated return period to any foreign country or to any possession of the United States (under section 131) shall be computed and allowed as if the affiliated group were the taxpayer, and as if the aggregate taxes paid by the several members of the group and the credits allowed with respect to such payments were payments made by and credits allowed to the group.

§ 24.44 *Methods of accounting*—(a) *In general.* All members of the affiliated group shall adopt that method of accounting which clearly reflects the consolidated net income. A method of accounting which does not treat with reasonable consistency all items of gross income and deductions of the various members of the group shall not be regarded as clearly reflecting the consolidated net income. For example, one member of the group will not be permitted to report items of income or deductions on the cash method of accounting, while another member of the same group reports the same or similar items on the accrual method. The provisions of this paragraph are subject to the exceptions stated in paragraph (b) of this section.

(b) *Combination of methods.* If the members of an affiliated group have established different methods of accounting, each member may retain such method with the consent of the Commissioner, provided that the consolidated net income and the consolidated section 433 (a) excess profits net income are clearly reflected: *And provided further,* That intercompany transactions affecting such consolidated items shall be eliminated, and adjustments on account of such transactions shall be made with reference to a uniform method of accounting to be selected by the members of the group with the consent of the Commissioner.

(c) *Change to accrual method.* In the case of a corporation which previously has reported its income (whether in a separate or a consolidated return) in accordance with a method other than the accrual method and is required under this section to report its income for the taxable year under the accrual method, items of income which accrued prior to the taxable year but were properly omitted in the determination of net income under the method of accounting formerly followed shall be included in the income for the taxable year of the change in accounting method, and items of income which were properly included in the determination of net income under the method of accounting formerly followed shall not be included in the income for the taxable year of the change or any subsequent year. In such a case, deductions which accrued prior to the taxable year but which were properly omitted in the determination of net income under the method of accounting formerly followed shall be allowed for the taxable year of the change in accounting method, and deductions which were properly included in the determination of net income under the method of accounting formerly followed shall not be allowed in the determination of net income for the taxable year of the change or any subsequent year.

[F. R. Doc. 51-5348; Filed, May 7, 1951; 8:54 a. m.]

[26 CFR, Part 411]

PAYMENT OF EMPLOYERS' TAX AND EMPLOYEES' TAX UNDER THE RAILROAD RETIREMENT TAX ACT

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO USE OF FEDERAL RESERVE BANKS AND AUTHORIZED COMMERCIAL BANKS

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth below in tentative form are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 1535 and 3791 of the Internal Revenue Code (53 Stat. 183, 467; 26 U. S. C. 1535, 3791).

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

Regulations 114 (26 CFR Part 411) are hereby amended as follows:

PARAGRAPH 1. Immediately preceding § 411.601, the row of asterisks following the provisions of paragraph (1) of section 3310 (f) of the Internal Revenue Code, added by Treasury Decision 5794, approved July 6, 1950, is striken, and the following provisions of law, being paragraph (2) of such section 3310 (f), are inserted in lieu thereof:

(2) *Use of Government depositaries.* The Secretary may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed by this title, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks and trust companies is to be treated as payment of such tax to the collector.

PAR. 2. Immediately after § 411.606, the following new section is inserted:

§ 411.606a *Use of Federal Reserve banks and authorized commercial banks in connection with payment of employers' tax and employees' tax with respect to compensation paid on or after July 1, 1951*—(a) *In general.* If the amount of employees' tax deducted during a calendar month after June 30, 1951, plus the amount of employers' tax imposed for such month, exceeds $100 in the case of an employer, it will be the duty of such employer to deposit the aggregate amount of such taxes with a Federal Reserve bank. The employer, at his election, may forward the remittance to a commercial bank authorized by the Secretary of the Treasury to accept remittances of the aforementioned taxes for transmission to a Federal Reserve bank. If a portion of the aforementioned taxes for a calendar month is reportable under § 411.601 on the return on Form CT-1 for the tax-return period immediately preceding such month, it will be the duty of the employer to deposit such portion in the same manner as if it were for the last calendar month in such tax-return period, except that no deposit shall be made for a calendar month prior to July 1, 1951.

(b) *Procedure.* The deposit of the taxes for the first or second calendar month of a tax-return period shall be made on or before the fifteenth day after the close of the month for which the deposit is made. The deposit of the taxes for the third calendar month of a tax-return period shall be made on or before the last day of the first calendar month following the close of such period. Each deposit shall be accompanied by a Railroad Retirement Deposi-

tary Receipt (Form 515), which shall be prepared in accordance with the instructions applicable thereto. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the employer. Every employer making deposits pursuant to this section shall attach to his return on Form CT-1 for the tax-return period with respect to which such deposits are made, in part or full payment of the taxes shown thereon, depositary receipts so validated. If the taxes due for such tax-return period exceed the aggregate amount of the depositary receipts so attached, the employer shall pay to the collector the balance due. If the aggregate amount of such depositary receipts exceeds such taxes, a credit or refund may be obtained; and in the event a credit is taken on the return on Form CT-1 for a subsequent quarter, the employer shall reduce the amount of the deposit otherwise required under paragraph (a) of this section for one of the months of such subsequent quarter by the amount of such credit.

(c) *Procurement of prescribed form.* Initially, Form 515, Railroad Retirement Depositary Receipt, will so far as possible be furnished the employer by the collector. An employer not supplied with the proper form should make application therefor to the collector in ample time to have such form available for use in making his initial deposit within the time prescribed in this section. Thereafter a blank form will be sent to the employer by the Federal Reserve bank when returning the validated depositary receipt. An employer may secure additional forms from a Federal Reserve bank by applying therefor and advising the bank of the identification number to be shown on his depositary receipts. The identification number to be shown by an employer on each depositary receipt should be the same as the identification number required to be shown by the employer on each quarterly return, Form 941, to be filed with the collector pursuant to Regulations 116 (26 CFR Part 405), relating to the collection of income tax at source on wages. The address of the employer, as shown on each depositary receipt, should be the address to which the receipt should be returned following validation by the Federal Reserve bank.

[F. R. Doc. 51-5318; Filed, May 7, 1951; 8:52 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 986]

HANDLING OF HOPS GROWN IN OREGON, CALIFORNIA, WASHINGTON, AND IDAHO AND OF HOP PRODUCTS PRODUCED THEREFROM IN THESE STATES

MINIMUM STANDARDS OF QUALITY

Notice is hereby given that the Department is considering the issuance of the proposal herein set forth in accordance with the provisions of Marketing Agreement No. 107 and Order No. 86, regulating the handling of hops grown in Oregon, California, Washington, and Idaho, and of hop products produced therefrom in these States (7 CFR Part 986), effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should forward the same to the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., in sufficient time to be received not later than the close of business on the thirtieth day after publication of this notice in the FEDERAL REGISTER.

The Hop Control Board, the administrative agency established pursuant to the provisions of the aforesaid marketing agreement and order, at a meeting in San Francisco on July 21-22, 1950, by unanimous resolution, requested action by the Secretary to change the minimum standards of quality for hops from 15 percent to 10 percent leaf and stem content. Pursuant to advice from the Department that additional evidence in regard to the desirability of changing the minimum standards would be necessary before a proposed rule could be issued, the Board on December 29, 1950, invited hop growers, dealers, and brewers to submit written evidence during January 1951 to the Department as to the propriety or impropriety of a change in the minimum standards. The Department received 130 statements from brewers and hop dealers favoring the change recommended by the Board in regard to minimum standards. Only one communication in opposition to the recommended change was received. Evidence submitted was generally to the effect that excessive leaf and stem content of hops imparts a harsh or bitter flavor to the fermented malt beverage produced, and hops with more than 10 percent leaf and stem content are therefore unacceptable to brewers; that fermented malt beverage produced with such hops are unacceptable to the public; and that hops with more than 10 percent leaf and stem content in some instances have clogged valves and otherwise interfered with brewing operations, making it difficult to obtain a uniform product.

A report of the Grain Branch, Production and Marketing Administration, United States Department of Agriculture, which operates the inspection service on hops, shows the average leaf and stem content for hops of the 1946, 1947, 1948, 1949, and 1950 crops, respectively, was as follows: 6.05 percent, 6.42 percent, 5.75 percent, 3.91 percent, and 3.9 percent. For the five years indicated, 4.5 percent, 8.1 percent, 1.4 percent, 0.2 percent, and 0.1 percent, of the respective crops contained leaves and stems in excess of 10 percent.

The proposal is as follows:

(a) The initial standards and requirements in § 986.5 (a) (2) of Marketing Agreement No. 107 and Order No. 86 (14 F. R. 3660) shall be superseded at 12:01 a. m., P. s. t. August 1, 1951, in respect to hops of the 1951 and subsequent crops, by the standards of quality and requirements set forth in (b) hereof.

(b) *Standards of quality and requirements.* Until such time as other standards and requirements are prescribed under this section, no hops of the 1951 and subsequent crops shall be deemed merchantable or entitled to certification which contain more than 10 percent by weight of leaves and stems as defined in § 986.5 (a) (1) of said agreement and order and as determined by the Federal-State inspection service.

Issued at Washington, D. C., this 2d day of May 1951.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 51-5324; Filed, May 7, 1951; 8:54 a. m.]

DEPARTMENT OF COMMERCE

Civil Aeronautics Administration

[14 CFR, Part 612]

AERONAUTICAL FIXED COMMUNICATIONS

NOTICE OF PROPOSED RULE MAKING

Part 612 was published on August 25, 1950, in 15 F. R. 5701. Notice is hereby given that adoption of the following revision of that part is contemplated. All interested persons who desire to submit written data, views, or arguments for consideration by the Administrator of Civil Aeronautics in connection with the proposed revision shall send them to the Civil Aeronautics Administration, Office of Federal Airways, Washington 25, D. C., within 15 days after publication of this notice in the FEDERAL REGISTER.

PART 612—AERONAUTICAL FIXED COMMUNICATIONS

Sec.
612.1 Basis and purpose.
612.2 Acceptability of messages.
612.3 Assessment of fees.
612.4 Methods of payment.
612.5 Priority of transmission.

AUTHORITY: §§ 612.1 to 612.5 issued under sec. 205, 52 Stat. 984, as amended, sec. 10, 62 Stat. 453; 49 U. S. C. and Sup., 425, 1159. Interpret or apply secs. 301, 302, 52 Stat. 985, sec. 606, 56 Stat. 1067; 49 U. S. C. 451, 452, 5 U. S. C. 606.

§ 612.1 *Basis and purpose.* The purpose of this part is to prescribe the types of messages pertaining to international or overseas aircraft operations which will be accepted for transmission by CAA communications stations and the fees which will be assessed for the transmission of certain types of these messages on an interim basis pending the results of the studies now in progress by the International Civil Aviation Organization and International Telecommunications Union with respect to Resolutions 8 and 11 of the International Telegraph Regulations, Paris 1949 Revision. The basis for the part is found in sections 301 and 302 of the Civil Aeronautics Act of 1938, as amended, and section 10 of the International Aviation Facilities Act of 1948.

§ 612.2 *Acceptability of messages.* (a) CAA Overseas Foreign Aeronautical

Communications Stations and CAA Interstate Airway Communications Stations located in territory (including Alaska) outside the continental United States, will accept for transmission messages regarding international or overseas operations where such messages are of the following types:

(1) Messages which concern an aircraft, ship, other vehicle, or person, that is in danger and requires immediate assistance.

(2) Air traffic control messages.

(3) Aircraft movement messages.

(4) Messages of immediate safety concern to an aircraft in flight or about to depart.

(5) Meteorological messages exchanged between meteorological offices or ones which request or contain meteorological observations.

(6) Notices to airmen.

(7) Messages concerning public aircraft.

(8) Messages dealing with the operation of air navigation facilities.

(9) Messages exchanged between public officials connected with civil aviation.

(10) Messages which contain data necessary for weight and balance computation with regard to specific flights.

(11) Messages concerning changes in aircraft operating schedules to become effective within 72 hours after the message is filed.

(12) Messages concerning the servicing of aircraft, or concerning parts or materials required for aircraft, when the aircraft is actually in flight or is scheduled for flight within 48 hours.

(13) Messages concerning non-routine landings to be made by aircraft actually in flight.

(14) Messages concerning the preflight arrangement of air navigation services, and operational servicing for non-scheduled or irregular operations of aircraft, filed within 48 hours of proposed time of departure.

(15) Reservation messages originated by an airline operating agency to secure space required in a public transport aircraft scheduled to depart within 72 hours after the message is filed.

(b) CAA Interstate Airway Communications Stations located within the continental United States (excluding Alaska) will accept for transmission messages regarding international or overseas operations where such messages are of the types listed in paragraph (a) (1) through (9) of this section.

(c) Where adequate non-government communication facilities are not available, CAA Overseas Foreign Aeronautical Communications Stations, and CAA Interstate Airway Communications Stations located in territory (including Alaska) outside the continental United States, will accept messages originated by an airline operating agency where such messages relate to international or overseas operations and contain matter concerning the following:

(1) Messages concerning changes in aircraft operating schedules to become effective more than 72 hours after the message is filed.

(2) Messages concerning the servicing of aircraft, or concerning parts or materials required for aircraft, when the aircraft is not actually in flight or is not scheduled for flight within 48 hours.

(3) Messages concerning the preflight arrangement of air navigation services, and operational servicing for non-scheduled or irregular operations of aircraft, filed more than 48 hours prior to the proposed time of departure.

(4) Reservation messages originated by an airline operating agency to secure space required in a public transport aircraft scheduled to depart more than 72 hours after the message is filed.

(5) Parts, equipment or supplies required for other than aircraft or air navigation, communication and other essential ground facilities.

(6) Train reservations or hotel accommodations for passengers or agency personnel.

(7) Lost baggage or personal effects.

(8) Tickets or cargo shipments or payment therefore.

(9) Inquiries relative to passenger whereabouts and cargo receipt or delivery.

(10) New or revised passenger or cargo rates.

(11) Crew assignments and similar operations personnel matters to become effective within seven days after the time of the message.

(12) Post-flight reports for routine record purposes.

(13) Publicity messages and special handling of dignitaries.

§ 612.3 *Assessment of Fees.* No fee shall be assessed for the transmission of a message which is of a type or types specified in § 612.2 (a) (1) through (14) or (b). A separate fee shall be assessed for the transmission to each addressee of a message which contains, in whole or in part, matter related to any of that described in § 612.2 (a) 15 or (c).

Transmission of such a message to an addressee may in some cases consist of receipt of the message from a non-CAA communications station and the forwarding of that message without additional use of the CAA communications system. Only one fee per addressee shall be assessed regardless of the number of CAA communications stations through which the message may be sent. Each fee shall be computed on the basis of one dollar ($1.00) for each twenty words or portion thereof contained in the text and signature of the message. If delivery of the message involves refiling with a non-CAA communications facility, such refiling will be accomplished on a "Collect" basis at no additional cost to nor assumption of liability by the CAA. Local telecommunication facilities required for the acceptance or delivery of messages will be provided by the user without expense to the CAA.

NOTE: The Internal Revenue Code provides that there shall be imposed on the amount paid within the states of the United States, the Territories of Alaska and Hawaii, and the District of Columbia, for each telegraph, cable, or radio dispatch or message, a tax equal to (a) twenty-five per cent of the amount so paid, or (b) ten percent of the amount so paid in the case of an international communication. (Sec. 3797 (a) (9), 53 Stat. 469, Sec. 3465 (a) (1) (B). 56 Stat. 975, Sec. 1650, 58 Stat. 61; 26 U. S. C. 3797, 3465, 1650.)

§ 612.4 *Methods of payment.* Fees shall be paid in United States dollars to the CAA official in charge of the communications station first transmitting or receiving the message. Deferred payment of fees shall be permitted only where prior written arrangements have been made for such payment on a periodic basis. Such arrangements may be made with the CAA Regional Administrator having jurisdiction over the CAA communications station first transmitting or receiving the message.

§ 612.5 *Priority of transmission.* The aeronautical messages of the types stated in § 612.2 (a) (1) through (14) shall have priority over messages containing matter described in § 612.2 (a) (15) and (c).

[SEAL] DONALD W. NYROP,
Administrator of Civil Aeronautics.

[F. R. Doc. 51-5366; Filed, May 7, 1951; 8:55 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

WYOMING

STOCK DRIVEWAY WITHDRAWAL NO. 188, WYOMING NO. 31, MODIFIED

MAY 2, 1951.

By virtue of the authority contained in section 10 of the act of December 29, 1916 (39 Stat. 865), as amended by the act of January 29, 1929 (45 Stat. 1144; 43 U. S. C. 300), and in section 7 of the act of June 28, 1934 (48 Stat. 1272), as amended by the act of June 26, 1936 (49 Stat. 1976; 43 U. S. C. 315f) and in accordance with Departmental Order No. 2583, section 2.22 (a) of August 16, 1950 (15 F. R. 5643), it is ordered as follows:

The following-described public lands in Wyoming are hereby classified as necessary and suitable for the purpose and, excepting any mineral deposits therein, are withdrawn from all disposal under the public-land laws and reserved, subject to valid existing rights, for the use of the general public as an addition to Stock Driveway Withdrawal No. 188, Wyoming No. 31:

SIXTH PRINCIPAL MERIDIAN

T. 35 N., R. 84 E.,
Sec. 32, N½NE¼ and SE¼NE¼;
Sec. 33, SW¼NW¼.

The areas described aggregate 160 acres.

Any mineral deposits in the lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

The order of the Assistant Secretary of the Interior, dated July 6, 1944, which modified Stock Driveway Withdrawal No. 188, Wyoming No. 31, is hereby revoked as to the following-described land:

SIXTH PRINCIPAL MERIDIAN

T. 35 N., R. 84 W.,
Sec. 19, NE¼NW¼.

The area described contains 40 acres.

This revocation is made in furtherance of an exchange under section 8 of the said act of June 28, 1934, as amended, by which the offered land will by this order become a part of Stock Driveway Withdrawal No. 188. This action is, therefore, not subject to the provisions contained in the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284), as amended, granting preference rights to veterans of World War II and others.

WILLIAM ZIMMERMAN, Jr.,
Assistant Director.

[F. R. Doc. 51–5284; Filed, May 7, 1951; 8:47 a. m.]

ALASKA

AIR-NAVIGATION SITE WITHDRAWAL NO. 268

MAY 2, 1951.

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U. S. C. sec. 214), and in accordance with Departmental Order No. 2583, section 2.22 (a) of August 16, 1950 (15 F. R. 5643), it is ordered as follows:

Subject to valid existing rights, the public lands within the following-described area in Alaska are hereby withdrawn from all forms of appropriation under the public-land laws and reserved for the use of the Civil Aeronautics Administration, Department of Commerce, in the maintenance of air-navigation facilities, the reservation to be known as Air-Navigation Site Withdrawal No. 268:

Beginning at a point marked by a wooden hub on the east bank of Koyukuk River approximately five miles upstream from Bettles Village at approximate latitude 66°54′ N., longitude 151°31′ W., thence by metes and bounds:

S. 57°47′45″ E., 3,101.56 feet;
S. 32°12′15″ W., 7,999.15 feet;
N. 57°49′00″ W., 2,238.80 feet;
S. 32°10′00″ W., 6,299.86 feet;
N. 57°50′00″ W.. 1,700.00 feet;
N. 32°10′00″ E., 6,300.00 feet;
N. 57°48′30″ W., 1,940.98 feet;
N. 32°12′00″ E., 5,180.00 feet to a point on the east bank of Koyukuk River. Thence by meanders of the river,
S. 50°20′15″ E., 253.05 feet;
S. 72°46′00″ E., 671.95 feet;
S. 80°31′30″ E., 426.80 feet;
N. 86°50′15″ E., 464.58 feet;
N. 76°12′45″ E., 491.35 feet;
N. 71°44′45″ E., 442.27 feet;
N. 58°07′15″ E., 420.05 feet;
N. 52°34′30″ E., 728.85 feet;
N. 43°12′15″ E., 500.57 feet to point of beginning.

The tract described contains approximately 1,195.00 acres.

It is intended that the above-described lands shall be returned to the administration of the Department of the Interior when they are no longer needed for the purpose for which they are reserved.

WILLIAM ZIMMERMAN, Jr.,
Assistant Director.

[F. R. Doc. 51–5285; Filed, May 7, 1951; 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 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, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry Learner Regulations (29 CFR 522.160 to 522.166, as amended September 25, 1950; 15 F. R. 5701; 6326).

Allen Overall Co., Inc., Monroe, N. C., effective 4–28–51 to 4–27–52; for normal labor turnover, 10 percent of productive factory workers or 10 learners, whichever is greater (men's work pants and coveralls).

Allentown Manufacturing Corp., 21 South Jordan Street, Allentown, Pa., effective 4–27–51 to 4–26–52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (men's and boys' polo shirts).

Alvabelle, Inc., Broad Street, Montgomery, Pa., effective 5–1–51 to 4–30–52; 10 percent for normal labor turnover (cotton dresses).

Angelica Uniform Co., Winfield, Mo., effective 5–1–51 to 4–30–52; 10 percent for normal labor turnover (men's washable service apparel).

Angelica Uniform Co., Winfield, Mo., effective 5–1–51 to 10–30–51; 15 learners for expansion purposes only (men's washable service apparel).

Avril Garments, Inc., 59 Second Avenue, Bayshore, Suffolk County, Long Island, N. Y., effective 5–3–51 to 11–2–51; for expansion purposes, 20 learners to be engaged in the production of dresses and blouses only (dresses and blouses).

Blue Jeans Corp. of Vermont, Brattleboro, Vt., effective 4–26–51 to 10–25–51; 20 learners for expansion purposes (cotton dungarees and slacks).

Burlington Garment Co., Inc., 127½ College Street, Burlington, Vt., effective 4–26–51 to 4–25–52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (children's dresses, sunsuits and blouses).

Burlington Garment Co., Inc., 127½ College Street, Burlington, Vt., effective 4–26–51 to 10–25–51; 10 learners for expansion purposes (children's dresses, sunsuits and blouses).

The Carlisle Garment Co., 44 North Bedford Street, Carlisle, Pa., effective 5–1–51 to 4–30–52; 10 learners for normal labor turnover (children's low-priced dresses).

Cindy Clayton, Inc., 815 Washington Avenue, St. Louis, Mo., effective 5–1–51 to 9–27–51; five learners for normal labor turnover (dresses).

Cotton City Wash Frocks, Inc., 52 Twelfth Street, Fall River, Mass., effective 5–1–51 to 4–30–52; 10 percent for normal labor turnover (women's and misses' cotton dresses).

Cotton Products, Inc., Hamlet, N. C., effective 5–1–51 to 4–30–52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (cotton and rayon housecoats; cotton dresses).

Cowden Manufacturing Co., 420 East Main Street, Springfield, Ky., effective 5–1–51 to 4–30–52; 10 percent for normal labor turnover (denim dungarees).

Dido Dresses, 75 Kneeland Street, Boston, Mass., effective 4–27–51 to 4–26–52; five learners for normal labor turnover (dresses).

Downing Garments, Inc., 110 Downing Street, Plymouth, Pa., effective 5–1–51 to 4–30–52; 10 percent for normal labor turnover (ladies' dresses).

Ecru Manufacturing Co., Ecru, Miss., effective 5–1–51 to 4–30–52; 10 percent for normal labor turnover (men's and boys' cotton work shirts).

Exeter Fashions, Inc., 1131 Wyoming Avenue, Exeter, Pa., effective 5–1–51 to 4–30–52; 10 learners for normal labor turnover (ladies' rayon and cotton dresses).

Exquisite Form Brassiere Co., Inc., 541 Wyoming Avenue, Scranton, Pa., effective 4–30–51 to 10–29–51; 15 learners for expansion purposes (brassieres).

Wm. F. Fretz & Son, Doylestown, Pa., effective 5–1–51 to 4–30–52; 10 learners for normal labor turnover (men's pants).

Wm. F. Fretz & Son, Pipersville, Pa., effective 5–1–51 to 4–30–52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (men's pants).

O. K. Gray, Manufacturer, 115 North Fisk Street, Brownwood, Tex., effective 5–1–51 to 11–6–51; for normal labor turnover, 10 percent or 10 learners, whichever is greater (men's and boys' shirts and jackets) (replacement certificate).

Honesdale Manufacturing Co., Honesdale, Pa., effective 5–4–51 to 5–3–52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (women's dresses).

Hollywood Maxwell Co., 407 Main Street, Arkadelphia, Ark., effective 5–4–51 to 5–3–52; 10 percent for normal labor turnover (brassieres).

Johnson Garment Co., East High Street, Belding, Mich., effective 4–27–51 to 4–26–52; for normal labor turnover, 10 percent or five learners, whichever is greater (women's and children's coats made of blanket-type wool).

Nathan Kimelman, 406 Race St., Philadelphia, Pa., effective 4–27–51 to 4–26–52; 5 learners for normal labor turnover (blouses and cotton dresses).

Little Star Frocks, Inc., Walnut and Orchard Streets, Bridgeton, N. J., effective 5–4–51 to 5–3–52; 10 percent for normal labor turnover (children's dresses).

Loungeray, Inc., Canal Street, Hollidaysburg, Pa., effective 5–1–51 to 10–31–51; 25 learners for expansion purposes (ladies' negligees, pajamas and robes).

Luzerne Sportswear, Inc., 421 North Pennsylvania Avenue, Wilkes-Barre, Pa., effective 5-1-51 to 4-30-52; 10 percent for normal labor turnover (cotton shirts for U. S. Army).

Majestic Manufacturing Co., Inc., 260 Central Avenue SW., Atlanta, Ga., effective 4-28-51 to 4-27-52; 10 percent for normal labor turnover (ladies' and misses' cotton dresses).

Mode O'Day Corp., 146 Southwest Temple, Salt Lake City, Utah, effective 5-2-51 to 5-1-52; 10 percent for normal labor turnover (women's house dresses).

Mode O'Day Corp., 146 Southwest Temple, Salt Lake City, Utah, effective 5-2-51 to 11-1-51; 10 learners for expansion purposes (women's house dresses).

National Pants Co., First Avenue, Beaver Falls, Pa., effective 5-1-51 to 4-30-52; 10 percent for normal labor turnover (men's and boys' pants).

Perry Manufacturing Co., 225 East Sycamore Street, Greensboro, N. C., effective 5-1-51 to 4-30-52; 10 learners for normal labor turnover (cotton woven pajamas, shorts and dresses).

Pontotoc Manufacturing Co., Pontotoc, Miss., effective 5-1-51 to 4-30-52; 10 percent for normal labor turnover (men's and boys' cotton work shirts).

Primo Pants Co., Versailles, Mo., effective 5-3-51 to 11-2-51; 20 learners for expansion purposes (men's and boys' pants).

Ro-Lu-Ben Co., Inc., Sanitaria Springs, N. Y., effective 5-1-51 to 10-31-51; 23 learners for expansion purposes (dresses).

Seamprufe, Inc., McAlester, Okla., effective 5-4-51 to 11-3-51; an additional 75 learners for expansion purposes only (slips and lingerie).

Sharon Manufacturing Co., New Sharon, Iowa, effective 5-1-51 to 4-30-52; for normal labor turnover, 10 percent of productive factory workers or three learners, whichever is greater (men's and boys' work clothing).

Jules I. Simon & Co., Frankfort, Ind., effective 4-27-51 to 4-26-52; 10 percent for normal labor turnover (pants, overalls, coveralls, shirts, etc).

Smoky Mountain Fabrics, 306 Patton Avenue, Asheville, N. C., effective 5-1-51 to 10-31-51; 15 learners for expansion purposes (men's and boys' shirts).

Sprite Manufacturing Co., East Broad and Patterson Streets, Tamaqua, Pa., effective 5-1-51 to 10-31-51; 15 learners for expansion purposes only (ladies' sleeping wear).

The Standard Garment Co., 2283 Fulton Street, Toledo, Ohio, effective 5-4-51 to 5-3-52; 5 learners for normal labor turnover (cotton service apparel).

States Nitewear Manufacturing Co., Inc., 90 Hatch Street, New Bedford, Mass., effective 5-1-51 to 4-30-52; 10 percent for normal labor turnover (ladies' cotton night gowns and pajamas).

States Nitewear Manufacturing Co., Inc., 90 Hatch Street, New Bedford, Mass., effective 5-1-51 to 10-31-51; 10 learners for expansion purposes (ladies' cotton night gowns and pajamas).

Steward Manufacturing Co., Inc., 63 Central Avenue, Ossining, N. Y., effective 5-1-51 to 4-30-52; 10 percent for normal labor turnover (women's dresses and sportswear).

A. Tuchinsky, 306 Market Street, Philadelphia, Pa., effective 5-4-51 to 5-3-52; for normal labor turnover, 10 percent of productive factory workers or five learners, whichever is greater (women's cotton dresses).

Zulick's Underwear Mill, Rear 128 Center Avenue, Schuylkill Haven, Pa., effective 5-1-51 to 4-30-52; five learners for normal labor turnover (polo shirts, creepers, cardigans and blouses).

Glove Industry Learner Regulations (29 CFR 522.220 to 522.231, as amended October 26, 1950; 15 F. R. 6883).

Kiddie Glove Corp., Plainfield, N. J., effective 4-23-51 to 4-22-52; five learners for normal labor turnover.

Tennessee Glove Co., Inc., Tullahoma, Tenn., effective 4-29-51 to 10-28-51; six learners for expansion purposes.

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.51, as revised January 25, 1950; 15 F. R. 283).

Hunter Hosiery, Inc., 65 Court Street, Laconia, N. H., effective 4-25-51 to 4-24-52; five learners for normal labor turnover.

Knitted Wear Industry Learner Regulations (29 CFR 522.69 to 522.79, as amended January 25, 1950; 15 F. R. 398).

Argo Knitting Mills, Inc., Auburn, Pa., effective 5-1-51 to 4-30-52; five learners for normal labor turnover.

Century Mills, Riverside, N. J., effective 4-30-51 to 10-29-51; 20 learners for expansion purposes only.

Scottsboro Knitting Mill, Inc., Scottsboro, Ala., effective 4-25-51 to 4-24-52; three learners for normal labor turnover.

Sprite Manufacturing Co., East Broad and Patterson Streets, Tamaqua, Pa., effective 5-1-51 to 10-31-51; 10 learners for expansion purposes only.

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.14).

Chicago-Aurora Tailoring Co., Inc., 195 North Farnsworth Avenue, Aurora, Ill., effective 5-1-51 to 4-30-52; 7 percent for normal labor turnover, for the manufacture of men's clothing only; machine operating (except cutting), pressers, and handsewers each 480 hours; 60 cents per hour for first 240 hours and 65 cents per hour for remaining 240 hours (men's and women's custom tailoring).

Deshler Broom Factory, Deshler, Nebr., effective 4-30-51 to 10-29-51; 10 percent for normal labor turnover; broom and whisk winder, corn sorter, and sewing machine operator each 320 hours, 60 cents per hour (brooms and whisk brooms).

Tiedright Tie Co., Asheboro, N. C., effective 4-24-51 to 4-23-52; three learners for normal labor turnover; machine operating (except cutting), pressers, and handsewers each 320 hours, 60 cents per hour (men's and boys' neckties).

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 1st day of May 1951.

VERL E. ROBERTS,
Authorized Representative of the Administrator.

[F. R. Doc. 51-5286; Filed, May 7, 1951; 8:48 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

[Docket No. M-29]

PONCE CEMENT CORP.

NOTICE OF POSTPONEMENT OF HEARING ON APPLICATION TO BAREBOAT CHARTER A GOVERNMENT-OWNED, WAR-BUILT, DRY-CARGO VESSEL

Hearing in this proceeding, which was scheduled to be held on May 8, 1951, is hereby postponed to a date to be set after consideration of a request of Ponce Cement Corporation to amend its application herein.

By order of the Federal Maritime Board.

Dated: May 3, 1951.

[SEAL] R. L. MCDONALD,
Assistant Secretary.

[F. R. Doc. 51-5317; Filed, May 7, 1951; 8:52 a. m.]

[Docket No. M-29]

PONCE CEMENT CORP.

NOTICE OF HEARING ON AMENDED APPLICATION TO BAREBOAT CHARTER A GOVERNMENT-OWNED, WAR-BUILT, DRY-CARGO VESSEL

Hearing in this proceeding, which was postponed upon the filing of a request of Ponce Cement Corporation to amend its application to bareboat charter a Liberty-type vessel for use in its cement trade between ports in Puerto Rico and Florida by extending the trading limits to include the Caribbean area and the North Atlantic Coast of South America, will be held upon the amended application in Room 4823, Department of Commerce Building, Washington, D. C., before Examiner F. J. Horan, beginning at 10 o'clock a. m., e. d. s. t., May 11, 1951.

Dated: May 4, 1951.

By order of the Federal Maritime Board.

[SEAL] R. L. MCDONALD,
Assistant Secretary.

[F. R. Doc. 51-5364; Filed, May 7, 1951; 8:55 a. m.]

ECONOMIC STABILIZATION AGENCY

Office of Price Stabilization

[Delegation of Authority 3, Supp. 1]

DIVISION AND REGIONAL COUNSELS

REDELEGATION OF AUTHORITY TO ISSUE OFFICIAL INTERPRETATIONS

By virtue of the authority vested in me as Chief Counsel, Office of Price Stabilization, by Delegation of Authority No. 3 of the Director of Price Stabilization (16 F. R. 3595), this delegation of authority is hereby issued.

1. Authority is hereby delegated to any Division Counsel in the Office of the Chief Counsel of the Office of Price Sta-

bilization, or to any Regional Counsel or Acting Regional Counsel, or to any District Counsel or Acting District Counsel to issue official interpretations of regulations or orders relating to price controls or to allocations with the same force and effect as if issued by the Chief Counsel.

2. Any official interpretation may be revoked or modified by the issuing official. In addition, an official interpretation issued by a District Counsel may be revoked or modified by the Regional Counsel for such region, or by any official in the National Office who is authorized to issue official interpretations. An official interpretation issued by a Regional Counsel may also be revoked or modified by any official in the National Office who is authorized to issue official interpretations.

3. This delegation of authority shall take effect May 5, 1951.

HAROLD LEVENTHAL,
Chief Counsel,
Office of Price Stabilization.

MAY 4, 1951.

[F. R. Doc. 51-5361; Filed, May 4, 1951; 12:10 p. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 9692]

ST. JOSEPH VALLEY BROADCASTING CORP. (WJVA)

ORDER CONTINUING HEARING

In re application of St. Joseph Valley Broadcasting Corporation (WJVA), South Bend, Indiana, for renewal of license; Docket No. 9692, File No. BP-1877.

The Commission having under consideration a motion, filed by the applicant herein on April 26, 1951, requesting a continuance of the hearing presently scheduled for May 1, 1951 at South Bend, Indiana; and

It appearing, that the purpose of the requested continuance is to allow the applicant time in which to secure Commission consideration of a Petition for Consolidation and Enlargement of the Issues herein; and

It further appearing, that counsel for the Commission has informally waived the notice and time of filing requirements of § 1.745, and that this order conforms to the decision tentatively arrived at in a Prehearing Conference held on April 25, 1951; and

It further appearing, that a grant of the motion will facilitate the clarification of the issues upon which this application is to be heard and will thus conduce to the orderly dispatch of the Commission's business and to the ends of justice; now therefore,

It is ordered, This 27th day of April 1951, that the motion for continuance is granted, and the hearing on the above-entitled matter is continued to a date to be fixed by further order herein.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary

[F. R. Doc. 51-5308; Filed, May 7, 1951; 8:50 a. m.]

[Docket No. 9926]

WAYNE M. NELSON (WHIP)

ORDER CONTINUING HEARING

In re application of Wayne M. Nelson (WHIP), Mooresville, North Carolina, for construction permit; Docket No. 9926, File No. BP-7835.

The Commission having under consideration a petition filed on April 25, 1951, on behalf of Wayne M. Nelson requesting that the hearing herein, presently scheduled for May 11, 1951, be continued for a period of approximately sixty days; and

It appearing, that Commission counsel has waived the four-day requirement of § 1.745 of the Commission's rules and regulations so as to permit immediate consideration of said petition, and has consented to a grant thereof; and good cause having been shown therefor;

It is ordered, This twenty-seventh day of April 1951, that the petition of Wayne M. Nelson for a continuance is hereby granted and the hearing herein is hereby continued to July 11, 1951.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 51-5307; Filed, May 7, 1951; 8:50 a. m.]

[Docket No. 9955]

EDWARD A. ELLIS

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In the matter of Edward A. Ellis, applications for amateur radio station and operator licenses; Docket No. 9955.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 25th day of April 1951;

The Commission having under consideration the applications of Edward A. Ellis for a new amateur radio operator and amateur station license; and the Commission also having under consideration the records and files relating to amateur operator and station licenses heretofore issued to the said Edward A. Ellis;

It appearing, that the said records and files contain numerous complaints regarding the conduct of the applicant and the manner in which he operated the amateur radio station or stations heretofore licensed to him by the Commission;

It further appearing, that, in view of the aforementioned complaints, the Commission is unable to find that a grant of the applications now under consideration would serve public interest, convenience, or necessity;

It is ordered, That, pursuant to authority vested in the Commission by the provisions of section 303 (1) and 309 of the Communications Act of 1934, as amended, the above-entitled applications are hereby designated for hearing (at a time and place to be specified in a subsequent order of the Commission) upon the following issues:

1. To determine whether, in view of the applicant's past record as an amateur radio operator, his character is such as to qualify him to operate a new amateur radio station;

2. To determine the purposes for which the proposed radio station will be used and whether the operation of the station will be in accordance with the rules, regulations, laws, and treaties governing amateur radio stations.

3. To determine, in the light of the evidence adduced under the foregoing issues, whether public interest, convenience, or necessity would be served by grant of the application.

It is further ordered, That a copy of this order be transmitted by registered mail, return receipt requested, to Edward A. Ellis, 22 Beals Street, Brookline, Massachusetts.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 51-5304; Filed, May 7, 1951; 8:50 a. m.]

[Docket Nos. 9956, 9957]

BRAZOSPORT BROADCASTING CO. AND BRAZORIA BROADCASTING CO.

ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Kelly Bell and J. C. Stallings, d/b as Brazosport Broadcasting Company, Freeport, Texas, Docket No. 9956, File No. BP-7910; King H. Robinson and Wayne E. Marcy, d/b as Brazoria Broadcasting Company, Freeport, Texas, Docket No. 9957, File No. BP-8042; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 25th day of April 1951;

The Commission having under consideration the above-entitled applications requesting simultaneous adjacent channel operation in the same city (Freeport, Texas); the Brazosport Broadcasting Company to be operated on the frequency 1490 kilocycles, 250 watts power, unlimited time and the Brazoria Broadcasting Company to be operated on the frequency 1460 kilocycles, 500 watts power, daytime only;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding commencing at 10:00 a. m. on June 18, 1951, at Washington, D. C., upon the following issues:

1. To determine the legal, technical, financial and other qualifications of the applicant partnerships and their partners to operate the proposed stations.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed stations, and the character of other broadcast service available to such areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the proposed stations would involve objectionable interference with any other existing broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of the proposed stations would involve objectionable interference, each with the other, or with the services proposed in any other pending applications for broadcast facilities, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed stations would be in compliance with the Commission's rules and standards of Good Engineering Practice Concerning Standard Broadcast Stations.

7. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 51-5305; Filed, May 7, 1951; 8:50 a. m.]

[Designation Order 57]

DESIGNATION OF MOTIONS COMMISSIONER FOR MAY 1951

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 25th day of April 1951;

It is ordered, Pursuant to section 0.111 of the Statement of Delegations of Authority, that George E. Sterling, Commissioner, is hereby designated as Motions Commissioner for the month of May 1951.

It is further ordered, That in the event said Motions Commissioner is unable to act during any part of said period the Chairman or Acting Chairman will designate a substitute Motions Commissioner.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 51-5306; Filed, May 7, 1951; 8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-1598, G-1606, G-1620]

ARKANSAS LOUISIANA GAS CO. ET AL.

NOTICE OF FINDINGS AND ORDERS

MAY 2, 1951.

In the matters of Arkansas Louisiana Gas Company, Docket No. G-1598; United Natural Gas Company, and The Sylvania Corporation, Docket No. G-1606; Pennsylvania Gas Company, Docket No. G-1620.

Notice is hereby given that, on May 2, 1951, the Federal Power Commission issued its findings and orders entered May 1, 1951, issuing certificates of public convenience and necessity in the above-designated matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-5273; Filed, May 7, 1951; 8:46 a. m.]

[Docket No. G-1656]

TEXAS GAS TRANSMISSION CORP.

NOTICE OF APPLICATION

MAY 1, 1951.

Take notice that on April 6, 1951, Texas Gas Transmission Corporation (Applicant), a Delaware corporation with its principal place of business at 416 West Third Street, Owensboro, Kentucky, filed an application for a certificate of convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of a sales metering station near Leland, Mississippi, for the sale and delivery of natural gas to Mississippi Power & Light Company for resale to ultimate consumers thru lateral lines and distribution systems to be constructed by the Deer Creek Natural Gas District (stated on information to be a public corporation formed by several municipalities).

Applicant proposes to sell natural gas to Mississippi Power & Light Company on a firm basis pursuant to a Service Agreement dated March 27, 1951. Estimated daily requirements of the systems to be served are stated to be: 594 Mcf during the first year of operations and increasing to 829 Mcf during the fifth year of operations.

The estimated capital cost of the proposed facilities is $5,116.44, which will be paid for out of funds on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 21st day of May 1951. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-5269; Filed, May 7, 1951; 8:45 a. m.]

[Docket No. G-1657]

TEXAS GAS TRANSMISSION CORP.

NOTICE OF APPLICATION

MAY 1, 1951.

Take notice that on April 6, 1951, Texas Gas Transmission Corporation (Applicant), a Delaware corporation with its principal place of business at 416 West Third Street, Owensboro, Kentucky, filed an application for a certificate of convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of a sales metering station at the junction of Applicant's 26-inch natural gas line near Brandenburg, Kentucky, and the lateral line constructed to the Mathieson Hydrocarbon Chemical Corporation (Mathieson) plant located at Brandenburg, Kentucky, from the meter station site.

Applicant proposes to sell to Mathieson a new direct industrial customer, on an interruptible basis, natural gas in volumes not to exceed 6,000 Mcf daily under the terms of a Service Agreement between the parties dated November 9, 1950.

The estimated capital cost of the proposed facilities is $6,500.00, which will be paid for out of funds on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 21st day of May, 1951. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-5270; Filed, May 7, 1951; 8:45 a. m.]

[Docket No. G-1673]

REPUBLIC LIGHT, HEAT AND POWER CO., INC.

NOTICE OF APPLICATION

MAY 1, 1951.

Take notice that Republic Light, Heat and Power Company, Inc. (Applicant), a New York corporation with its principal place of business at Buffalo, New York, filed an application on April 18, 1951, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of a compressor station near Caledonia, New York, consisting of one 165 hp. gas engine driven compressor unit, and appurtenant facilities.

Applicant states that the described facilities will increase the volumes of natural gas being supplied its Ontario District through purchases from New York State Natural Gas Corporation. The proposed 150 hp. unit will handle a maximum of 2,500 Mcf daily with a suction pressure of 100 psi and a discharge pressure of 278 psi.

Estimated over-all cost of the facilities in $35,000.00 which will be paid for from current funds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 21st day of May 1951. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-5272; Filed, May 7, 1951; 8:46 a. m.]

[Docket No. G–1676]

SOUTHERN NATURAL GAS CO.

NOTICE OF APPLICATION

MAY 1, 1951.

Take notice that Southern Natural Gas Company (Applicant), a Delaware corporation having its principal place of business at Watts Building, Birmingham, Alabama, filed on April 23, 1951, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of certain natural gas facilities described as follows:

(1) A new 4,050 hp. compressor station and appurtenances to be located in the Gwinville gas field, Jefferson Davis County, Mississippi.

(2) A new 8,400 hp. compressor station and appurtenances to be located at Enterprise, Clarke County, Mississippi.

(3) A new 7,000 hp. compressor station and appurtenances to be located at Gallion, Hale County, Alabama.

(4) Approximately 20 miles of 8⅝ inch pipeline extending from a point near Applicant's Perryville compressor station to the Millhaven gas field, Ouachita Parish, Louisiana.

(5) Approximately 33 miles of 24-inch triple loop line extending from a point on the discharge side of the Perryville compressor station to the Pioneer header in West Carroll Parish, Louisiana, together with an 860 feet crossing of the Boeuf River, consisting of four 12¾-inch pipelines.

(6) Approximately 7 miles of 24-inch triple loop line between the discharge side of the Onward compressor station and the east bank of the Little Sun Flower River in Sharkey County, Mississippi.

(7) Approximately 1,070 feet of 12¾-inch pipeline and 1,070 of 18-inch pipeline connecting the suction and discharge headers of McConnell compressor station to Applicant's line at a point north of McConnell's station.

(8) Approximately 108 miles of 14-inch line, including crossings at Ocmulgee, Oconee and Savannah Rivers, from Bass Junction to Augusta, Georgia, to replace a 10¾-inch pipeline of approximately the same length previously authorized by the Federal Power Commission in Docket No. G–1308.

(9) Appropriate line taps, meter stations, and pressure regulating and appurtenant facilities for the delivery and sale of natural gas to the following communities: Deer Creek Natural Gas District (FPC Docket No. G–1632), Raleigh, and Mize, Mississippi; Bren and Centerville, Fayette, Greensboro, Albertville, Newbern, Hanceville, Fort Payne, and Rainbow City, Alabama; Austell and Powder Springs, Bowdon, Dallas, Dalton, Summerville, Trion, Fort Valley, Thomson, and Villa Rica, Georgia.

If this application is approved, Applicant will not construct the following facilities previously authorized by the Federal Power Commission in Docket No. G–1308:

(1) 21 miles of 24-inch triple loop between the Perryville station and Pioneer junction.

(2) 14.4 miles of 24-inch triple loop between the Onward compressor station and the Big Sunflower River.

(3) Compressors of 4,000 hp. at the Onward station.

(4) Compressors of 2,600 hp. at the Pickens station.

Upon completion of all the facilities described above, the total maximum daily delivery capacity of Applicant's system will be approximately 670,000 Mcf. The proposed additional delivery capacity is to meet the increased requirements of Applicant's present market, to supply the requirements of certain other customers to whom service has been authorized or directed as more fully set forth in Federal Power Docket Nos. G–1463, G–1308, and G–1435, and also to provide service to the additional communities named above.

The estimated approximate total overall capital cost of the facilities proposed to be constructed is $13,641,000. Applicant proposes to provide interim financing of the cost of construction of the facilities to be completed in 1951 through bank loans.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 21st day of May 1951. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 51–5271; Filed, May 7, 1951; 8:45 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 26065]

LIME FROM LE MOYNE, OHIO, TO SOUTHERN TERRITORY

APPLICATION FOR RELIEF

MAY 3, 1951.

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. C. Schuldt, Agent, for carriers parties to his tariff I. C. C. No. 4180.

Commodities involved: Lime, common, hydrated, quick or slaked, carloads.

From: Le Moyne, Ohio.

To: Points in southern territory.

Grounds for relief: Circuitous routes, to maintain grouping, and to apply over short tariff routes rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: L. C. Schuldt's tariff I. C. C. No. 4180, Supp. 14.

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. 51–5291; Filed, May 7, 1951; 8:49 a. m.]

[4th Sec. Application 26066]

CHLORINATED CAMPHENE FROM BRUNSWICK, GA., TO ELSMERE, COLO.

APPLICATION FOR RELIEF

MAY 3, 1951.

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. 1172.

Commodities involved: Chlorinated camphene, carloads.

From: Brunswick, Ga.

To: Elsmere, Colo.

Grounds for relief: 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; C. A. Spaninger's tariff I. C. C. No. 1172, Supp. 44.

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. 51–5292; Filed, May 7, 1951; 8:49 a. m.]

[4th Sec. Application 26067]

PHOSPHATE ROCK FROM FLORIDA TO GADSDEN, ALA.

APPLICATION FOR RELIEF

MAY 3, 1951.

The Commission is in receipt of the above-entitled and numbered applica-

tion 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 Louisville and Nashville Railroad Company.

Commodities involved: Phosphate rock, carloads.

From: Mines in Florida.

To: Gadsden, Ala.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: ACL RR. tariff I. C. C. No. B-3232, Supp. 37.

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. 51-5293; Filed, May 7, 1951; 8:49 a. m.]

[4th Sec. Application 26068]

PHOSPHATE ROCK FROM FLORIDA TO POINTS IN TENNESSEE

APPLICATION FOR RELIEF

MAY 3, 1951.

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 named in the application.

Commodities involved: Phosphate rock, carloads.

From: Mines in Florida.

To: Jackson, Bells and Humboldt, Tenn.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: ACL RR. tariff I. C. C. No. B-3232, Supp. 37. SAL RR. tariff I. C. C. No. A-8153, Supp. 36.

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. 51-5298; Filed, May 7, 1951; 8:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2595]

UTAH POWER & LIGHT CO.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 30th day of April A. D. 1951.

Utah Power & Light Company ("Utah Power"), a registered holding company, having filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 with respect to the following proposed transactions:

Utah Power proposes to purchase from the Village of Arco, Idaho ("Arco"), a municipal corporation existing under the laws of the State of Idaho, the electrical distribution lines and facilities owned by Arco for a cash consideration of $70,000 and also proposes to purchase from Arco for a cash consideration of $30,000, a transmission line owned by Arco. In addition, Utah Power will pay Arco the actual net cost of additions to the property made between January 31, 1950, and the date of the transfer.

Said application having been filed on March 19, 1951; notice of said filing having been given in the manner prescribed by Rule U-23 under said act; the Commission having received a request from Lost River Electric Cooperative, Inc. ("Lost River") that it be permitted to intervene to oppose said application and that a hearing be held thereon; the Commission having given an opportunity to Lost River to submit an offer of proof setting forth the facts and matters which Lost River might expect to show if a hearing should be held; the Commission having also invited the views of the Village of Arco and the Idaho Public Utilities Commission; and

Lost River having submitted an offer of proof stating in substance that if a hearing were held it would offer evidence tending to show that it has offered a larger price for the distribution system than that offered by Utah Power; that its service, if it purchased the property, would be superior to service by Utah Power; that if it purchased the property it would be able to extend service to some 43 potential customers who otherwise would not be served; and that if Lost River purchased the property it would obtain the benefits of low-cost hydro power not available to Utah Power; and

The Idaho Public Utilities Commission having advised this Commission that in its judgment the proposed sale of the property to Utah Power is in the public interest; and

The Commission having fully considered the offer of proof submitted by Lost River, and having considered the views of the Idaho Public Utilities Commission and various communications, statements and representations submitted by members of The Board of Trustees of the Village of Arco, by various residents of the area and by Utah Power; and

The Commission having concluded that under the limitations of its statutory jurisdiction the statements set forth in the offer of proof of Lost River, assuming that they were fully supported by facts in evidence at a hearing, would not warrant the Commission, under the standards of the act, in disapproving the application of Utah Power to acquire the Arco properties, and having therefore concluded that the request for a hearing and for intervention by Lost River should be denied and the application of Utah Power granted;

The Commission finding with respect to the application of Utah Power that all of the applicable statutory standards are satisfied and that there is no basis for any adverse findings, and deeming it appropriate in the public interest and in the interests of investors and consumers that said application be granted;

It is hereby ordered, That the requests by Lost River Electric Cooperative, Inc., that it be permitted to intervene in this matter and that the Commission direct the holding of a hearing on the application of Utah Power herein be and the same hereby are denied.

It is further ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said application of Utah Power be, and the same hereby is, granted, effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-5287; Filed, May 7, 1951; 8:48 a. m.]

[File No. 70-2809]

LONG ISLAND LIGHTING CO.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 2d day of May A. D. 1951.

Long Island Lighting Company ("Long Island"), an operating public utility company and formerly a public utility holding company, which is registered as a public utility holding company, having filed an application-declaration, as amended, pursuant to the Public Utility Holding Company Act of 1935 ("act") regarding the following transactions:

Long Island proposes to issue 524,949 additional shares of its common stock without par value pursuant to a subscription rights offering to its common

stockholders of record at the close of business on May 2, 1951 at the rate of one share of new common stock for each six shares held, at the price of $13.00 per share. The subscription rights, which are to be issued on the basis of one right for each share held, are to be evidenced by warrants. No fractional shares will be issued in exchange for rights. The warrants provide the 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 is to be at the company's expense, but may not exceed five rights for any single stockholder. Long Island also proposes to offer to its employees a non-transferable privilege to subscribe, at the subscription price, for the shares of the new common stock not issued upon the exercise of the rights to subscribe. This employee right of purchase is to be limited to a maximum of 200 shares for each employee. Such shares as remain after subscription by the stockholders and employees are to be available to stockholders under an over-subscription privilege of the warrants.

While the offer of shares of common stock will not be underwritten, Long Island, to facilitate the common stock offering, proposes to obtain the assistance of security dealers and to pay certain fees for their services. After requesting six investment banking houses to make proposals to act as Dealer Manager, Long Island selected Blyth & Co., Inc. as the Dealer Manager to form and manage a group of security dealers who are members of the National Association of Security Dealers. The base fee of Blyth & Co., Inc. is to be $4,000, in addition to which it is to be reimbursed for its reasonable out-of-pocket expenses including counsel fees.

Participating dealers (including Blyth & Co., Inc.) will receive from the Company 20 cents a share for each share of common stock delivered upon the exercise of rights where the name of the dealer appears upon the face of the warrant (or where the Company is satisfied that such fees should be paid). Such dealers will also receive 35 cents for each share of common stock purchased by the participating dealer from Blyth & Co., Inc., and resold in sales or national exchanges at prices of not less than the subscription price and not more than the last sale or offering price, whichever is greater, of the common stock in the previous session of the New York Stock Exchange plus an amount equivalent to the New York Stock Exchange commission on such sale. The amount payable on account of the subscription of any one stockholder is to be limited to $300 irrespective of the number of shares subscribed, but this limitation is not to apply to payments for shares issued on over-subscriptions. Blyth & Co., Inc. may purchase and exercise rights and sell to dealers the shares of common stock received therefrom.

The Public Service Commission of the State of New York has issued an order authorizing the proposed issuance and sale of common stock by Long Island.

Notice of the filing of this application-declaration, as amended, 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 a hearing and not having ordered a hearing thereon; and

The Commission finding with respect to this application-declaration, as amended, that the applicable statutory standards are satisfied, that it is not necessary to impose any terms and conditions other than those set forth below, and the Commission deeming it appropriate in the public interest and in the interest of investors and consumers that said application-declaration, as amended, be granted and permitted to become effective, subject to a reservation of jurisdiction over certain fees and expenses as hereinafter provided, and deeming it further appropriate to grant the request of Long Island that the Commission's order herein become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act that this application-declaration, as amended, be, and the same hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24 and to the reservation of jurisdiction with respect to the payment of the fees and expenses of counsel for the Dealer Manager and the expenses of the Dealer Manager incurred, or to be incurred, in connection with the consummation of the proposed transactions.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-5289; Filed, May 7, 1951; 8:48 a. m.]

[File No. 812-723]

NATIONAL AVIATION CORP.

NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 2d day of May A. D. 1951.

Notice is hereby given that National Aviation Corporation (Applicant) has filed an application pursuant to sections 10 (f) and 17 (b) of the Investment Company Act of 1940 for an order granting exemption from the provisions of sections 10 (f) and 17 (a) of said act so as to permit Applicant to purchase from Hornblower & Weeks not more than $200,000 principal amount of Twelve Year 4½ Percent Convertible Debentures proposed to be issued by Mid-Continent Airlines, Inc.

National Aviation Corporation is a closed-end, non-diversified, management company registered under the Investment Company Act of 1940. Mid-Continent Airlines, Inc., has filed a registration statement under the Securities Act of 1933 (File No. 2-8938) with respect to the public distribution of $2,000,000 principal amount of Twelve Year 4½ Percent Convertible Debentures due May 1, 1963. Applicant has been informed that such proposed issue of said Debentures is to be underwritten by a syndicate of duly qualified underwriters, and that the firm of Hornblower & Weeks, 40 Wall Street, New York, New York, is to be a "principal underwriter" of said proposed issue. Otis A. Glazebrook, Jr., who is a director of Applicant is also a partner in the firm of Hornblower & Weeks. Therefore, the proposed purchase of debentures of Mid-Continent Airlines, Inc., by National Aviation Corporation during the existence of the underwriting or selling syndicate is prohibited by section 10 (f) of the act unless an exemption therefrom consistent with the protection of investors is granted by the Commission.

The proposed sale of such debentures to National Aviation Corporation is prohibited by section 17 (a) of the act unless, pursuant to section 17 (b), the Commission shall grant an exemption therefrom on evidence establishing that (1) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (2) the proposed transaction is consistent with the policy of National Aviation Corporation as recited in its registration statement and reports filed under the act and (3) the proposed transaction is consistent with the general purposes of the act.

Applicant has therefore filed an application pursuant to sections 10 (f) and 17 (b) of the act requesting an order granting exemption from the provisions of sections 10 (f) and 17 (a) of the act, and asserting that the proposed transaction meets the standards of the act and of section 17 (b) in particular.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission in Washington, D. C.

Notice is further given that an order granting the application, in whole or in part and upon such conditions as the Commission may deem necessary or appropriate, may be issued by the Commission on or at any time after May 14, 1951, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may, not later than May 11, 1951, at 5:30 p. m., e. d. s. t., submit to the Commission in writing his views or any additional facts bearing upon this application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C., and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues

of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 51-5288; Filed, May 7, 1951; 8:48 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 17709]

WILHELM FRICK

In re: Estate of Wilhelm Frick, deceased. File No. D-28-12686; E. T. sec. No. 16863.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Elisabeth Braun and Max Frick, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the property described as follows:

a. All right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraph 1 hereof, not heretofore vested by Vesting Order 13636, in and to the estate of Wilhelm Frick, deceased, and

b. Thirty (30) shares of common stock of Printing Center Building Company, a corporation organized under the laws of California having its principal place of business at 1220 South Maple Avenue, Los Angeles 15, California, which are evidenced by certificate numbered 218 issued to Wilhelm Frick, together with all declared and unpaid dividends thereon,

is property 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, the aforesaid nationals of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as 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 April 23, 1951.

For the Attorney General.

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

[F. R. Doc. 51-5310; Filed, May 7, 1951; 8:51 a. m.]

[Vesting Order 17729]

MAERKLE & CO.

In re: Debt owing to Maerkle & Co., F-28-30934.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Maerkle & Co., the last known address of which is 42 Ritterstrasse, Leipzig C-1, Germany, is a corporation, partnership, association or other business organization, organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Germany and is a national of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation owing to Maerkle & Co., by S. Rosenfelder & Son, Inc., 127 West 27th Street, New York, New York, representing merchandise received on consignment by said S. Rosenfelder & Son, Inc., together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property 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, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national 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 April 25, 1951.

For the Attorney General.

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

[F. R. Doc. 51-5312; Filed, May 7, 1951; 8:51 a. m.]

[Vesting Order 17725]

UNOSUKE ENDO

In re: Bank account owned by Unosuke Endo, also known as U. Endow. D-39-19308-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Unosuke Endo, also known as U. Endow, whose last known address is 169 City House, Oshika, Shizuoka-shi, Shizuokaken, Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: That certain debt or other obligation of California Bank, San Pedro Office, 1001 South Pacific Avenue, San Pedro, California, arising out of a savings account, Account Number 2832, entitled "U. Endow", maintained with the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property 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, Unosuke Endo, also known as U. Endow, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

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 April 25, 1951.

For the Attorney General.

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

[F. R. Doc. 51-5311; Filed, May 7, 1951; 8:51 a. m.]