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TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10475

ADMINISTRATION OF THE HOUSING AND RENT ACT OF 1947, AS AMENDED

By virtue of the authority vested in me by the Housing and Rent Act of 1947, as amended, including particularly section 208 (a) thereof, and as President of the United States, it is ordered as follows:

SECTION 1. Paragraph 1 of Executive Order No. 10276 of July 31, 1951, as amended by Executive Order No. 10293 of September 27, 1951 (16 F. R. 9927), is hereby further amended to read as follows:

"1. (a) The powers, duties, and functions conferred upon the President by the Housing and Rent Act of 1947, as amended, exclusive of those under sections 4 (e), 204 (f) (3), and the first sentence of 208 (a), shall be administered through the Director of the Office of Defense Mobilization, subject to the provisions of subsection (b) of this section, and may be exercised and performed by the Director or by such officers and agencies of the said Office as the Director may designate.

"(b) So much of the said powers, duties, and functions as consists of granting exceptions to the provisions of section 4 of Title I of the Housing and Rent Act of 1947, as amended, and to any regulations issued pursuant thereto, for persons engaged in national-defense activities shall be performed in such consultation with the Housing and Home Finance Adminstrator or his representative as the Director of the Office of Defense Mobilization and the Housing and Home Finance Administrator shall from time to time jointly determine."

SEC. 2. Each reference in other sections of the said Executive Order No. 10276 to the Economic Stabilization Administrator and the Economic Stabilization Agency is hereby amended to refer to the Director of the Office of Defense Mobilization and the Office of Defense Mobilization, respectively.

SEC. 3. The Office of Rent Stabilization, established under the authority of paragraph 1 (a) of the said Executive Order No. 10276, is hereby abolished.

SEC. 4. All orders, rules, regulations, directives, and other similar instruments issued by any officer or agency of the Government and relating to any matter affected by this order shall remain in effect except as they are inconsistent herewith or with any provision of law, or as they are hereafter amended or revoked under proper authority.

SEC. 5. Executive Order No. 10456 of May 27, 1953 (18 F. R. 3083), entitled "Delegating to the Secretary of Defense and the Director of Defense Mobilization Certain Functions Relating to Critical Defense Housing Areas", is hereby revoked.

SEC. 6. This order shall become effective July 31, 1953.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
July 31, 1953.

[F. R. Doc. 53-6859; Filed, Aug. 3, 1953; 10:24 a. m.]

EXECUTIVE ORDER 10476

ADMINISTRATION OF FOREIGN AID AND FOREIGN INFORMATION FUNCTIONS

By virtue of the authority vested in me by the statutes referred to in section 101 of this order, and by section 301 of title 3 of the United States Code and Reorganization Plans Nos. 7 and 8 of 1953, and as President of the United States and Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

PART I. FOREIGN AID

SECTION 101. *Delegation of certain functions of the President.* (a) Except as otherwise provided in this order, the functions conferred upon the President by the following-designated laws are hereby delegated to the Director of the Foreign Operations Administration: the Mutual Security Act of 1951, 65 Stat. 373, as amended; the Mutual Defense Assistance Act of 1949, 63 Stat. 714, as amended (22 U. S. C. 1571–1604); the act of May 22, 1947, 61 Stat. 103, as amended (22 U. S. C. 1401–1408); the Mutual Defense Assistance Control Act of 1951, 65 Stat. 644 (22 U. S. C. 1611–1613c); and those provisions of the Economic Cooperation Act of 1948, 62 Stat. 137, as amended (22 U. S. C. 1501 et seq.),

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EXECUTIVE AGENCIES

FEDERAL REGISTER

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which are continued in effect by section 503 of the Mutual Security Act of 1951, as amended.

(b) There are hereby excluded from the functions delegated by section 101 (a) of this order:

(1) The functions conferred upon the President by the laws referred to in section 101 (a) of this order with respect to the appointment of officers required to be appointed by and with the advice and consent of the Senate, the transmittal of periodic or special reports to the Congress, and the termination or withdrawal of assistance.

(2) The functions conferred upon the President with respect to findings, determinations, certification, agreements, transfers of funds, or directives, as the case may be, by sections 101 (a) (1), 101 (b), 202, 302 (a), 303 (a) (last two sentences), 401, 503 (a) (3), 507 (except as provided in Part III hereof), 511, 513, 530, 532, 540, 542, 550 (b), and 550 (e) of the Mutual Security Act of 1951, as amended; sections 303, 402, 407 (b) (2), 408 (f), and 411 (b) of the Mutual Defense Assistance Act of 1949, as amended; sections 105 (c), 111 (b) (2) (first clause), and 119 of the Economic Cooperation Act of 1948, as amended; and sections 103 (b), 104, 203, and 301 of the Mutual Defense Assistance Control Act of 1951.

(c) Funds which have been or may be appropriated or otherwise made available to the President to carry out the laws referred to in section 101 (a) hereof, and section 12 of the Mutual Security Act of 1952 (66 Stat. 151), shall be deemed to be allocated to the Director of the Foreign Operations Administration without any further action by the President, and the said funds may be allocated by the Director of the Foreign Operations Administration to any agency, department, establishment, or wholly-owned corporation of the Government for obligation or expenditure thereby, consistent with applicable law, subject, however, to the reservation of functions relating to transfer of funds set forth in section 101 (b) (2) hereof.

SEC. 102. *Interrelationship of Director and Secretary of Defense.* (a) Consonant with section 501 (a) of the Mutual Security Act of 1951, as amended, the Secretary of Defense shall exercise the responsibility and authority vested in him by section 506 (a) of the said Act, as amended, subject to coordination, direction, and supervision by the Director of the Foreign Operations Administration.

(b) The Secretary of Defense shall keep the Director of the Foreign Operations Administration fully and currently informed of all matters, including prospective action, relating to the establishment of priorities under section 506 (b) and the furnishing of military items under section 506 (c) of the Mutual Security Act of 1951, as amended.

SEC. 103. *Aid to Palestine refugees.* (a) Subject to subsection (b) of this section, the functions transferred to the President by section 6 of Reorganization Plan No. 7 of 1953 are hereby delegated to the Director of the Foreign Operations Administration.

(b) The Secretary of State shall be responsible for making the United States contribution to the United Nations under the United Nations Palestine Refugee Aid Act of 1950. The Secretary of State shall also be responsible for formulating and presenting, with the assistance of the Director of the Foreign Operations Administration, the policy of the United States with respect to aid to Palestine refugees and for representing the United States in the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

SEC. 104. *Successor agencies.* (a) Except as may be otherwise provided in this order, the Foreign Operations Administration and the Director of the Foreign Operations Administration are hereby made the successors, respectively, of the Mutual Security Agency and the Director for Mutual Security.

(b) Except in instances wherein the provisions concerned are for any reason inapplicable as of the effective date of Reorganization Plan No. 7 of 1953, each reference in any prior Executive order to the Mutual Security Agency or the Director for Mutual Security is hereby amended to refer to the Foreign Operations Administration and the Director of the Foreign Operations Administration, respectively.

(c) Without limiting the application of section 104 (b) of this order, the amendments made thereby shall apply, subject to the provisions of the said section 104 (b), to prior references to the Director for Mutual Security and the Mutual Security Agency in (1) Executive Order No. 10159 of September 8, 1950 (15 F. R. 6103), as amended, (2) sections 7 and 9 of Executive Order No. 10300 of November 9, 1951 (16 F. R. 11203), as amended, (3) Executive Order No. 10380 of August 2, 1952 (17 F. R. 7107), and (4) Executive Order No. 10458 of June 1, 1953 (18 F. R. 3159).

SEC. 105. *Redelegation.* The functions delegated to the Director of the Foreign Operations Administration by the provisions of this Part shall be deemed to include the authority to redelegate the functions so delegated.

PART II. FOREIGN INFORMATION

SEC. 201. *Informational media guaranties.* The United States Information Agency is hereby designated as the agency of the Government which shall on and after the effective date of this order exercise the authority to make informational media guaranties under section 111 (b) (3) of the Economic Cooperation Act of 1948, as amended (22 U. S. C. 1509 (b) (3)), and section 536 of the Mutual Security Act of 1951, as amended, and to administer such guaranties made prior to the effective date of this order. The Director of the Foreign Operations Administration, after consultation with the Director of the United States Information Agency, shall fix (and may from time to time revise) an amount representing that portion of the limitation prescribed by section 111 (b) (3) of the Economic Cooperation Act of 1948, as amended, which may be utilized by the Director of the United States Information Agency for informational media guaranties, including the liquidation of obligations outstanding under such guaranties as of the effective date of this order.

SEC. 202. *Information regarding technical cooperation.* The United States Information Agency shall publicize abroad the activities carried on under the Act for International Development. Executive Order No. 10159 of September 8, 1950 (15 F. R. 6103), as amended, is hereby further amended accordingly.

PART III. PROCEDURES FOR COORDINATION ABROAD

SEC. 301. *Functions of the Chief of the United States Diplomatic Mission.* (a) The Chief of the United States Diplomatic Mission in each country, as the representative of the President, shall serve as the channel of authority on foreign policy and shall provide foreign policy direction to all representatives of United States agencies in such country.

(b) The Chief of the United States Diplomatic Mission in each country, as the representative of the President and acting on his behalf, shall coordinate the activities of the representatives of United States agencies (including the chiefs of economic and technical assistance missions, military assistance advisory groups, foreign information staffs, and other representatives of agencies of the United States Government) in such country engaged in carrying out programs under the Mutual Security Act of 1951, as amended, programs under the Mutual Defense Assistance Control Act of 1951, and the programs transferred by section 2 of Reorganization Plan No. 8 of 1953; and he shall assume

responsibility for assuring the unified development and execution of the said programs in such country. More particularly, the functions of each Chief of United States Diplomatic Mission shall include, with respect to the programs and country concerned:

(1) Exercising general direction and leadership of the entire effort.

(2) Assuring that recommendations and prospective plans and actions of representatives of United States agencies are effectively coordinated and are consistent with and in furtherance of the established policy of the United States.

(3) Assuring that the interpretation and application of instructions received by representatives of United States agencies from higher authority are in accord with the established policy of the United States.

(4) Guiding the representatives of United States agencies in working out measures to prevent duplication in their efforts and to promote the most effective and efficient use of all United States officers and employees engaged on the aforesaid programs.

(5) Keeping the representatives of United States agencies fully informed as to current and prospective United States policies.

(6) Prescribing procedures governing the coordination of the activities of representatives of United States agencies, and assuring that these representatives shall have access to all available information essential to the accomplishment of their prescribed duties.

(7) Preparing and submitting such reports on the operation and status of the programs referred to in the preamble of this section 301 (b) as may be requested of the Secretary of State by the Director of the Foreign Operations Administration and the Director of the United States Information Agency, respectively.

(8) Recommending the withdrawal from the country of United States personnel whenever in his opinion the interests of the United States warrant such action.

(c) Each Chief of United States Diplomatic Mission shall perform his functions under this Part in accordance with instructons from higher authority and subject to established policies and programs of the United States. Only the President and the Secretary of State shall communicate instructions directly to the Chief of the United States Diplomatic Mission.

(d) No Chief of United States Diplomatic Mission shall delegate any function conferred upon him by the provisions of this Part which directly involves the exercise of direction, coordination, or authority.

SEC. 302. *Referral of unresolved matters.* The Chief of the United States Diplomatic Mission in each country shall initiate steps to reconcile any divergent views arising between representatives of United States agencies in the country concerned with respect to programs referred to in the preamble of section 301 (b) hereof. If agreement cannot be reached the Chief of the United States Diplomatic Mission shall recommend a course of action, and such course of action shall be followed unless a representative of a United States agency requests that the issue be referred to the Secretary of State and the United States agencies concerned for decision. If such a request is made, the parties concerned shall promptly refer the issue for resolution prior to taking action at the country level.

SEC. 303. *Effect of order on representatives of United States agencies.* (a) All representatives of United States agencies in each country shall be subject to the responsibilities imposed upon the Chief of the United States Diplomatic Mission in such country by section 507 of the Mutual Security Act of 1951, as amended, and by this Part.

(b) Subject to compliance with the provisions of this Part and with the prescribed procedures of their respective agencies, all representatives of United States agencies affected by this Part (1) shall have direct communication with their respective agencies and with such other parties and in such manner as may be authorized by their respective agencies, (2) shall keep the respective Chiefs of United States Diplomatic Missions and each other fully and currently informed on all matters, including prospective plans, recommendations, and actions, relating to the programs referred to in the preamble of section 301 (b) hereof, and (3) shall furnish to the respective Chiefs of United States Diplomatic Missions, upon their request, documents and information concerning the said programs.

PART IV. GENERAL PROVISIONS

SEC. 401. *Coordination of foreign policy.* The Secretary of State, the Director of the Foreign Operations Administration, and the Director of the United States Information Agency shall establish and maintain arrangements which will insure that the programs under the supervision of the latter two officials are carried out in conformity with the established foreign policy of the United States.

SEC. 402. *Transfer of personnel, property, records, and funds.* So much of the personnel, records, property, and unexpended balances of appropriations, allocations, and other funds, available to any officer or agency whereto there is delegated or assigned immediately prior to the taking effect of this Executive order any function which by this order is otherwise delegated or assigned, as the Director of the Bureau of the Budget determines to relate to the said functions and to be required by the officer or agency whereto the functions concerned are delegated or assigned by this order, for the performance thereof, shall be transferred, consonant with law, to such latter officer or agency. Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 403. *Prior orders and actions.* (a) Executive Order No. 10300 of November 9, 1951 (16 F. R. 11203), as amended, exclusive of sections 7 and 9 thereof, and Executive Order No. 10338 of April 4, 1952 (17 F. R. 3009), are hereby superseded.

(b) Nothing in this order shall affect Executive Order No. 10062 of June 6, 1949, as heretofore amended.

(c) To the extent that any provision of any prior Executive order is inconsistent with the provisions of this order, the latter shall control and such prior provision is amended accordingly.

(d) All orders, regulations, rulings, certificates, directives, agreements, contracts, delegations, determinations, and other actions of any officer or agency of the Government relating to any function affected by this order shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked under proper authority.

SEC. 404. *Definition.* As used in this order, the word "functions" embraces duties, powers, responsibilities, authority, and discretion.

SEC. 405. *Effective date.* This order shall become effective on August 1, 1953.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
August 1, 1953.

[F. R. Doc. 53-6861; Filed, Aug. 3, 1953; 10:24 a. m.]

EXECUTIVE ORDER 10477

AUTHORIZING THE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY TO EXERCISE CERTAIN AUTHORITY AVAILABLE BY LAW TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE FOREIGN OPERATIONS ADMINISTRATION

By virtue of the authority vested in me by section 2 (d) of Reorganization Plan No. 8 of 1953, and as President of the United States, it is ordered as follows:

SECTION 1. *Determination.* It is hereby determined that it is necessary, in order to carry out the functions transferred to the Director of the United States Information Agency (hereinafter referred to as the Director) by the provisions of subsections (a), (b), and (c) of section 2 of the said Reorganization Plan No. 8 of 1953, to authorize the Director to exercise, in relation to the respective functions so transferred, the authority specified in sections 2 and 3 hereof.

SEC. 2. *Authority under the Foreign Service Act and related laws.* (a) Except as provided in section 2 (c) of this order, the Director is authorized to exercise, with respect to Foreign Service Reserve officers, Foreign Service staff officers and employees, and alien clerks and employees employed to perform the said transferred functions, the authority available to the Secretary of State under the Foreign Service Act of 1946, 60 Stat. 999, as heretofore or hereafter amended, or under any other provision of law pertaining specifically, or generally applicable, to Foreign Service Reserve officers,

Foreign Service staff officers and employees, and alien clerks and employees, including the authority to prescribe regulations, not inconsistent with applicable laws, incident to the exercise of such authority. The Director is further authorized to exercise in the performance of the said transferred functions the authority available to the Secretary of State under sections 561 and 562 of the Foreign Service Act of 1946, as amended, and under sections 1021 through 1071 thereof.

(b) The prohibitions and requirements contained in sections 1001 through 1005 and section 1011 of the Foreign Service Act of 1946, as amended, shall be applicable to the personnel of the United States Information Agency.

(c) There are hereby excluded from the authority granted to the Director by section 2 (a) of this order the following-described powers now vested in or delegated to the Secretary of State:

(1) The authority of the Secretary of State to make recommendations to the President for the commissioning of Foreign Service Reserve officers as diplomatic or consular officers, or both, under section 524 of the Foreign Service Act of 1946, as amended, and to make recommendations for the commissioning of Foreign Service staff officers or employees as consuls under section 533 of such act, and the authority of the Secretary to commission Foreign Service staff officers as vice consuls under the said section 533. The Director may, whenever he considers it necessary to carry out the functions transferred to him by the said Reorganization Plan No. 8 of 1953, request the Secretary of State to recommend to the President that persons employed under section 2 (a) of this order be commissioned as diplomatic or consular officers, or both, or to grant such persons diplomatic or consular commissions, as appropriate.

(2) The authority vested in the President by sections 443 and 901 of the Foreign Service Act of 1946, as amended, which has been delegated to the Secretary of State by Executive Orders Nos. 10000 and 10011, and successive amendments thereof, to designate places, fix rates, and prescribe regulations governing the payment of additional compensation, known as "foreign post differential", to employees in foreign areas of executive departments and independent establishments of the United States, and to designate places, fix rates, and prescribe regulations, with respect to civilian employees of the Government serving abroad, governing living-quarters allowances, cost-of-living allowances, and representation allowances.

SEC. 3. *Authority under various other statutes.* The Director is authorized to exercise the authority available to the Secretary of State or the Director of the Foreign Operations Administration, as the case may be, under the following-described provisions of law:

(a) The Foreign Service Buildings Act of 1926, as amended (22 U. S. C. 292–300), regarding the acquisition, construction, alteration, repair, furnishing, exchange, and disposal of buildings and grounds in foreign countries.

(b) The act of July 9, 1949 (5 U. S. C. 170a, b, and c), regarding the transfer, acquisition, use, and disposal of international broadcasting facilities.

(c) The act of August 3, 1950 (19 U. S. C. 1201, par. 1628), regarding the importation of sound recordings.

(d) The provisions under the first heading "Salaries and Expenses" of the Department of State Appropriation Act, 1954, regarding (1) employment of aliens, by contract, for services abroad, (2) purchase of uniforms, (3) cost of transporting to and from a place of storage and the cost of storing the furniture and household effects of an employee of the Foreign Service who is assigned to a post at which he is unable to use his furniture and effects, under such regulations as the Secretary of State may prescribe, (4) dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others, (5) examination of estimates of appropriations in the field, (6) purchase of ice and drinking water abroad, (7) payment of excise taxes on negotiable instruments abroad, and (8) procurement, by contract or otherwise, of services, supplies, and facilities, as follows: (i) maintenance, improvement, and repair of properties used for international information activities in foreign countries, (ii) fuel and utilities for Government-owned or leased property abroad, and (iii) rental or lease for periods not exceeding ten years of offices, buildings, ground, and living quarters, and the furnishing of living quarters to officers and employees engaged in international information activities abroad (22 U. S. C. 291).

(e) The provisions of the Department of State Appropriation Act, 1954, regarding (1) exchange of funds for payment of expenses in connection with the operation of information establishments abroad without regard to the provisions of section 3651 of the Revised Statutes (31 U. S. C. 543), (section 103 of the General Provisions of the Department of State Appropriation Act, 1954), (2) payment of travel expenses outside the continental limits of the United States from funds available in the fiscal year that such travel is authorized and actually begins (section 104 of the General Provisions of the Department of State Appropriation Act, 1954), (3) granting authority to the chief of each information Field Staff to approve, with the concurrence of the Chief of Mission, use of Government-owned vehicles for travel under conditions described in section 105 of the General Provisions of the Department of State Appropriation Act, 1954, and (4) purchase with foreign currencies for use abroad of passenger motor vehicles (exclusive of buses, ambulances, and station wagons) at a cost not to exceed the equivalent of $2,200 for each vehicle (section 106 of the General Provisions of the Department of State Appropriation Act, 1954).

(f) Section 202 of the Revised Statutes of the United States (5 U. S. C. 156), so far as it authorizes the Secretary of State to keep the American public informed about the international information aspects of the United States foreign affairs.

(g) Section 504 (d) of the Mutual Security Act of 1951, as amended (relating to reduction in personnel), with respect to personnel transferred from the Mutual Security Agency or the Foreign Operations Administration to the United States Information Agency.

(h) Section 161 of the Revised Statutes of the United States (5 U. S. C. 22) and section 4 of the act of May 26, 1949 (5 U. S. C. 151c), regarding the promulgation of rules and regulations and the delegation of authority.

SEC. 4. *Effective date.* This order shall become effective on August 1, 1953.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
August 1, 1953.

[F. R. Doc. 53–6860; Filed, Aug. 3, 1953; 10:24 a. m.]

REORGANIZATION PLAN NO. 7 OF 1953

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, June 1, 1953, Pursuant to the Provisions of the Reorganization Act of 1949, Approved June 20, 1949, as Amended [1]

FOREIGN OPERATIONS ADMINISTRATION

SECTION 1. *Establishment of Foreign Operations Administration.* (a) There is hereby established a new agency which shall be known as the Foreign Operations Administration, hereinafter referred to as the "Administration."

(b) There shall be at the head of the Administration a Director of the Foreign Operations Administration, hereinafter referred to as the "Director." The Director shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate of $22,500 a year. The Secretary of State shall advise with the President concerning the appointment and tenure of the Director.

(c) There shall be in the Administration a Deputy Director of the Foreign Operations Administration, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall receive compensation at the rate of $17,500 a year. The Deputy Director shall perform such functions as the Director shall from time to time designate, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

(d) There are hereby established in the Administration six new offices with such title or titles as the Director shall from time to time determine. Appointment thereto shall be by the President, by and with the advice and consent of the Senate. The compensation for each of two of the said offices shall be at the rate of $16,000 a year and the compensation for each of the other four offices shall

[1] Effective August 1, 1953, under the provisions of section 6 of the act; published pursuant to section 11 of the act (63 Stat. 203; 5 U. S. C. Sup. 133z).

be at the rate of $15,000 a year. The persons appointed to the said new offices shall perform such functions as the Director shall from time to time designate, and are authorized to act as Director, as the Director may designate, during the absence or disability of the Director and the Deputy Director or in the event of vacancies in the offices of Director and Deputy Director.

SEC. 2. *Transfer of functions to the Director.* There are hereby transferred to the Director:

(a) All functions vested by the Mutual Security Act of 1951, as amended, or by any other statute in the Director for Mutual Security provided for in section 501 of that Act, or in the Mutual Security Agency created by that Act, or in any official or office of that Agency, including the functions of the Director for Mutual Security as a member of the National Security Council.

(b) All functions vested by the Mutual Defense Assistance Control Act of 1951 in the Administrator created by that Act.

(c) The function vested by section 6 of the Yugoslav Emergency Relief Assistance Act of 1950 in the Secretary of State.

SEC. 3. *Institute of Inter-American Affairs.* The Institute of Inter-American Affairs, together with its functions, is hereby transferred to the Administration. All functions vested by the Institute of Inter-American Affairs Act in the Secretary of State are hereby transferred to the Director. Functions with respect to serving as employees of the said Institute or as members of the board of directors thereof, including eligibility, as the case may be, to be detailed as such employees or to serve as such members, are hereby transferred from the officials and employees of the Department of State to the officials and employees of the Administration. The Institute shall be administered subject to the direction and control of the Director.

SEC. 4. *National Advisory Council.* The Director shall be a member of the National Advisory Council on International Monetary and Financial Problems (22 U. S. C. 286b).

SEC. 5. *Performance of functions transferred to the Director.* The Director may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any employee or organizational entity, of the Administration, of any function of the Director, except the function of being a member of the National Security Council and the function of being a member of the National Advisory Council on International Monetary and Financial Problems.

SEC. 6. *Transfer of functions to the President.* All functions vested in the Secretary of State by the United Nations Palestine Refugee Aid Act of 1950 are hereby transferred to the President.

SEC. 7. *Incidental transfers.* (a) Personnel, property, records, and unexpended balances of appropriations, allocations, and other funds, employed, used, held, available, or to be made available in connection with functions transferred or vested by this reorganization plan shall be transferred, at such time or times as the Director of the Bureau of the Budget shall direct, as follows:

(1) So much of those relating to functions transferred to or vested in the Director or the Administration as the Director of the Bureau of the Budget shall determine shall be transferred to the Administration.

(2) Those of the Institute of Inter-American Affairs shall be transferred along with the Institute.

(3) So much of those relating to the functions transferred by section 6 hereof as the Director of the Bureau of the Budget shall determine shall be transferred to the agency or agencies of the Government to which the President delegates the said functions.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 8. *Abolitions.* (a) There are hereby abolished:

(1) The offices of Director for Mutual Security and Deputy Director for Mutual Security, provided for in sections 501 and 504, respectively, of the Mutual Security Act of 1951, as amended (including the organization in the Executive Office of the President known as the Office of the Director for Mutual Security).

(2) The Mutual Security Agency.

(3) The title of Administrator provided for in the Mutual Defense Assistance Control Act.

(4) The four positions provided for in section 406 (e) of the Mutual Defense Assistance Act of 1949, as amended.

(5) The offices of Administrator and Deputy Administrator for Technical Cooperation, provided for in section 413 (a) of the Act for International Development, as amended, together with the functions vested in the Administrator by the said section 413 (a), as amended.

(6) The offices of the Special Representative in Europe and Deputy Special Representative in Europe, provided for in section 504 (a) of the Mutual Security Act of 1951, as amended. The abolition of the said offices of Representative, and Deputy Representative shall become effective on September 1, 1953 (unless a later date is required by the provisions of section 6 (a) of the Reorganization Act of 1949, as amended).

(b) The Director shall wind up any outstanding affairs of the aforesaid abolished agencies and offices not otherwise provided for in this reorganization plan.

SEC. 9. *Interim provisions.* The President may authorize the persons who, immediately prior to the effective date of this reorganization plan, hold offices or occupy positions abolished by section 8 hereof to hold offices and occupy positions under section 1 hereof until the latter offices and positions are filled pursuant to the provisions of the said section 1 or by recess appointment, as the case may be, but in no event for any period extending more than 60 days after the said effective date, as follows:

(a) The Director and Deputy Director for Mutual Security as the Director and Deputy Director of the Foreign Operations Administration, respectively.

(b) The Administrator for Technical Cooperation and the person occupying the senior position provided for in section 406 (e) of the Mutual Defense Assistance Act of 1949, as amended, to serve in the two senior positions created by section 1 (d) hereof.

(c) The Deputy Administrator for Technical Cooperation and the persons occupying the three positions provided for in section 406 (e) of the Mutual Defense Assistance Act of 1949, as amended, to serve in the four positions created by section 1 (d) hereof which have compensation at the rate of $15,000 a year.

[F. R. Doc. 53-6827; Filed, Aug. 3, 1953; 8:46 a. m.]

REORGANIZATION PLAN NO. 8 OF 1953

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, June 1, 1953, Pursuant to the Provisions of the Reorganization Act of 1949, Approved June 20, 1949, as Amended [1]

UNITED STATES INFORMATION AGENCY

SECTION 1. *Establishment of agency.* (a) There is hereby established a new agency which shall be known as the United States Information Agency, hereinafter referred to as the Agency.

(b) There shall be at the head of the Agency a Director of the United States Information Agency, hereinafter referred to as the Director. The Director shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate of $17,500 a year. The Secretary of State shall advise with the President concerning the appointment and tenure of the Director.

(c) There shall be in the Agency a Deputy Director of the United States Information Agency, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall receive compensation at the rate of $16,000 a year. The Deputy Director shall perform such functions as the Director shall from time to time designate, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

(d) There are hereby established in the Agency so many new offices, not in excess of fifteen existing at any one time, and with such title or titles, as the Director shall from time to time determine. Appointment thereto shall be under the classified civil service and the compensation thereof shall be fixed from time to

[1] Effective August 1, 1953, under the provisions of section 6 of the act; published pursuant to section 11 of the act (63 Stat. 203; 5 U. S. C. Sup. 133z).

time pursuant to the classification laws, as now or hereafter amended, except that the compensation may be fixed without regard to the numerical limitations on positions set forth in section 505 of the Classification Act of 1949, as amended (5 U. S. C. 1105).

SEC. 2. *Transfer of functions.* (a) Subject to subsection (c) of this section, there are hereby transferred to the Director, (1) the functions vested in the Secretary of State by Title V of the United States Information and Educational Exchange Act of 1948, as amended, and so much of functions with respect to the interchange of books and periodicals and aid to libraries and community centers under sections 202 and 203 of the said Act as is an integral part of information programs under that Act, together with so much of the functions vested in the Secretary of State by other provisions of the said Act as is incidental to or is necessary for the performance of the functions under Title V and sections 202 and 203 transferred by this section, and (2) functions of the Secretary of State with respect to information programs relating to Germany and Austria.

(b) Exclusive of so much thereof as is an integral part of economic or technical assistance programs, without regard to any inconsistent provision of Reorganization Plan No. 7 of 1953, and subject to subsection (c) of this section, functions with respect to foreign information programs vested by the Mutual Security Act of 1951, as amended, in the Director for Mutual Security provided for in section 501 of the said Act are hereby transferred to the Director.

(c) (1) The Secretary of State shall direct the policy and control the content of a program, for use abroad, on official United States positions, including interpretations of current events, identified as official positions by an exclusive descriptive label.

(2) The Secretary of State shall continue to provide to the Director on a current basis full guidance concerning the foreign policy of the United States.

(3) Nothing herein shall affect the functions of the Secretary of State with respect to conducting negotiations with other governments.

(d) To the extent the President deems it necessary in order to carry out the functions transferred by the foregoing provisions of this section, he may authorize the Director to exercise, in relation to the respective functions so transferred, any authority or part thereof available by law, including appropriation acts, to the Secretary of State, the Director for Mutual Security, or the Director of the Foreign Operations Administration, in respect of the said transferred functions.

SEC. 3. *Performance of transferred functions.* (a) The Director may from time to time make such provisions as he shall deem appropriate authorizing the performance of any function of the Director by any other officer, or by any employee or organizational entity, of the Agency.

(b) Representatives of the United States carrying out the functions transferred by section 2 hereof in each foreign country shall be subject to such procedures as the President may prescribe to assure coordination among such representatives in each country under the leadership of the Chief of the United States Diplomatic Mission.

SEC. 4. *Incidental transfers.* (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds, employed, used, held, available, or to be made available in connection with the functions transferred or vested by this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Agency at such time or times as he shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 5. *Interim provisions.* Pending the initial appointment under section 1 of this reorganization plan of the Director and Deputy Director, respectively, therein provided for, their functions shall be performed temporarily, but not for a period in excess of 60 days, by such officers of the Department of State or the Mutual Security Agency as the President shall designate.

[F. R. Doc. 53-6828; Filed, Aug. 3, 1953; 8:46 a. m.]

REORGANIZATION PLAN NO. 9 OF 1953

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, June 1, 1953, Pursuant to the Provisions of the Reorganization Act of 1949, Approved June 20, 1949, as Amended [1]

COUNCIL OF ECONOMIC ADVISERS

The functions vested in the Council of Economic Advisers by section 4 (b) of the Employment Act of 1946 (60 Stat. 24), and so much of the functions vested in the Council by section 4 (c) of that Act as consists of reporting to the President with respect to any function of the Council under the said section 4 (c), are hereby transferred to the Chairman of the Council of Economic Advisers. The position of vice chairman of the Council of Economic Advisers, provided for in the last sentence of section 4 (a) of the said Act, is hereby abolished.

[F. R. Doc. 53-6829; Filed, Aug. 3, 1953; 8:46 a. m.]

[1] Effective August 1, 1953, under the provisions of section 6 of the act; published pursuant to section 11 of the act (63 Stat. 203; 5 U. S. C. Sup. 133z).

REORGANIZATION PLAN NO. 10 OF 1953

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, June 1, 1953, Pursuant to the Provisions of the Reorganization Act of 1949, Approved June 20, 1949, as Amended [1]

PAYMENTS TO AIR CARRIERS

SECTION 1. *Transfer of functions.* There are hereby transferred to the Civil Aeronautics Board (hereinafter referred to as the Board) the functions of the Postmaster General with respect to paying to each air carrier so much of the compensation fixed and determined by the Board under section 406 of the Civil Aeronautics Act of 1938, 52 Stat. 998, as amended, 49 U. S. C. 486, as is in excess of the amount payable to such air carrier, under honest, economical, and efficient management, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith at fair and reasonable rates fixed and determined by the Board in accordance with that section without regard to the following provision of subsection (b) thereof: "the need of each such air carrier for compensation for the transportation of mail sufficient to insure the performance of such service, and, together with all other revenue of the air carrier, to enable such air carrier under honest, economical, and efficient management, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense."

SEC. 2. *Interim provisions.* The Board may fix, without prior notice and hearing, the initial rates to be paid by the Postmaster General under this reorganization plan for mail transportation services rendered on and after the date when the plan becomes effective. At any time thereafter the Board upon its own motion may, and upon the petition of the Postmaster General or the carrier concerned shall, institute new proceedings to fix and determine, after notice and hearing, the rates to be paid by the Postmaster General in accordance with section 1 of this reorganization plan, and the rates so fixed and determined shall supersede the initial rates from the date of the motion or petition.

SEC. 3. *Incidental transfers.* There shall be transferred from the Post Office Department to the Board so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds, employed, held, used, available, or to be made available in connection with the functions trans-

[1] Effective October 1, 1953, under the provisions of section 6 of the act (63 Stat. 205; 5 U. S. C. Sup. 133z-4) together with the provisions of section 4 of the plan; published pursuant to section 11 of the act (63 Stat. 206; 5 U. S. C. Sup. 133z-9).

ferred by this reorganization plan as the Director of the Bureau of the Budget deems to be required for the performance of those functions. Such measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 4. *Effective date.* The provisions of this reorganization plan shall take effect on the first day of the first calendar month following forty-five days after the date they would take effect under section 6 (a) of the Reorganization Act of 1949, as amended, in the absence of this section, and shall be applicable only with respect to services rendered on and after the date on which the reorganization plan takes effect under this section.

[F. R. Doc. 53-6830; Filed, Aug. 3, 1953; 8:46 a. m.]

RULES AND REGULATIONS

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

[Import Regulation 1, Amdt. 1]

PART 6—IMPORT QUOTAS AND FEES

SUBPART—IMPORT QUOTAS

RECORDS AND REPORTS

By virtue of the authority vested in me by Proclamation 3019 of the President of the United States, dated June 8, 1953 (18 F. R. 3361), as amended by Proclamation 3025 on June 30, 1953 (18 F. R. 3815), it is hereby determined that the following amendment of Import Regulation 1 (18 F. R. 3819, 3822) is appropriate to facilitate the administration of said Import Regulation 1.

It is, therefore, ordered that the provisions in paragraph (a) of § 6.27 *Records and reports* of Import Regulation 1 (18 F. R. 3819, 3822) are hereby amended to read as follows:

(a) Each person making an importation shall file with the Collector of Customs a completed Form PMA-678, or such other form as may be required for this purpose by the Administrator. The form shall be signed by the licensee or an authorized officer, employee, or agent of the licensee. The form will be transmitted by the Collector of Customs to the Production and Marketing Administration, United States Department of Agriculture.

This amendment shall become effective upon publication in the FEDERAL REGISTER. With respect to violations, rights accrued, liabilities incurred, or appeals taken concerning Import Regulation 1 prior to the effective date hereof, all provisions of said Import Regulation 1 in effect at the time when such violations occurred, rights accrued, liabilities were incurred, or appeals were taken shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, liability, or appeal.

It is hereby found that it is unnecessary, impracticable, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (60 Stat. 237; 50 U. S. C. 1001 et seq.) in that the changes effected by this amendment are procedural in nature, do not require any special preparation by persons affected thereby, relieve restrictions, and should be made operative promptly to enable licensees to avail themselves of the benefits resulting therefrom.

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

(49 Stat. 750, as amended; 7 U. S. C. Sup. 624. Interprets or applies Proclamation 3019, June 8, 1953, 18 F. R. 3361, as amended by Proclamation 3025, June 30, 1953, 18 F. R. 3815)

Done at Washington, D. C., this 29th day of July 1953.

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

[F. R. Doc. 53-6776; Filed, Aug. 3, 1953; 8:51 a. m.]

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

PART 906—MILK IN TULSA-MUSKOGEE, OKLAHOMA, MARKETING AREA

SUBPART—ORDER REGULATING HANDLING

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AUTHORITY: §§ 906.1 to 906.101 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

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

be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Tulsa, Oklahoma, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity, specified in a marketing agreement upon which a hearing has been held.

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler as his pro rata share of such expense, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all receipts within the month of (i) other source milk which is classified as Class I milk, and (ii) milk from producers including such handler's own production.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order, as amended, effective not later than August 1, 1953. Any delay beyond August 1, 1953, in the effective date of this order amending the order, as amended, will seriously impair the orderly marketing of milk for the Tulsa-Muskogee marketing area. The changes effected by this order amending the order, as amended, do not require of persons affected, substantial or extensive preparation prior to the effective date. In view of the foregoing, it is hereby found that good cause exists for making this order effective August 1, 1953 (see sec. 4 (c) Administrative Procedure Act, 5 U. S .C. 1003 (c)).

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

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

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

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who, during the determined representative period (June 1953), were engaged in the production of milk for sale in the said marketing area.

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

DEFINITIONS

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

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

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

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

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

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

(b) To have full authority in the sale of milk of its members, and

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

§ 906.6 *Tulsa-Muskogee, Oklahoma, marketing area.* "Tulsa-Muskogee, Oklahoma, marketing area", hereinafter called the marketing area, means all territory within County of Tulsa, the City of Sapulpa, the township of Sapulpa in Creek County, that part of Black Dog township in 20 North, Ranges 10, 11, and 12 East in Osage County, and the Cities of Muskogee, McAlester and Tahlequah, all in the State of Oklahoma.

§ 906.7 *Approved plant.* "Approved plant" means:

(a) A milk plant approved by any health authority having jurisdiction in the marketing area from which milk, skim milk, buttermilk, flavored milk, flavored milk drinks, or cream are disposed of for fluid consumption in the marketing area on wholesale or retail routes (including routes operated by vendors and disposition at plant stores); or

(b) Any milk plant approved by any health authority having jurisdiction in the marketing area which serves as a receiving station by receiving, weighing, and commingling producer milk and from which such milk is normally transferred to a plant specified in paragraph (a) of this section.

§ 906.8 *Unapproved plant.* "Unapproved plant" means any milk manufacturing, processing, bottling, or distributing plant other than an approved plant.

§ 906.9 *Handler.* "Handler" means:

(a) Any person in his capacity as the operator of an approved plant; or

(b) Any cooperative association with respect to the milk of any producer which it causes to be diverted to an unapproved plant for the account of such cooperative association.

§ 906.10 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk, under a dairy farm permit, permit authorization or rating, for the production of milk to be disposed of for consumption as Grade A milk, issued by any health authority having jurisdiction in the marketing area, which is received at an approved plant. Producer shall include any such person whose milk is caused by a handler to be diverted for the account of such handler from an approved plant to an unapproved plant, and milk so diverted shall be deemed to have been received at an approved plant by the handler who causes it to be diverted. "Producer" shall not include any person with respect to milk produced by him which is received at a plant operated by a handler who is subject to another Federal order and who is partially exempt from the provisions of this subpart pursuant to § 906.61.

§ 906.11 *Producer milk.* "Producer milk" means all skim milk and butterfat in milk produced by a producer which is received by a handler either directly from producers or from other handlers.

§ 906.12 *Other source milk.* "Other source milk" means all skim milk and butterfat other than that contained in producer milk.

§ 906.13 *Producer-handler.* "Producer-handler" means any person who produces milk and operates an approved plant, but who receives no milk from producers.

§ 906.14 *Base milk.* "Base milk" means producer milk received by a handler during any of the months of April through June which is not in excess of each producer's daily average base computed pursuant to § 906.65 multiplied by the number of days in such month for which such producer delivered milk to such handler.

§ 906.15 *Excess milk.* "Excess milk" means producer milk received by a handler during any of the months of April through June which is in excess of base milk received from each producer during such month, and shall include all milk received from producers for whom no daily average base can be computed pursuant to § 906.65.

MARKET ADMINISTRATOR

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

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

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

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

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

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

(d) Pay out of funds provided by § 906.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 906.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

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

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the day upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 906.30 to 906.32, inclusive,

(2) Maintained adequate records and facilities pursuant to § 906.33, or

(3) Made payments pursuant to §§ 906.80 to 906.88, inclusive;

(i) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk caused to be delivered by such cooperative association, either directly or from producers who are members of such cooperative association, to each handler to whom the cooperative association sells milk. For the purpose of this report, the milk caused to be so delivered by a cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class;

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

(1) On or before the 12th day of each month the minimum price for Class I milk computed pursuant to § 906.51 (a) and the Class I butterfat differential computed pursuant to § 906.52 (a) both for the current month; and on or before the 5th day of each month the minimum price for Class II milk pursuant to § 906.51 (b) and the Class II butterfat differential computed pursuant to § 906.52 (b), both for the previous month; and

(2) On or before the 12th day of each month the uniform price(s) computed pursuant to § 906.71 or § 906.72, as applicable, and the butterfat differential computed pursuant to § 906.82, both for the previous month; and

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

REPORTS, RECORDS, AND FACILITIES

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

(a) The quantities of skim milk and butterfat contained in milk received from producers, and, for the months of April through June, the aggregate quantities of base milk and excess milk;

(b) The quantities of skim milk and butterfat contained in (or used in the production of) receipts from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II products disposed of in the form in which received without further processing or packaging by the handler);

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(e) The disposition of Class I products on routes wholly outside the marketing area; and

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

§ 906.31 *Reports of payments to producers.* On or before the 20th day of each month, each handler shall submit to the market administrator his producer payroll for deliveries of the preceding month which shall show:

(a) The total pounds of milk received from each producer and cooperative association, the total pounds of butterfat contained in such milk and the number of days on which milk was received from such producers, including for the months of April through June such producer's deliveries of base and excess milk;

(b) The amount of payment to each producer or cooperative association; and

(c) The nature and amount of any deductions or charges involved in such payments.

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

(b) Each handler who causes milk to be diverted to an unapproved plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, of his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

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

(a) The receipts and utilization of all receipts of producer milk and other source milk;

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

(c) Payments to producers and cooperative associations; and

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

§ 906.34 *Retention of records.* All books and records required under this

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

CLASSIFICATION

§ 906.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the month by a handler and which is required to be reported pursuant to § 906.30 shall be classified by the market administrator pursuant to the provisions of §§ 906.41 to 906.46, inclusive.

§ 906.41 *Classes of utilization.* Subject to the conditions set forth in §§ 906.43 and 906.44, inclusive, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, cultured sour cream, any mixture (except bulk ice cream mix) of cream and milk or skim milk, and all skim milk and butterfat not specifically accounted for under paragraph (b) of this section;

(b) Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than those specified in paragraph (a) of this section;

(2) Disposed of for livestock feed;

(3) In cream frozen and stored;

(4) In skim milk dumped, after prior notification to an opportunity for verification by the market administrator;

(5) In shrinkage up to 2 percent of receipts from producers;

(6) In shrinkage of other source milk; and

(7) In inventory at the end of the month as milk, skim milk, cream (except frozen) or any product specified in paragraph (a) of this section.

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

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

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

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

(b) Any skim milk or butterfat classified as Class II milk shall be reclassified if such skim milk or butterfat is later disposed of by such handler or another handler (whether in original or other form) as Class I milk. Any skim milk or butterfat which was classified as Class II in the previous month pursuant to § 906.41 (b) (7) shall be reclassified as Class I milk if it is subtracted in the current month from Class I pursuant to § 906.46 (a) (4).

§ 906.44 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk or cream, to the approved plant of another handler (except a producer-handler) unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month within which such transaction occurred: *Provided,* That the skim milk or butterfat so assigned to Class II shall be limited to the amount thereof remaining in Class II in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 906.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I: *And provided further,* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk.

(b) As Class I milk if transferred or diverted to a producer-handler in the form of milk, skim milk or cream.

(c) As Class I milk if transferred or diverted in the form of milk or skim milk to an unapproved plant located more than 300 miles from Tulsa, Oklahoma, by the shortest highway distance as determined by the market administrator.

(d) As Class I milk if transferred in the form of cream under Grade A certification to an unapproved plant, or unless the handler claims classification as Class II milk and establishes the fact that such cream was transferred without Grade A certification and with each container labeled or tagged to indicate that the contents are for manufacturing use only, and that the shipment was so invoiced;

(e) (1) As Class I milk, if transferred or diverted in the form of milk or skim milk to an unapproved plant located not more than 300 highway miles from Tulsa, Oklahoma, and from which fluid milk is disposed of on wholesale or retail routes or to other milk plants, unless all the following conditions are met:

(i) The market administrator is permitted to audit the records of such unapproved plant; and

(ii) Such unapproved plant received milk from dairy farmers who the market administrator determines constitute its regular source of supply for Class I milk.

(2) If these conditions are met the market administrator shall classify such milk as reported by the handler subject to verification as follows: (i) Determine the use of all skim milk and butterfat at such unapproved plant, and (ii) allocate the skim milk and butterfat so transferred or diverted to the highest use classification remaining after subtracting in series beginning with the highest use classification, the skim milk and butterfat in milk received at the unapproved plant direct from dairy farmers.

(f) As Class II milk if transferred or diverted in the form of milk or skim milk to an unapproved plant located not more than 300 miles from Tulsa, Oklahoma, and from which fluid milk is not disposed of on wholesale or retail routes, except that:

(1) If such unapproved plant transfers milk or skim milk to an approved plant, an equal amount of skim milk and butterfat transferred to such unapproved plant from the approved plants of other handlers shall be deemed to have been transferred directly to the second approved plant and shall be classified pursuant to the provisions of paragraph (a) of this section; and

(2) If such unapproved plant transfers milk or skim milk to a second unapproved plant which distributes fluid milk on wholesale or retail routes, skim milk or butterfat transferred from an approved plant to the first unapproved plant shall be Class I milk to the extent of the amount so transferred to such second unapproved plant unless it is established that the milk or skim milk was transferred to the second unapproved plant without Grade A certification and with each container labeled or tagged to indicate that the contents are for manufacturing use only, and that the shipment was so invoiced.

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

§ 906.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 906.45 the market administrator shall determine the classification of milk received from producers as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 906.41 (b) (5).

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received from other handlers in a form other than milk, skim milk or cream according to its classification pursuant to § 906.41;

(3) Subtract from the remaining pounds of skim milk, in series beginning with Class II, the pounds of skim milk in receipt of other source milk;

(4) Subtract from the remaining pounds of skim milk, in series beginning with Class II, the pounds of skim milk in inventory at the beginning of the month

in the form of milk, skim milk, cream (except frozen) or any product specified in § 906.41 (a);

(5) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers in the form of milk, skim milk or cream according to its classification as determined pursuant to § 906.44 (a);

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

(7) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be called "overage".

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

(c) Determine the weighted average butterfat content of the Class I and Class II milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 906.50 *Basic formula price to be used in determining Class I prices.* The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the highest of the prices computed pursuant to paragraphs (a) and (b) of this section and § 906.51 (b) for the preceding month.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department, divided by 3.5 and multiplied by 4.0:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

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

(1) From the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month, subtract 3 cents, add 20 percent thereof and multiply by 4.0.

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray, and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.96.

§ 906.51 *Class prices.* Subject to the provisions of §§ 906.52 and 906.53, inclusive, the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the month shall be as follows:

(a) *Class I milk.* The basic formula price plus $1.45 during the months of April, May and June and plus $1.85 during all other months: *Provided,* That for each of the months of September, October, November and December, such price shall not be less than that for the preceding month, and that for each of the months of April, May and June such price shall be not more than that for the preceding month. To this price add or subtract a "supply-demand adjustment" computed as follows:

(1) Divide the total receipts of producer milk in the first and second months preceding by the total gross volume of Class I milk (excluding interhandler transfers and sales by producer-handlers and handlers partially exempt from this order pursuant to § 906.61) for the same months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the Class I utilization percentage;

(2) Compute a "net utilization percentage" by algebraically subtracting from the Class I utilization percentage computed pursuant to subparagraph (1) of this paragraph, the standard utilization percentage shown below:

Month for which price applies	Months used in computation	Standard utilization percentage
January	November-December	108
February	December-January	110
March	January-February	112
April	February-March	114
May	March-April	117
June	April-May	129
July	May-June	137
August	June-July	137
September	July-August	134
October	August-September	128
November	September-October	119
December	October-November	109

(3) For each minus percentage point in excess of 2 in the "net utilization percentage" the Class I price shall be increased 3 cents in January, February, March, July and August; 2 cents in April, May and June; 4 cents in September, October, November and December; and for each plus percentage point in excess of 2 in the "net utilization percentage" the Class I price shall be decreased 3 cents in January, February, March, July and August; 4 cents in April, May and June; and 2 cents in September, October, November and December: *Provided,* That in no event shall an adjustment made pursuant to this subparagraph exceed 50 cents per hundredweight.

(b) *Class II milk.* The average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department.

Present Operator and Location

American Foods Co., Miami, Okla.
Muskogee Dairy Products Co., Muskogee, Okla.
Page Milk Co., Coffeyville, Kans.
Pet Milk Co., Siloam Springs, Ark.
Real Test Foods Co., Tulsa, Okla.

§ 906.52 *Butterfat differentials to handlers.* If the average butterfat content of the milk of any handler allocated to any class pursuant to § 906.46 is more or less than 4.0 percent, there shall be added to the respective class price, computed pursuant to § 906.51, for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent or subtracted for each one-tenth of 1 percent that such average butterfat content is below 4.0 percent an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month specified below by the applicable factor listed and dividing the result by 10:

(a) *Class I milk.* Multiply such price for the preceding month by 1.25;

(b) *Class II milk.* Multiply such price for the current month by 1.15.

§ 906.53 *Location adjustment credit to handlers.* For that portion of milk which is (a) received directly from producers at an approved plant located outside the marketing area and 35 or more miles from the nearer of City Hall in Tulsa or the City Hall in Muskogee by shortest hard-surfaced highway distance, as determined by the market administrator, and (b) is either (1) moved to and received at an approved plant located in the marketing area in the form of milk, skim milk or cream, or (2) is classified as Class I milk without such movement, the prices specified in § 906.51 shall be subject to a location adjustment credit to the handler, computed as follows:

Distance from nearer of the City Hall in Tulsa or the City Hall in Muskogee:	*Cents per hundredweight*
35 to 50 miles	15
50.1 to 65 miles	17
65.1 to 80 miles	19
80.1 to 95 miles	21
95.1 miles or over	23

APPLICATION OF PROVISIONS

§ 906.60 *Producer-handlers.* Sections 906.40 through 906.46, 906.65, 906.66, 906.50 through 906.53, 906.70 through 906.73, and 906.80 through 906.89, shall not apply to a producer-handler.

§ 906.61 *Handlers subject to other orders.* In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by another milk marketing agree-

ment or order issued pursuant to the act, the provisions of this subpart shall not apply except as follows:

(a) The handler shall with respect to his total receipts of skim milk and butterfat make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(b) If the price which such handler is required to pay under the other Federal order to which he is subject, for skim milk and butterfat which would be classified as Class I milk under this subpart is less than the price provided by this subpart, such handler shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area) an amount equal to the difference between the value of such skim milk or butterfat as computed pursuant to this subpart and its value as determined pursuant to the other order to which he is subject.

DETERMINATION OF BASE

§ 906.65 *Computation of daily average base for each producer.* For the months of April through June of each year the market administrator shall compute a daily average base for each producer as follows, subject to the rules set forth in § 906.66:

(a) Divide the total pounds of milk received by a handler(s) from such producer during the months of September through January immediately preceding by the number of days, not to be less than ninety, of such producer's delivery in such period.

§ 906.66 *Base rules.* (a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base forming period;

(b) Bases may be transferred only during the period of April through June by notifying the market administrator in writing before the last day of any month that such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy operations.

(2) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

(c) A producer who ceases to deliver milk to a handler for more than 45 consecutive days shall forfeit his base.

DETERMINATION OF UNIFORM PRICES

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

(a) Multiply the pounds of such milk in each class by the applicable respective class prices (adjusted pursuant to §§ 906.52 and 906.53) and add together the resulting amounts;

(b) Add an amount computed by multiplying the pounds of any overage deducted from each class pursuant to § 906.46 (a) (7) by the applicable class price(s); and

(c) Add any charges computed as follows:

(1) For any skim milk or butterfat in inventory reclassified pursuant to § 906.43 (b) which is not in excess of the quantity in producer milk classified as Class II milk (other than as shrinkage) in the handler's plant(s) for the preceding month, a charge shall be computed at the difference between its value at the Class I price for the current month and its value at the Class II price of the preceding month;

(2) For any other skim milk or butterfat reclassified pursuant to § 906.43 (b) a charge shall be computed at the difference between its value at the Class I price for the current months and its value at the Class II price for the month in which previously classified as Class II milk.

§ 906.71 *Computation of aggregate value used to determine price(s).* For each month the market administrator shall compute an aggregate value from which to determine the uniform price(s) per hundredweight for milk of 4.0 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 906.70 for all handlers who made the reports prescribed in § 906.30 and who made the payments pursuant to §§ 906.80 and 906.84 for the preceding month.

(b) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 906.81.

(c) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 906.85.

(d) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent, or add if such average butterfat content is less than 4.0 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 906.82 and multiplying the resulting figure by the total hundredweight of such milk.

§ 906.72 *Computation of uniform price.* For each of the months of July through March the market administrator shall compute the uniform price per hundredweight for all milk of 4.0 percent butterfat content received from producers as follows:

(a) Divide the aggregate value computed pursuant to § 906.71 by the total hundredweight of milk included in such computation; and

(b) Subtract not less than 4 cents nor more than 5 cents.

§ 906.73 *Computation of uniform prices for base milk and excess milk.* For each of the months of April through June the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, as follows:

(a) Compute the total value on a 4.0 percent butterfat basis of excess milk included in these computations by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 4.0 percent butterfat content, and adding together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat received from producers.

(c) Subtract the value of excess milk obtained in paragraph (a) of this section from the aggregate value of milk computed pursuant to § 906.71 and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(d) Divide the amount obtained in paragraph (c) of this section by the total hundredweight of base milk included in these computations;

(e) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content received from producers.

PAYMENTS

§ 906.80 *Time and method of payment.* Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer to whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price(s) for such month computed pursuant to §§ 906.72 and 906.73, adjusted by the butterfat differential computed pursuant to § 906.82, subject to location adjustments to producers pursuant to § 906.81, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided,* That if by such date such handler has not received full payment pursuant to § 906.85, he may reduce his total payments to all producers uniformly by not less than the amount of reduction in payment from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the last day of each month, to each producer for whom payment is not made pursuant to paragraph (c) of this section for milk received from him during the first 15 days of the month at not less than the Class II price for the preceding month.

(c) On or before the 13th and 27th days of each month, in lieu of payments pursuant to paragraphs (a) and (b),

respectively, of this paragraph, to a cooperative association which so requests, with respect to producers for whose milk such cooperative association is authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers.

§ 906.81 *Location adjustment to producers.* In making payments to producers pursuant to § 906.80, each handler may deduct per hundredweight of milk received from producers at an approved plant, or diverted to an unapproved plant, either of which is located outside the marketing area and 35 or more miles from the nearer of the City Hall in Tulsa or the City Hall in Muskogee by shortest hard-surfaced highway distance, as determined by the market administrator, the applicable amounts set forth below:

Distance from nearer of the City Hall in Tulsa or the City Hall in Muskogee:	*Cents per hundredweight*
35 to 50 miles	15
50.1 to 65 miles	17
65.1 to 80 miles	19
80.1 to 95 miles	21
95.1 miles or over	23

§ 906.82 *Producer butterfat differential.* In making payments pursuant to § 906.80 there shall be added to or subtracted from the uniform price for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, an amount computed by multiplying by 1.2 the simple average, as computed by the market administrator, of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92 score) bulk creamery butter at Chicago as reported by the Department during the month, dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

§ 906.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund", into which he shall deposit all payments made by handlers pursuant to §§ 906.84, 906.61 (b), and 906.86, and out of which he shall make all payments to handlers pursuant to §§ 906.85 and 906.86, inclusive.

§ 906.84 *Payments to the producer-settlement fund.* On or before the 13th day after the end of the month during which the milk was received, each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the value of the milk received by such handler from producers as determined pursuant to § 906.70 is greater than the amount required to be paid producers by such handler pursuant to § 906.80.

§ 906.85 *Payment out of the producer-settlement fund.* On or before the 14th day after the end of the month during which the milk was received the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during the month as determined pursuant to § 906.70 is less than the amount required to be paid producers by such handler pursuant to § 906.80: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

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

§ 906.87 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 906.80 shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received from producers and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of each month pay such deduction to the cooperative association rendering such services, identified by a statement showing for each such producer the information required to be reported to the market administrator pursuant to § 906.31. In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to § 906.31.

§ 906.88 *Expense of administration.* As his pro rata share of the expense of administration of this subpart, each handler shall pay to the market administrator on or before the 15th day after the end of the month, 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of (a) other source milk which is classified as Class I milk, and (b) milk from producers including such handler's own production.

§ 906.89 *Termination of obligation.* The provisions of this section shall apply to any obligation under this subpart for the payment of money.

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

(1) The amount of the obligation;

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

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

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

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

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

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 906.90 *Effective time.* The provisions of this subpart or any amendment to this subpart shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 906.91.

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

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

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

MISCELLANEOUS PROVISIONS

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

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

Issued at Washington, D. C., this 29th day of July 1953, to be effective on and after the 1st day of August 1953.

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

[F. R. Doc. 53-6775; Filed, Aug. 3, 1953; 8:50 a. m.]

PART 921—MILK IN SPRINGFIELD, MISSOURI, MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Springfield, Missouri, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for such milk, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary, in the public interest, to make this order amending the order, as amended, effective not later than August 1, 1953. Any delay beyond that date in the effective date of this order amending the order, as amended, will seriously threaten the orderly marketing of milk in the Springfield, Missouri, marketing area. The provisions of the said order are known to handlers, having been published in a decision which appeared in the FEDERAL REGISTER July 18, 1953 (18 F. R. 4219). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. It is hereby found, therefore, that good cause exists for making this order effective August 1, 1953. (Sec. 4 (c); Administrative Procedures Act, 5 U. S. C. 1001 et seq.)

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

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

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

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who, during the determined representative period (May 1953), were engaged in the production of milk for sale in the said marketing area.

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

1. In § 921.50 (a) delete the following: "Borden Co., Greenville, Wis., and "Carnation Co., Jefferson, Wis."

2. In § 921.52 (a) delete "0.125" and substitute therefor the following: "0.120, and round to the nearest one-tenth cent."

3. In § 921.52 (b) delete "0.120" and substitute therefor the following: "0.115, and round to the nearest one-tenth cent."

4. Delete § 921.81 and substitute therefor the following:

§ 921.81 *Producer butterfat differential.* In making payments to producers pursuant to § 921.80, a handler shall adjust the uniform price by adding or subtracting, as the case may be, for each one-tenth of one percent by which the average butterfat content of such producer milk is more or less than 3.5 percent, an amount equal to the butterfat differential computed pursuant to § 921.52 (b): *Provided,* That such differential shall be rounded to the nearest one-half cent.

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

Issued at Washington, D. C., this 29th day of July 1953, to be effective on and after August 1, 1953.

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

[F. R. Doc. 53-6774; Filed, Aug. 3, 1953; 8:50 a. m.]

PART 929—MILK IN MUSKOGEE, OKLAHOMA, MARKETING AREA

SUPERSEDURE

EDITORIAL NOTE: For supersedure of Part 929 and merger of the orders regulating the handling of milk in the Tulsa, Oklahoma, and Muskogee, Oklahoma, marketing areas, see F. R. Doc. 53-6775, *supra*.

[Amdt. 2]

PART 957—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

LIMITATION OF SHIPMENTS

A notice of a proposed amendment relating to interpretative rules to be included in § 957.310 *Limitation of shipments* (18 F. R. 3380, 4280), effective under Marketing Agreement No. 98 and Order No. 57, as amended (7 CFR Part 957), which regulates the handling of Irish potatoes grown in certain designated counties in Idaho and Malheur County, Oregon, was published in the FEDERAL REGISTER on July 10, 1953 (18 F. R. 4049). This regulatory program is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.). After consideration of all relevant matters presented, including the amendment set forth in the aforesaid notice, which amendment was recommended and submitted for approval by the Idaho-Eastern Oregon Potato Committee, established pursuant to said order, the following amendment is hereby approved.

The proposed amendment provides an interpretation of the term "producer" for the purpose of determining who may handle a limited amount of immature potatoes under the exception contained in § 957.310 (b) (3) to the maturity requirements set forth in such subparagraph. The interpretative rule is necessary to clarify for handlers the limitations to such exception, to assist the committee in administering § 957.310, and to aid in the enforcement of compliance with Order No. 57, as amended, and with the regulation issued thereunder.

It is hereby found that it is impracticable and contrary to the public interest to postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) shipments of potatoes from the production area are now being made; (ii) more orderly marketing in the public interest than would otherwise prevail will be promoted by effectuating the amendment in the manner set forth below, on and after the effective date of this section; (iii) compliance with this section will require no preparation on the part of producers and handlers which cannot be completed by the effective date; and (iv) notice has been given of the proposed amendment as required by law.

The proposed amendment and interpretative rules are as follows:

Delete § 957.310 (b) (5) and substitute therefor as follows:

(5) For the purpose of determining who shall be entitled to the exception set forth in subparagraph (3) of this paragraph from the maturity requirements contained in such subparagraph:

(i) "Producer" means any individual, partnership, corporation, association, landlord-tenant crop sharing relationship, community property ownership, or any other business unit engaged in the production of potatoes for market.

(ii) It is intended that each 200 hundredweight exception to the aforesaid maturity requirements shall apply only to the potatoes grown on each farm of a producer.

(6) The terms used in this section shall have the same meaning as when used in Order No. 57, as amended, and the aforementioned grades and sizes shall have the same meanings assigned these terms in the U. S. Standards for Potatoes (§ 51.366 of this title), including the tolerances set forth therein.

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

Done at Washington, D. C., this 29th day of July 1953, to become effective 12:01 a. m., m. s. t., August 10, 1953.

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

[F. R. Doc. 53-6789; Filed, Aug. 3, 1953; 8:54 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

Subchapter A—Policies, Procedures, and Orders

[Docket 5712]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

RELIANCE PHARMACAL CO. ET AL.

Subpart—*Advertising falsely or misleadingly:* § 3.170 *Qualities or properties of product or service;* § 3.205 *Scientific or other relevant facts.* In connection with the offering for sale, sale, and distribution of the drug preparation "Artex" or any preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means to induce, etc., directly or indirectly, the purchase in commerce, which advertisements represent directly or by implication: (a) That said preparation constitutes an adequate, effective or reliable treatment for neuritis, sciatica, bursitis, gout, lumbago or any other kind of arthritic or rheumatic condition; (b) that said preparation will arrest the progress of, correct the underlying causes of or cure rheumatism or arthritis; (c) that the use of said preparation will prevent any form of arthritis; (d) that said preparation will afford any relief of the severe pains of neuritis, sciatica, gout, bursitis, lumbago or any other kind of arthritic or rheumatic condition, or have any effect on the stiffness or crippling effects that accompany some of these conditions; (e) that said preparation will have any therapeutic effect upon any of the symptoms or manifestations of neuritis, sciatica, gout, bursitis, lumbago or any other kind of arthritic or rheumatic conditions in excess of affording temporary relief of minor aches, pains or fever; (f) that said preparation will have any therapeutic effect upon migraine headache or the pains thereof, in excess of such temporary and partial relief of pain as its acetylsalicylic acid (aspirin) content will afford; (g) that said preparation will have any therapeutic effect upon female period pains in excess of such temporary and partial relief of pain as its acetylsalicylic acid (aspirin) content will afford; (h) that said preparation alkalizes when absorbed in the bloodstream, or helps nature to remove the uric acid; (i) that calcium succinate, one of the ingredients of Artex, stimulates cellular respiration, protects tissues or eliminates the toxicity of acetylsalicylic acid, another ingredient of Artex; (j) that para aminobenzoic acid, one of the ingredients of Artex, is effective as a tissue builder or helps nature repair damaged joints; (k) that thiamin chloride, one of the ingredients of Artex, promotes a sense of well being in persons afflicted with arthritis or rheumatism; and (l) that acetylsalicylic acid, one of the ingredients of Artex, suppresses rheumatic activity and prevents the onset of arthritis; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Reliance Pharmacal Company et al., Nevada City, Calif., Docket 5712, May 21, 1953]

In the Matter of Reliance Pharmacal Company, a corporation, and Edward S. Morris, William Berrian, and Florence T. Morris, Individually and as Officers of Reliance Pharmacal Company

This proceeding was first heard by a hearing examiner upon the complaint of the Commission, respondents' answer, and hearings at which evidence was received in support of the allegations of the complaint.

Thereafter, on August 25, 1950, counsel for the respondents and counsel in support of the complaint entered into a stipulation, supplemented by a further stipulation dated June 30, 1952, in which they agreed that Abner E. Lipscomb, hearing examiner, might be substituted for the hearing examiner originally designated in the matter; that the formula and therapeutic effect of respondents' preparation "Artex" are substantially the same as those in the preparation "Dolcin", involved in Docket 5692; [1] and that the entire transcript of all hearings held in that proceeding, together with such evidence as had been and might thereafter be taken in the instant proceeding, should be included in the record in the matter.

Subsequently the proceeding regularly came on for initial adjudication by said

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[1] 18 F. R. 1110.

last-named hearing examiner on the entire record, including proposed findings as to the facts and conclusions presented by counsel supporting the complaint, counsel for respondents not having submitted proposed findings as to the facts or conclusions, and said examiner, having duly considered the record and having found that the proceeding was in the interest of the public, made his initial decision comprising certain findings as to the facts,[2] conclusions drawn therefrom,[2] and order, including order to cease and desist, and order of dismissal as to a certain respondent.

Thereafter, following completion of service of said initial decision, on April 20, 1953, the filing of a notice of intention to appeal therefrom by respondents on April 29, and the failure of respondents to file appeal brief on or before May 20, said initial decision, pursuant to Rule XXII of the Commission's rules of practice, became the decision of the Commission on May 21, 1953.

Said order to cease and desist is as follows:

It is ordered, That respondent Reliance Pharmacal Company, a corporation, and its officers; respondents Edward S. Morris and Florence T. Morris, individually and as officers of said corporation; and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of the drug preparation "Artex," or any preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from, directly or indirectly:

1. Disseminating or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or by implication, as follows:

a. That said preparation constitutes an adequate, effective or reliable treatment for neuritis, sciatica, bursitis, gout, lumbago or any other kind of arthritic or rheumatic condition;

b. That said preparation will arrest the progress of, correct the underlying causes of or cure rheumatism or arthritis;

c. That the use of said preparation will prevent any form of arthritis;

d. That said preparation will afford any relief of the severe pains of neuritis, sciatica, gout, bursitis, lumbago or any other kind of arthritic or rheumatic condition, or have any effect on the stiffness or crippling effects that accompany some of these conditions;

e. That said preparation will have any therapeutic effect upon any of the symptoms or manifestations of neuritis, sciatica, gout, bursitis, lumbago or any other kind of arthritic or rheumatic conditions in excess of affording temporary relief of minor aches, pains or fever;

f. That said preparation will have any therapeutic effect upon migraine headache or the pains thereof, in excess of such temporary and partial relief of pain as its acetylsalicylic acid (aspirin) content will afford;

g. That said preparation will have any therapeutic effect upon female period pains in excess of such temporary and partial relief of pain as its acetylsalicylic acid (aspirin) content will afford;

h. That said preparation alkalizes when absorbed in the bloodstream, or helps nature to remove the uric acid;

i. That calcium succinate, one of the ingredients of Artex, stimulates cellular respiration, protects tissues or eliminates the toxicity of acetylsalicylic acid, another ingredient of Artex;

j. That para aminobenzoic acid, one of the ingredients of Artex, is effective as a tissue builder or helps nature repair damaged joints;

k. That thiamin chloride, one of the ingredients of Artex, promotes a sense of well being in persons afflicted with arthritis or rheumatism;

l. That acetylsalicylic acid, one of the ingredients of Artex, suppresses rheumatic activity and prevents the onset of arthritis.

2. Disseminating or causing to be disseminated any advertisement, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

It is further ordered, That the complaint herein, insofar as it relates to respondent William Berrian, be, and the same hereby is, dismissed without prejudice to the right of the Commission to take future action as to said respondent, with respect to the issues here involved.

By "Decision of the Commission and order to file report of compliance," Docket 5712, May 21, 1953, which announced fruition of said initial decision, report of compliance was required as follows:

It is ordered, That the respondents, Reliance Pharmacal Company, a corporation, and its officers, and Edward S. Morris and Florence T. Morris, individually and as officers of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: July 13, 1953.

By the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 53-6787; Filed, Aug. 3, 1953; 8:53 a. m.]

[Docket 6091]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

KEN WHITMORE, INC., AND SIDNEY SISSELMAN

Subpart—*Misbranding or mislabeling:* § 3.1190 *Composition: Wool Products Labeling Act;* § 3.1325 *Source or origin*—Maker or Seller—Wool Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 3.1845 *Composition*—Wool Products Labeling Act; § 3.1900 *Source or origin*—Wool Products Labeling Act. In connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation, or distribution in commerce, of ladies' coats or other wool products as such products are defined in and subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain, or in any way are represented as containing "wool", "reprocessed wool", or "reused wool", as those terms are defined in said Act, misbranding such products by: (1) Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers included therein; (2) failing to securely affix to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner: (a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five per centum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five per centum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of such wool product of any nonfibrous loading, filling, or adulterating matter; (c) the name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution, or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939; (3) falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as containing hair or fleece of the Cashmere goat; (4) stamping, tagging, labeling, or otherwise identifying such products as containing hair or fleece of the Cashmere goat without setting out in a clear and conspicuous manner on each such stamp, tag, label, or other identification the percentage of such Cashmere therein; and (5) failing to separately set forth on the required stamp, tag, label, or other means of identification the character and amount of the constituent fibers contained in the interlinings of such wool products as provided in Rule 24 of the rules and regulations promulgated under said Wool Products Labeling Act of 1939; prohibited, subject to the proviso that the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of section 3 of the Wool Products Labeling Act of 1939; and to the further provision that nothing contained in the order shall be construed as limiting any applicable provisions of said act or the rules and regulations promulgated thereunder.

[2] Filed as part of original document.

(Sec. 6, 38 Stat. 722, sec. 6, 54 Stat. 1131; 15 U. S. C. 46, 68 (d). Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2–5, 54 Stat. 1128–1130; 15 U. S. C. 45, 68–68c) [Cease and desist order, Ken Whitmore, Inc., et al., Pittsfield, Mass., Docket 6091, July 7, 1953]

In the Matter of Ken Whitmore, Inc., a Corporation, and Sidney Sisselman, Individually and as President of Said Corporation

This proceeding was heard by James A. Purcell, hearing examiner, upon the complaint of the Commission, and respondents' answer in which they admitted all of the material allegations of fact set forth in said complaint, waived hearing as to the facts alleged therein, and agreed that findings as to the facts and conclusions based upon said answer might be made, and an order entered disposing of the matter without intervening procedure, but reserved the right to appeal as provided by Rule XXIII of the Commission's Rules of Practice.

Thereafter the proceeding regularly came on for final consideration by said examiner, theretofore duly designated by the Commission, upon said complaint and answer, and said examiner, having duly considered the record in the matter and having found that the proceeding was in the interest of the public, made his initial decision comprising certain findings as to the facts,[1] conclusion drawn therefrom,[1] and order to cease and desist.

No appeal having been filed from said initial decision of said hearing examiner as provided for in Rule XXII, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision, including said order to cease and desist, accordingly, under the provisions of said Rule XXII became the decision of the Commission on July 7, 1953.

Said order to cease and desist is as follows:

It is ordered, That the respondent, Ken Whitmore, Inc., a corporation, and its officers, and respondent, Sidney Sisselman, individually and as an officer of said corporation, and respondents' respective representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of ladies' coats or other "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain or in any way are represented as containing "wool," "reprocessed wool" or "reused wool," as those terms are defined in said act, do forthwith cease and desist from misbranding such products by:

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

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

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

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

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

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

4. Stamping, tagging, labeling or otherwise identifying such products as containing hair or fleece of the Cashmere goat without setting out in a clear and conspicuous manner on each such stamp, tag, label or other identification the percentage of such cashmere therein;

5. Failing to separately set forth on the required stamp, tag, label or other means of identification the character and amount of the constituent fibers contained in the interlinings of such wool products as provided in Rule 24 of the Rules and Regulations promulgated under said Wool Products Labeling Act of 1939.

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

And provided further, That nothing contained in this order shall be construed as limiting any applicable provisions of said act or the rules and regulations promulgated thereunder.

By "Decision of the Commission and order to file report of compliance," Docket 6091, July 7, 1953, which announced and decreed fruition of said initial decision, report of compliance was required as follows:

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

Issued: July 7, 1953.

By the Commission.

[SEAL] WM. P. GLENDENING, JR.,
Acting Secretary.

[F. R. Doc. 53-6786; Filed, Aug. 3, 1953; 8:53 a. m.]

[1] Filed as part of original document.

Subchapter B—Trade Practice Conference Rules

[File No. 21-449]

PART 213—INDUSTRIAL BAG AND COVER INDUSTRY

PROMULGATION OF TRADE PRACTICE RULES

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

It is now ordered, That the trade practice rules of Group I and Group II, as hereinafter set forth, which have been approved and received, respectively, by the Commission in this proceeding, be promulgated as of August 4, 1953.

Statement by the Commission. Trade practice rules for the Industrial Bag and Cover Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under the trade practice conference procedure.

Members of the industry are persons, firms, corporations and organizations engaged in the manufacture, sale, offering for sale, or distribution of industrial packaging material of a flexible or semi-flexible nature which is composed of paper or a combination of paper and paperboard. Industry products include various types of custom-made packaging, and in addition such standard items as mattress bags, bags for shipping empty cans to manufacturers, furniture bags and covers, casket covers, flexible paper tubing, and liners for freight cars. The industry does not include manufacturers of paper shipping sacks of standard sizes and types which are used as containers for loose small grain or small unit materials, such as cement, flour, poultry feed, and salt; ordinary paper bags used by retail stores in the marketing of their products to consumer-purchasers; or rigid or folding cardboard boxes. Annual gross sales of the industry are estimated at $10,000,000.

The rules are directed to the elimination and prevention of various unfair trade practices and are issued in the interest of protecting the purchasing public and maintaining fair competitive conditions within the industry. To this end, the rules provide a helpful guide to all members of the industry.

Proceedings leading to the establishment of rules were instituted upon application filed on behalf of industry members. A general industry conference was held under Commission auspices in Washington, D. C., at which proposals for rules were submitted for consideration of the Commission. Thereafter, a draft of proposed rules was released by the Commission and public hearing thereon held in Washington, D. C., at which all interested or affected parties were afforded opportunity to present their views, suggestions, or objections regarding the rules.

Following such hearing, and upon consideration of the entire matter, final action was taken by the Commission whereby it approved and received, respectively, the trade practice rules hereinafter appearing in Group I and Group II.

Such rules become operative thirty (30) days from the date of promulgation.

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

Sec.

AUTHORITY: §§ 213.0 to 213.103 issued under sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45.

§ 213.0 *Definitions.* (a) Products of this industry include such bags, covers, and liners as are made of paper and/or paperboard and are designed for use in containing and/or protecting products of varying shapes and sizes during transit or storage. Many industry products are custom-made to specifications of the purchaser for specified flexible form-fitting packaging requirements. Not included are (1) paper shipping sacks of standard sizes and types which are used as containers for loose small grain or small unit materials, such as cement, flour, poultry feed, and salt, or (2) ordinary paper bags used by retail stores in the marketing of their products to consumer-purchasers, or (3) rigid or folding cardboard boxes.

(b) Industry products consist principally of, but are not limited to, the following standard paper and paperboard items:

Mattress and pad bags. All paper bags used for packaging bedding, upholstered pads, or similar sleeping equipment.

Can bags. All bags used for packaging empty metal, paper, or fibre cans; usually constructed with kraft paper sides and paperboard bottoms.

Upholstered furniture bags. All paper bags used for shipping or protecting upholstered furniture.

Hand-made and semi-hand-made bags and covers. Custom-made paper bags for industrial product packaging. Includes case goods bags for packaging or protection of furniture other than upholstered, including home appliances and office furniture and equipment.

Casket covers. Paper covers normally used as dust protectors for shipment or storage of caskets.

Tubing. Flexible paper tubes sold in cut lengths or in a continuous roll, maximum width of 12 inches and minimum length of 24 inches (for protection of wooden hoe handles, etc.).

Freight-car liners and freight-car ceiling liners. Used to line the ceiling, sides, and floor of freight cars for protection of raw materials and manufactured products while in transit.

Prefabricated water-resistant paper case liners. The water-resisting agent used may be any one of the following, but is not limited to: (1)Asphalt laminated, (2) wax or resin laminated, (3) waxed, or (4) coated.

GROUP I

General statement. The unfair trade practices embraced in §§ 213.1 to 213.16 are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

§ 213.1 *Misrepresentation and misbranding of industry products.* It is an unfair trade practice to make or publish, or cause to be made or published, by way of advertising, label, or otherwise, any statement or representation which directly, or by reason of concealment of material fact, has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers concerning the grade, quality, quantity, use, size or size symbol, material, finish, strength, thickness, composition, origin, preparation, manufacture, or distribution of any product of the industry, or in any other material respect. [Rule 1]

§ 213.2 *Misrepresentation as to character of business.* It is an unfair trade practice for any industry member, in the course of or in connection with the distribution of industry products, to represent, directly or indirectly, that he is a manufacturer of industry products, or that he owns or controls a factory making such products, when such is not the fact, or in any other manner to misrepresent the character, extent, or type of his business. [Rule 2]

§ 213.3 *Misrepresenting products as conforming to standard.* Representing through advertising, personal solicitation, or otherwise, that any product of the industry conforms to a standard recognized in or applicable to the industry when such is not the fact is an unfair trade practice. [Rule 3]

§ 213.4 *Prohibited discrimination*[1]— (a) *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential, where such rebate, refund, discount, credit, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however:*

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

(2) That nothing contained in this section shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

NOTE: This proviso shall not be construed as permitting an industry member to allow a price differential to a customer, whether in the form of a quantity price discount, rebate, or other form, through billing as a single order an aggregate of the amount of two or more orders of such customer on which the industry member makes separate deliveries, when the price differential allowed is not based on a net savings in cost of manufacture, sale, and delivery of the products to said customer resulting from the different method and quantity in which the products are sold and delivered to said customer, or is more than due allowance for such net savings; nor is this proviso to be construed as permitting an industry member to allow a price differential to a customer, whether in the form of a quantity price discount, rebate, or other form, when, pursuant to agreement or understanding by the industry member and the customer, delivery of the products purchased is to be delayed or made in installments so as to involve storage cost to the industry member, and when as a result of such cost or otherwise, the price differential allowed is not based on a net savings in cost of manufacture, sale, and delivery of the products to said customer resulting from the different method and quantity in which the products are sold and delivered to said

[1] As used in § 213.4, the term "commerce" means "trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States.

customer, or is more than due allowance for such net savings.

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

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

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

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

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities, including storage, connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

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

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

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

[Rule 4]

§ 213.5 *Substitution of products.* The practice of shipping or delivering products which do not conform to samples submitted, to specifications upon which the sale is consummated, or to representations made prior to securing the order, without the consent of the purchasers to such substitutions, or falsely representing the reason for making a substitution, with the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public, is an unfair trade practice.

NOTE: Nothing in this section shall be construed as preventing the application of such tolerances as are agreed upon between buyer and seller or are otherwise deemed reasonable and proper and where no misrepresentation or deception of the purchasing public is practiced or promoted in relation to the product or its deviation from samples or specifications.

[Rule 5]

§ 213.6 *False and misleading price quotations, etc.* The publishing or circulating to purchasers or prospective purchasers by any member of the industry of false or misleading price quotations, price lists, or terms or conditions of sale, with the capacity and tendency or effect of thereby misleading or deceiving members of the industry or purchasers or prospective purchasers, is an unfair trade practice. [Rule 6]

§ 213.7 *Deceptive use of trade or corporate names, trade-marks, etc.* The use of any trade name, corporate name, trade-mark, or other trade designation which has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public as to the name, nature, or origin of any product of the industry, or of any material used therein, or which is false or misleading in any other respect, is an unfair trade practice. [Rule 7]

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

(b) Nothing in this section is intended to imply that it is improper for any industry member to solicit the business of a customer of a competing industry member, nor is the section to be construed as in anywise authorizing any agreement, understanding, or planned common course of action by two or more industry members not to solicit business from the customers of either of them, or from customers of any other industry member. [Rule 8]

§ 213.9 *Defamation of competitors or false disparagement of their products.* It is an unfair trade practice:

(a) To defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, or questionable credit standing; or by other false representations; or

(b) To falsely disparage a competitor's products, business methods, selling prices, values, credit terms, policies, or services. [Rule 9]

§ 213.10 *Commercial bribery.* It is an unfair trade practice for a member of the industry, directly or indirectly, to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products manufactured or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors. [Rule 10]

§ 213.11 *Procurement of competitors' confidential information.* It is an unfair trade practice for any member of the industry to obtain information concerning the business of a competitor by bribery of an employee or agent of such competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unfair means, and to use the information so obtained so as substantially to injure competition or unreasonably restrain trade. [Rule 11]

§ 213.12 *Prohibited forms of trade restraints (unlawful price fixing, etc.).*[2]

[2] The inhibitions of this section are subject to Public Law 542, approved July 14, 1952, 66 Stat. 632 (the McGuire Act) which provides that with respect to a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open com-

It is an unfair trade practice for any member of the industry, either directly or indirectly, to engage in any planned common course of action, or to enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any goods or otherwise unlawfully to restrain trade; or to use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or to become a party to any such understanding, agreement, combination, or conspiracy. [Rule 12]

§ 213.13 *False invoicing.* (a) Withholding from or inserting in invoices any statements or information by reason of which omission or insertion a false or misleading record is made, wholly or in part, of the transactions represented on the face of such invoices, with the capacity and tendency or effect of thereby misleading or deceiving dealers, purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

(b) The practice of delivering products in a number of less than called for on the delivery record or invoice (so-called "short count"), with the capacity and tendency or effect of thereby misleading or deceiving the purchasing or consuming public, is an unfair trade practice. [Rule 13]

§ 213.14 *Selling below cost.* (a) The practice of selling products of the industry at a price less than the cost thereof to the seller, with the intent or purpose, and where the effect may be, to injure, suppress, or stifle competition or tend to create a monopoly in the production or sale of such products, is an unfair trade practice.

(b) As used in this section the term "cost" means the total cost to the seller, including the costs of acquisition, processing, preparation for marketing, sale, and delivery. All elements recognized by good accounting practice as proper elements of such cost shall be included in determining cost under this section. The costs referred to in this section are actual costs of the respective seller and not some other figure or average costs in the industry determined by an industry cost survey or otherwise.

petition with commodities of the same general class produced or distributed by others, a seller of such a commodity may enter into a contract or agreement with a buyer thereof which establishes a minimum or stipulated price at which such commodity may be resold by such buyer when such contract or agreement is lawful as applied to intrastate transactions under the laws of the State, Territory, or territorial jurisdiction in which the resale is to be made or to which the commodity is to be transported for such resale, and when such contract or agreement is not between manufacturers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

(c) This section is not to be construed as prohibiting all sales below cost, but only such selling below the seller's cost as is resorted to and pursued with the wrongful intent or purpose referred to and where the effect may be to injure, destroy, or prevent competition, or tend to create a monopoly. [Rule 14]

§ 213.15 *Enticing away employees of competitors.* Knowingly enticing away employees or sales representatives of competitors under any circumstances having the capacity and tendency or effect of substantially injuring or lessening present or potential competition is an unfair trade practice: *Provided*, That nothing in this section shall be construed as prohibiting employees from seeking more favorable employment or as prohibiting employers from hiring or offering employment to employees of competitors in good faith and not for the purpose of injuring, destroying, or preventing competition. [Rule 15]

§ 213.16 *Aiding or abetting use of unfair trade practices.* It is an unfair trade practice for any person, firm, or corporation to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair trade practice specified in this part. [Rule 16]

GROUP II

General statement. Compliance with trade practice provisions embraced in §§ 213.101 to 213.103 is considered to be conducive to sound business methods and is to be encouraged and promoted individually or through voluntary cooperation exercised in according with existing law. Nonobservance of §§ 213.101 to 213.103 does not per se constitute violation of law. Where, however, the practice of not complying with any of these sections is followed in a manner as to result in unfair methods of competition or unfair or deceptive acts or practices in commerce, corrective proceedings in respect thereto may be instituted by the Commission as in the case of violation of §§ 213.1 to 213.16.

§ 213.101 *Arbitration.* The industry approves the practice of handling business disputes between members of the industry, or between members of the industry and their customers or suppliers, in a fair and reasonable manner, coupled with a spirit of moderation and good will, and every effort should be made by the disputants themselves to compose their differences. If unable to do so they should, if possible, submit these disputes to impartial arbitration. [Rule A]

§ 213.102 *Price lists.* The industry approves the practice of each individual member of the industry independently adopting, publishing, and circulating to customers and prospective customers his own price lists. The industry also approves the practice of such member including his terms of sale, independently arrived at, as part of his own published price list. [Rule B]

§ 213.103 *Maintenance of accurate records.* It is the judgment of the industry that each member should independently keep proper and accurate records for determining his cost, based on sound cost-accounting methods. [Rule C]

Industry Committee. A Committee on Trade Practices is hereby authorized to cooperate with the Federal Trade Commission and to perform such acts as may be legal and proper in the furtherance of fair competitive practices and in promoting the effectiveness of the rules in this part.

Issued: July 30, 1953.

Promulgated by the Federal Trade Commission August 4, 1953.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 53-6785; Filed, Aug. 3, 1953; 8:52 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53304]

PART 54—CERTAIN IMPORTATIONS FREE OF DUTY DURING THE WAR

PERSONAL AND HOUSEHOLD EFFECTS OF EVACUEES AND PERSONS IN SERVICE OF UNITED STATES AND THEIR FAMILIES IMPORTED PURSUANT TO GOVERNMENT ORDERS

Public Law 20, 83d Congress, approved April 4, 1953, extending until July 1, 1955, the existing privileges of free importation of personal and household effects brought into the United States under Government orders, is published for your information and guidance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 2 of the Act of June 27, 1942, entitled "An Act to exempt from duty personal and household effects brought into the United States under Government orders" (U. S. C., title 50 App., sec. 802), is hereby amended to read as follows: "This Act shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption on or after December 8, 1941, and before July 1, 1955."

SEC. 2. Paragraph (18) of subsection (a) of the first section of the Emergency Powers Continuation Act (Public Law 450, Eighty-second Congress) is hereby repealed.

As Public Law 20, 83d Congress, extends Public Law 633, as amended, until the close of business June 30, 1955, § 54.2 is amended by substituting "July 1, 1955" for "the proclamation of peace by the President" in paragraph (e).

(Secs. 1, 2, 56 Stat. 461, as amended; 50 U. S. C. App. 801, 802)

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

Approved: July 28, 1953.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 53-6779; Filed, Aug. 3, 1953; 8:51 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 11—INDUSTRIAL RADIO SERVICES

REVISION

In the matter of revision of Part 11 of the Commission's rules and regulations.

Pursuant to authority contained in sections 4 (i), 5 (d) (1) and 303 (r) of the Communications Act of 1934, as amended, and paragraph F-6 of the Commission's Order Defining the Functions and Establishing the Organizational Structure of the Office of the Secretary, dated February 14, 1952, as amended, the following editorial changes are made in Part 11, Rules Governing Industrial Radio Services:

1. Index revised to reflect current sections and titles.

2. "fixed station", "operational fixed station", "base station", "station", "relay station", "fixed relay station", "mobile relay station" revised to read "Fixed Station", "Operational Fixed Station", "Base Station", "Station", "Relay Station", "Fixed Relay Station", "Mobile Relay Station" wherever they appear in the following sections: 11.3, 11.6, 11.7, 11.52, 11.54, 11.56, 11.65, 11.151, 11.152, 11.154, 11.155, 11.160, 11.252, 11.253, 11.254, 11.302, 11.303, 11.304, 11.352, 11.353, 11.354, 11.402, 11.403, 11.404, 11.452, 11.453, 11.454, 11.502, 11.503, 11.504, 11.552, 11.553, and 11.554.

3. "fixed station" revised to read "Operational Fixed Station" wherever it appears in the following sections: 11.52, 11.54, 11.56, 11.65, 11.151, 11.154, 11.160, 11.253, 11.254, 11.303, 11.353, 11.403, 11.453 and 11.503.

4. In §§ 11.101 and 11.609 the reference to § 11.57 is changed to § 11.8.

5. Section 11.611 (c) is revised to include a sunrise and sunset table.

6. In § 11.6 (a) (1) (i) "FCC Form 403" is revised to read "FCC Form 400".

In view of the fact that the amendments adopted herein are editorial in nature, prior publication of Notice of Proposed Rule Making under the provisions of section 4 of the Administrative Procedure Act is unnecessary, and the amendments are effective immediately. It is noted that since Part 11 was last published in the FEDERAL REGISTER (May 6, 1949) a large number of amendments have been made to the provisions therein. Accordingly, for administrative convenience, *It is ordered*, This 29th day of July 1953, that effective immediately, Part 11 of the Commission's rules and regulations is revised to include the foregoing editorial changes and all outstanding amendments.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

SUBPART A—GENERAL INFORMATION

SUBPART B—APPLICATIONS, AUTHORIZATIONS AND NOTIFICATIONS

SUBPART C—TECHNICAL STANDARDS

SUBPART D—STATION OPERATING REQUIREMENTS

SUBPART E—DEVELOPMENTAL OPERATION

SUBPART F—POWER RADIO SERVICE

SUBPART G—PETROLEUM RADIO SERVICE

SUBPART H—FOREST PRODUCTS RADIO SERVICE

SUBPART I—MOTION PICTURE RADIO SERVICE

SUBPART J—RELAY PRESS RADIO SERVICE

SUBPART K—SPECIAL INDUSTRIAL RADIO SERVICE

SUBPART L—LOW POWER INDUSTRIAL RADIO SERVICE

SUBPART M—INDUSTRIAL RADIOLOCATION SERVICE

AUTHORITY: §§ 11.1 to 11.611 issued under sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 301, 303, 48 Stat. 1081, 1082, as amended; 47 U. S. C. 301, 303.

SUBPART A—GENERAL INFORMATION

§ 11.1 *Basis and purpose.* (a) The basis for the rules following in this part is the Communications Act of 1934, as amended, and applicable treaties and agreements to which the United States is a party. The rules in this part are issued pursuant to the authority contained in Title III of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmissions and to issue licenses for radio stations.

(b) The purpose of the rules in this part is to prescribe the manner in which parts of the radio spectrum may be made available for radio communication and control facilities to various industrial enterprises which, for safety purposes or other necessity, require radio transmitting facilities in order to function efficiently.

§ 11.2 *General limitations on use.* The radio facilities authorized under this part shall not be used to render a communications common carrier service or to carry program material of any kind for use in connection with radio broadcasting.

§ 11.3 *Definition of terms.* For the purpose of this part, the following definitions shall be applicable. For other definitions, refer to Part 2, Rules Governing Frequency Allocations and Treaty Matters; General Rules and Regulations.

(a) *Radio service.* An administrative subdivision of the field of radiocommunication. In an engineering sense, the subdivisions may be made according to the method of operation, as, for example, mobile service and fixed service. In a regulatory sense, the subdivisions may be descriptive of particular groups of licensees, as, for example, the groups of persons licensed under this part.

(b) *Mobile service.* A service of radiocommunication between mobile and land stations, or between mobile stations.

(c) *Fixed service.* A service of radiocommunication between specified points.

(d) *Land station.* A station in the mobile service not intended for operation while in motion. (Of the various types of land stations, only the Base Station is pertinent to this part, and the term will be used interchangeably with the term Land Station.)

(e) *Base station.* See Land Station.

(f) *Mobile station.* A station in the mobile service intended to be used while in motion or during halts at unspecified points. (For purposes of this part, the term includes hand-carried and pack-carried units.)

(g) *Operational fixed station.* A Fixed Station not open to public correspondence, operated by, and for the sole use of those agencies operating their own radiocommunication facilities in the Public Safety, Industrial, Land Transportation, Aviation or Marine Services. (This term includes all stations licensed in the fixed service under this part.)

(h) *Control station.* An Operational Fixed Station, the transmissions of which are used to control automatically the emissions or operation of another radio station at a specified location.

(i) *Fixed relay station.* An Operational Fixed Station in the fixed service, established to receive radio signals directed to it from any source and to retransmit them automatically on a fixed service frequency for reception at one or more fixed points.

(j) *Mobile relay station.* A Base Station in the mobile service, authorized primarily to retransmit automatically on a mobile service frequency communications originated by mobile stations.

(k) *Assigned frequency.* The frequency appearing on a station authorization, from which the carrier frequency may deviate by an amount not to exceed that permitted by the frequency tolerance.

(l) *Carrier frequency.* The frequency of the carrier.

(m) *Authorized bandwidth.* The frequency band, specified in kilocycles and centered on the carrier frequency, containing those frequencies upon which a total of 99 percent of the radiated power appears, extended to include any discrete frequency upon which the power is at least 0.25 percent of the total radiated power.

(n) *Station authorization.* Any construction permit, license, or special temporary authorization issued by the Commission.

(o) *Person.* An individual, partnership, association, joint stock company, trust, or corporation.

(p) *Public correspondence.* Any telecommunication which the offices and stations, by reason of their being at the disposal of the public, must accept for transmission.

(q) *Harmful interference.* Any radiation or any induction which endangers the functioning of a radionavigation service or of a safety service or obstructs or repeatedly interrupts a radio service operating in accordance with the regulations in this part. (For purposes of this definition only, a safety service is any radio service whose operation is directly related, whether permanently or temporarily, to the safety of human life and the safeguarding of property.)

(r) *Telemetering.* Automatic radiocommunication, in a fixed or mobile service, intended to indicate or record a measurable variable quantity at a distance.

(s) *Signalling.* Intermittent or periodic transmission (excluding radiotelephony or any type of Morse code) or intelligence by means of prearranged tones, impulses, or combinations thereof, designed to actuate a mechanism at the point of reception.

(t) *Landing area.* A landing area means any locality, either of land or water, including airports and intermediate landing fields, which is used, or approved for use for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

NOTE: Consideration of aeronautical facilities not in existence at the time of the filing of the application for radio facilities will be given only when proposed airport construction or improvement plans are on file with the CAA as of the filing date of the application for such radio facilities.

(u) *Antenna structure.* The term "antenna structure" includes the radiating system and its supporting structures.

(v) *Land radiopositioning station.* A Station in the radiolocation service other than a radionavigation station, not intended for operation while in motion.

(w) *Mobile radiopositioning station.* A Station in the radiolocation service other than a radionavigation station, intended to be used while in motion or during halts at unspecified points.

§ 11.4 *General citizenship restrictions.* A station license may not be granted to or held by:

(a) Any alien or the representative of any alien;

(b) Any foreign government or the representative thereof;

(c) Any corporation organized under the laws of any foreign government;

(d) Any corporation of which any officer or director is an alien;

(e) Any corporation of which more than one-fifth of the capital stock is owned of record or voted by: Aliens or their representatives; a foreign government or representative thereof; or any corporation organized under the laws of a foreign country;

(f) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, if the Commission finds that the public interest will be served by the refusal or revocation of such license; or

(g) Any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by: Aliens or their representatives; a foreign government or representatives thereof; or any corporation organized under the laws of a foreign government, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

§ 11.5 *Transfer and assignment of station authorization.* A station authorization, the frequencies authorized to be used by the grantee of such authorization, and the rights therein granted by such authorization shall not be transferred, assigned, or in any manner either voluntarily or involuntarily disposed of, or indirectly by transfer of control of any corporation holding such authorization, to any person, unless the Commission shall, after securing full information, decide that said transfer is in the public interest. Requests for authority to assign a station authorization may be submitted in accordance with § 11.56 (b) while a request for authority to transfer control of a corporation, as by sale of controlling stock interest, shall be submitted in accordance with § 11.56 (d).

§ 11.6 *Cooperative arrangements.* (a) Arrangements may be made between two or more persons for the cooperative use of radio station facilities, provided all such persons are eligible to hold station licenses in one of the radio services established under this part, and provided further that all such persons are eligible for the same radio service. Such arrangements shall be governed by the following:

(1) *Mobile service.* A group of persons eligible for a license in the same industrial radio service may share the use of a Base Station licensed to one member of that group in either of the following two ways:

(i) A person who is to receive service from a Base Station licensed to a person other than himself may obtain a license for his own mobile radio units: *Provided, however,* That the application for such license shall be accompanied by an application from the licensee of the base station, for modification of his license, to permit rendition of the desired service. The application for modification of the base station license shall name the persons to be served, shall be notarized, and may be filed either on FCC Form 400 or by letter, in duplicate; or

(ii) A person who is to furnish base station service to mobile radio units installed in vehicles owned and operated by persons other than himself may, if he desires, be licensee of said mobile radio units: *Provided, however,* That each person owning and operating such mobile radio units shall enter into a written agreement giving the licensee thereof the sole right of control over such units, said agreement to be kept as a part of the records of the base station: *And provided further,* That the operator of each vehicle shall operate the radio units subject to the orders and instructions of the base station operator: *And provided still further,* That the licensee shall at all times have such access to, and control of, the mobile radio equipment as will enable him to discharge his responsibilities under the Communications Act.

(2) *Fixed service.* A group of persons eligible to operate in the same industrial radio service may share the use of a fixed station licensed to one member of that group.

(b) A base station licensee who enters into a cooperative arrangement in accordance with the provisions of paragraph (a) (1) (ii) of this section shall obtain prior approval from the Commission for each person who proposes to enter into said arrangement.

(c) All cooperative arrangements entered into under the provisions of this section shall be governed by the following requirements as to costs and charges:

(1) The arrangement may be without charge. If so, the records of the base station or fixed station licensee shall so indicate.

(2) Contributions to capital and operating expenses may be accepted only on a cost-sharing, non-profit basis, said costs to be prorated on an equitable basis among all persons who are parties to the cooperative arrangement. Records which reflect the cost of the service and its non-profit, cost-sharing nature shall be maintained by the base station licensee and held available for inspection by Commission representatives. An audited financial statement reflecting the non-profit cost-sharing nature of the arrangement shall be submitted annually to the Commission's Washington office no later than three months after the close of the licensee's fiscal year.

§ 11.7 *Relay stations*—(a) *General.* Relay stations are used to extend the range of communication between another radio station and the point with which it is desired to communicate. For the purposes of the rules in this part, there are two types of relay stations: Mobile Relay Stations and Fixed Relay Stations. For definitions see § 11.3.

(b) *Mobile relay stations.* The policies governing authorization and operation of this type of relay station are as follows:

(1) Each application for a new mobile relay station authorization shall be accompanied by a satisfactory showing that the applicant has a substantial requirement for prompt mobile-to-mobile communication over ranges greater than can be realized consistently by direct communication on the frequency presently assigned, or, in the case of a proposed new radio system, on any available frequency. (Measurements obtained by use of low-power transmitters of the hand-carried or pack-carried type will not be accepted in satisfaction of the requirements of this subparagraph.)

(2) A Mobile Relay Station may be authorized to operate on any mobile service frequency available for assignment to base stations.

(3) Each Mobile Relay Station shall be so designed and installed that it normally will be activated only by means of a coded signal or signals or such other means as will effectively prevent its activation by undesired signals: *Provided, however,* That this requirement may be waived when both of the following conditions are met:

(i) The radio system is shown to be so designed that the Mobile Relay Station normally is capable of activation only by signals received on frequencies above 50 Mc; and

(ii) The applicant for a mobile relay station authorization either verifies that no person having equal rights to the frequency in question is operating on the mobile station frequency within a radius of seventy-five miles of the proposed mobile relay station location, or, alternatively, obtains and submits with the application the written consent of each such person to installation of the proposed mobile relay station and its operation on a regular basis for a trial period of one year from the date a station license is granted by the Commission. In any event, a waiver granted under the provisions of this subparagraph may be cancelled after ninety days notice by the Commission if it develops that the mobile relay station is in fact consistently activated by undesired signals and thereby causes harmful interference to other licensees.

(4) Each Mobile Relay Station shall be so designed and installed that it will be deactivated automatically when its associated receivers are not receiving a signal on the frequency or frequencies which normally activate it.

(5) Each Mobile Relay Station required by the terms of subparagraph (3) of this paragraph to be activated by a coded signal shall be so designed and installed that it will be deactivated upon receipt or cessation of a coded signal or signals and, in addition, shall be provided with an automatic time-delay or clock device which will deactivate the station not more than three minutes after its activation.

(6) A Mobile Station associated with one or more mobile relay stations may be authorized to operate only on a mobile service frequency above 47.0 Mc which is available for assignment to mobile stations.

(7) An Operational Fixed (control) Station associated with one or more Mobile Relay Stations may be assigned any frequency available for assignment to Operational Fixed Stations or, at the option of the applicant, the mobile service frequency assigned to the associated Mobile Station. Use of the mobile service frequency by such operational fixed (control) stations is subject to the condition that harmful interference shall not be caused to stations of other licensees operating in the mobile service in accordance with the table of frequency allocations as set forth in Part 2 of the Commission's rules.

(8) In any radio system which employs more than one Mobile Relay Station, where there is a requirement that stations in the vicinity of one Mobile Relay Station be able to communicate automatically with stations in the vicinity of other Mobile Relay Stations, any necessary circuits for interconnection of the Mobile Relay Stations shall be provided by means of wire lines or radio stations operating on fixed service frequencies.

(9) Mobile Relay Stations will not be authorized in the low power industrial radio service.

(10) A Base Station which is used intermittently as an Operational Fixed (control) Station for one or more associated Mobile Relay Station of the same licensee will be authorized to operate only on the mobile service frequencies assigned to the associated Mobile Relay Station and/or Mobile Station. Special authority for such dual station classification and use must be shown in the instrument of station authorization.

(c) *Fixed Relay Stations.* Fixed Relay Stations will be authorized to operate only on frequencies available for use by Operational Fixed Stations.

§ 11.8 *Policy governing the assignment of frequencies.* (a) The frequencies which may be assigned to stations operating in any one of the several Industrial Radio Services are listed in the applicable subpart of this part. All applicants for, and licensees of, stations in these services shall cooperate in the selection and use of the frequencies assigned in order to minimize interference and thereby obtain the most effective use of the authorized facilities. Each frequency, or band of frequencies, available for assignment to stations in these services is available on a shared basis only, and will not be assigned for the exclusive use of any one applicant; such use may also be restricted to one or more specified geographical areas.

(b) Each applicant shall use the highest order of frequencies available, compatible with the operational requirements of the particular radio system involved, and the actual channel loading of the bands in each area. Differentials in first cost and maintenance expense are factors which will not be considered as conclusive by the Commission in approving a choice between the ranges 1.6–6.0, 25–50, 152–174, and 450–460 Mc.

(c) The operational requirements of applicants for land mobile radio systems as authorized under this part dictate that the single frequency simplex method of operation be employed, and frequencies have been made available to each of the services largely on that basis. Consequently, in no case will more than one frequency, or band of frequencies, be assigned for the use of a single applicant until it has been demonstrated conclusively to the Commission that the assignment of an additional frequency, or band of frequencies, is essential to the operation of the radio system.

(d) With respect to fixed point-to-point circuits, simultaneous two-way communication will be required in most cases; consequently, it will be customary to assign two frequencies, or bands of frequencies, to such systems and, where possible, with such frequency separation that full duplex operation may be accomplished.

(e) Outside the continental limits of the United States and waters adjacent thereto, frequencies above 152 Mc, listed elsewhere in this part as available for assignment to Base Stations or Mobile Stations in particular Services are also available for assignment to Operational Fixed Stations in the same Service on condition that no harmful interference be caused to mobile service operations.

(f) Frequencies assigned to Federal Government radio stations under Executive order of the President may be authorized for use by stations licensed under this part upon appropriate showing by the applicant that such assignment is necessary for inter-communication with Federal Government stations or required for coordination with activities of the Federal Government, provided the Commission determines, after consultation with the appropriate government agency or agencies, that such assignment is necessary.

SUBPART B—APPLICATIONS, AUTHORIZATIONS AND NOTIFICATIONS

§ 11.51 *Station authorization required.* No radio transmitter shall be operated in the Industrial Radio Services except under and in accordance with a proper station authorization granted by the Federal Communications Commission.

§ 11.52 *Procedure for obtaining a radio station authorization and for commencement of operation.* (a) Persons desiring to install and operate radio transmitting equipment should first submit an application for a radio station authorization in accordance with § 11.56.

(b) When construction permit only has been issued for a Base, Operational Fixed or Mobile Station and installation has been completed in accordance with the terms of the construction permit and the applicable rules of the Commission, the permittee shall proceed further as follows:

(1) Notify the Engineer-in-Charge of the local radio district of the date on which the transmitter will first be tested in such manner as to produce radiation, giving name of the permittee, station location, call sign, and frequencies on which tests are to be conducted. This notification shall be made in writing at least two days in advance of the test date. FCC Form 456 may be used for this purpose. No reply from the radio district office is necessary before the tests are begun.

(2) After testing, but on or before the date when the station is first used for operational purposes, mail to the Commission in Washington, D. C. an application on FCC Form 400 for license or modification of license, as appropriate in the particular case. The station may thereafter be used as though licensed, pending Commission action on the license application.

(c) When a construction permit and license for a new Base, Operational Fixed or Mobile Station are issued simultaneously the licensee shall notify the Engineer-in-Charge of the local radio district of the date on which the transmitter will be placed in operation, giving name of licensee, station location, call sign, and operating frequencies. This notification shall be made in writing on or before the day on which operation is commenced. FCC Form 456 may be used for this purpose.

(d) When a construction permit and modification of license for a Base Operational Fixed or Mobile Station are issued simultaneously, operation may be commenced without notification to the Engineer-in-Charge of the local radio district, except where operation on a new or different frequency results by reason of such modification, in which event the notification procedure set forth in paragraph (c) of this section must be observed.

§ 11.53 *Procedure for obtaining special temporary authority.* (a) (1) In cases of emergency found by the Commission involving danger to life or property, or due to damage to equipment, temporary authorization for the construction and operation of a radio station may be granted for the duration of such emergency. Requests for such temporary authorization may be filed without regard to the provisions of § 11.56 in letter form or by telegram, but shall contain the following information:

(i) Name, address, and citizenship status of applicant;

(ii) Statement of facts upon which the request for emergency authorization is based, including estimated duration of emergency, and explanation why a formal application could not have been submitted in time to get a regular license;

(iii) Class of station and nature of service;

(iv) Location of station including, when appropriate, geographical coordinates;

(v) Equipment to be used, specifying manufacturer, model number and number of units, frequencies desired, plate power input to final radio frequency stage, and type of emission.

If any of the foregoing information is presently on file with the Commission, such information may be included by reference. The applicant may be required, whenever such action may be considered necessary by the Commission, to supplement the information enumerated above by filing as soon as practicable a formal application on the prescribed form.

(2) In cases where an urgent need is shown for operation of an authorized station for a limited time only, in a manner other than that specified in the existing authorization, but not in conflict with the Commission's rules; or

(3) For the purpose of conducting a field survey to determine necessary data in connection with the filing of formal applications for installation of a radio system in some service under this part. In this case, the authority, if issued, will be for developmental operation only, and the applicable sections of Subpart E of this part shall also apply to the grant.

(b) An application for special temporary authority other than that to which paragraph (a) (1) of this section applies may be filed as an informal application in the manner prescribed by § 11.56 and shall contain the following information:

(1) Name, address, and citizenship status of applicant.

(2) Need for special action.

(3) Type of operation to be conducted.

(4) Purpose of operation.

(5) Time and date of operation desired.

(6) Class of station and nature of service.

(7) Location of station.

(8) Equipment to be used, specifying manufacturer, model number, and number of units.

(9) Frequency(s) desired.

(10) Plate power input to final radio frequency stage.

(11) Type of emission.

§ 11.54 *Filing of applications.* (a) To assure that necessary information is supplied in a consistent manner by all persons, standard forms are prescribed for use in connection with the majority of applications and reports submitted for Commission consideration. Standard numbered forms applicable to the Industrial Radio Services are discussed in § 11.56, and may be obtained from the Washington, D. C., office of the Commission, or from any of its engineering field offices. Concerning matters where no standard form is applicable, the informal application procedure outlined in § 11.56 should be followed.

(b) Any application for radio station authorization and all correspondence relating thereto shall be submitted to the Commission's office at Washington 25, D. C., and should be directed to the attention of the Secretary. An application for commercial radio operator permit or license may be submitted to any of the Commission's engineering field offices, or to the Commission's office at Washington 25, D. C.

(c) Unless otherwise specified, an application shall be filed at least sixty days prior to the date on which it is desired that Commission action thereon be completed.

(d) Failure on the part of the applicant to provide all the information required by the application form, or to supply the necessary exhibits or supplementary statements may constitute a defect in the application.

(e) Applications involving operation at temporary locations:

(1) When a Base Station or an Operational Fixed Station is to remain at a single location for less than one year, the location is considered to be temporary. An application for authority to operate at temporary locations shall specify the general geographic area within which the operation will be confined. The area specified may be a city, a county or counties, a state or states, "Gulf Coast area," "Eastern U. S.," "Continental U. S.," etc.

(2) When a Base Station or Operational Fixed Station authorized to operate at temporary locations remains at a single location for more than one year, an application for modification of the station authorization to specify the permanent location shall be filed within thirty days after expiration of the one-year period.

§ 11.55 *Who may sign applications.* One copy of each application for an authorization shall be signed under oath or affirmation by the applicant if the applicant be an individual, or any one of the partners if an applicant be a partnership, by an officer if the applicant be a corporation, or by a member who is an officer if the applicant be an unincorporated association: *Provided, however,* That applications may be signed by the attorney for an applicant (a) in case of physical disability of the applicant, or (b) his absence from the continental United States. If it be made by a person other than the applicant, he must set forth in the verification the grounds of his belief as to all matters not stated upon his knowledge and the reason why it is not made by the applicant. Applications filed on behalf of eligible governmental entities such as states and territories of the United States and political subdivisions thereof, the District of Columbia, and units of local government including incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the law of the jurisdiction.

§ 11.56 *Standard forms to be used.* (a) A separate application shall be submitted on FCC Form 400 for the following:

(1) New station authorization for a Base or Operational Fixed Station.

(2) New station authorization for any required number of mobile units (including hand-carried or pack-carried units) to be operated in the same service.

NOTE: An application for mobile units may be combined with an application for a single base station for such mobile units as will operate with that base station only.

(3) License for any class of station upon completion of construction or installation in accordance with the terms and conditions set forth in the construction permit.

(4) Modification of combined construction permit and station license for changes outlined in § 11.64 (a).

(5) Modification of construction permit.

(6) Modification of station license.

Any of the foregoing applications will, upon approval and authentication by the Commission, be returned to the applicant as a specifically-designated type of authorization.

(b) When the holder of a station authorization desires to assign to another person the privilege to construct or use a radio station, he shall submit to the Commission a notarized letter setting forth his desire to assign all right, title, and interest in and to such authorization, stating the file number and expiration date of his authorization and the call sign and location of station. This letter shall also include a statement that the assignor will submit his current station authorization for cancellation upon completion of the assignment. Enclosed with this letter shall be an application for Assignment of Authorization on FCC Form 400 prepared by and in the name of the person to whom the station is being assigned.

(c) A separate application may be submitted on FCC Form 400–A for certain changes to authorized stations as specified in § 11.64 (b).

(d) A separate application shall be submitted on FCC Form 703 whenever it is proposed to change, as by transfer of stock ownership, the control of a corporate permittee or licensee.

(e) Informal application. (1) An application not submitted on a standard form prescribed by the Commission is considered to be an informal application. Each informal application shall be submitted in duplicate, normally in letter form, and with the original signed under oath or affirmation. Each application shall be clear and complete within itself as to the facts presented and the action desired.

(2) A request for special temporary authorization must include full particulars as to the purpose for which the request is made and such request should be submitted at least 10 days prior to the date of the proposed operation. A request received within less than 10 days may be accepted upon due showing of sufficient reason for the delay in submitting the request. The information necessary for Commission action on requests for Special Temporary Authority is set forth in § 11.53.

(f) FCC Form 456 "Notification of Completion of Radio Station Construction" may be used to advise the Engineer-in-Charge of the local district office that construction of the station is complete and that operational tests will begin.

(g) Application for renewal of station license shall be submitted on FCC Form 405–A. Unless otherwise directed by the Commission, each application for renewal of license shall be filed during the last 60 days of the license term. In any case in which the licensee has, in accordance with the Commission's rules made timely and sufficient application for renewal of license, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined.

§ 11.58 *Supplemental information to be submitted with application.* Each application for station authorization shall be accompanied by such supplemental information listed below as may be required.

(a) Any statements or showings required by the applicable subpart of this part, in connection with the use of the frequency requested.

(1) Each application for authority to operate on one of the frequencies in the range 1.6–6.0 Mc must be fully justified, and shall be accompanied by: A satisfactory showing that the safety of human life will be jeopardized by failure of the Commission to authorize the use of a frequency in the requested range; a description in detail of the particular activity involved; and the manner in which radio will be used in the activity. The circumstances must be such that the activity, by reason of its nature or location, is hazardous to personnel engaged therein, or to the public in the vicinity thereof; that the radiocommunication facilities requested will materially reduce such hazard; and that it is impossible to use a higher order of frequencies for accomplishment of the same purposes.

(2) The issuance of authority for use of frequencies within the band 72–76 Mc is contingent upon a showing that no interference will be caused to reception of television channels 4 or 5. Each application for use of one of these frequencies at a location within 55 miles of a television station authorized to use TV channel number 4 or 5 (35 miles in the case of community stations), shall be accompanied by the following data: [1]

(i) A map of suitable scale showing the area enclosed by a circle having a radius of approximately 15 miles, centered on and surrounding the site chosen for the applicant's fixed station. This map should be marked with a circle of 5 miles radius and another circle of ½ mile radius centered on the proposed site to indicate the scale of the map.

(ii) A count of the houses and estimated population within the ½ mile circle shown on the map. (Use a count of 5 persons per house unless there are apartment houses in the area.)

(iii) The height above sea level of the center of the radiating portion of the antenna system, and the radiation pattern of the proposed antenna.

(iv) The height above sea level of nearby towns (within 10 miles of the proposed station).

(v) A written statement from the applicant that it will satisfactorily adjust all complaints of interference to television reception caused by operation of the proposed fixed station, when such complaints are made by owners of television receivers which are located both within one mile of the site of the proposed fixed station, and within the protected service area of television stations using TV channel number 4 or 5. The applicant's statement shall indicate agreement to the condition that this adjustment of interference complaints be made a part of the authorization.

(b) Statements justifying the need for more than one frequency, as required by § 11.8.

(c) Statement describing the type of emission to be used if it cannot be described as "8A3" or "40F3" pursuant to Subpart C of this part.

(d) Description of the antenna system, on FCC Form 401–A in triplicate in all cases when:

(1) The antenna structure proposed to be erected will exceed an over-all height of 170 feet above ground level: *Provided, however,* That FCC Form 401–A is not required when the antenna is mounted on top of an existing man-made structure and does not increase the over-all height of such man-made structure by more than 20 feet; or

(2) The antenna structure proposed to be erected will exceed an over-all

[1] Subject to change upon finalization of proceedings in Docket No. 10315.

height of one foot above the established airport (landing area) elevation for each 200 feet of distance, or fraction thereof, from the nearest boundary of such landing area: *Provided, however,* That FCC Form 401–A required when the antenna does not exceed 20 feet above the ground or is mounted on top of an existing man-made structure or natural formation and does not increase the over-all height of such man-made structure or natural formation by more than 20 feet.

(e) A functional system diagram and a detailed description of the manner in which the interrelated stations will operate when the station is, or will be, part of a system involving two or more stations at different fixed locations.

(f) Copies of all agreements and statements which may be required under § 11.6 if operation is desired in connection with any cooperative use of the proposed radio communication facilities.

(g) Statements required by the rules in connection with developmental operation. See §§ 11.202, 11.203, and 11.207.

(h) Description of any equipment, proposed to be used, which does not appear on the Commission's List of Equipments Acceptable for Licensing, and designated for use in the Public Safety, Industrial, and Land Transportation Radio Service.

(i) Any statements or other data required under special circumstances as set forth in the applicable subpart of this part, or required upon request by the Commission.

§ 11.59 *Partial grant.* Where the Commission, without a hearing, grants an application in part, or with any privileges, terms or conditions other than those requested, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 20 days from the date on which public announcement of such grant is made, or from its effective date if a later date is specified, file with the Commission a written request, rejecting the grant as made. Upon receipt of such request, the Commission will vacate its original action upon the application and, if necessary, set the application for hearing.

§ 11.60 *Defective applications.* (a) An application which is not prepared in accordance with the Commission's rules or other requirements will be considered defective and will be returned to the applicant.

(b) If an applicant is requested by the Commission to file any documents or information not included in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

(c) When an application is considered to be incomplete or defective, the Secretary of the Commission will return it to the applicant, unless the Commission may otherwise direct.

§ 11.61 *Amendment or dismissal of application.* Any application may be amended or dismissed without prejudice upon request of the applicant prior to the time the application is granted or designated for hearing. Each amendment to, or request for dismissal of, an application shall be signed, authenticated, and submitted in the same manner and with the same number of copies as required for the original application. All related correspondence or other material which is to be considered as a part of an application already filed shall be submitted in the form of an amendment to the application concerned.

§ 11.62 *Construction period.* (a) Each radio station construction permit issued by the Commission will specify the date of grant as the earliest date of commencement of construction and installation, and a maximum of eight months thereafter as the time within which construction shall be completed and the station ready for operation, unless otherwise determined by the Commission in any particular case.

(b) In cases where the station is not ready for operational use on or before the expiration date of the construction permit, application for extension of time to construct shall be filed on FCC Form 400–A.

§ 11.63 *License term.* (a) For all stations in the Industrial Radio Services, except those engaged in developmental operation, the license period shall be as follows:

(1) The initial station license will be issued for a term of from one to five years from the effective date of grant, the term varying as may be necessary to permit the orderly scheduling of renewal applications.

(2) Each station license normally will be renewed, upon proper application, for a term of four years from the effective date of renewal.

(b) Instruments of authorization for stations engaged in developmental operation will be made upon a temporary basis for a specific period of time, but in no event to extend beyond one year from date of grant.

§ 11.64 *Changes in authorized stations.* Authority for certain changes in authorized stations must be obtained from the Commission before these changes are made, while other changes do not require prior Commission approval. The following paragraphs describe the conditions under which prior Commission approval is or is not necessary:

(a) Proposed changes which will result in operation inconsistent with any of the terms of the current authorization require that an application for modification of construction permit and/or license be submitted to the Commission and, except as set forth in paragraph (b) of this section, shall be on Form 400 and shall be accompanied by exhibits and supplementary statements as required by § 11.58.

(b) Any of the following changes to authorized stations may be made upon approval by the Commission of a "Request for Amendment of Radio Station Authorization" submitted on FCC Form 400–A:

(1) Change in presently authorized location of transmitter control point.

(2) Addition or deletion of control point(s) for presently authorized transmitter.

(3) Reduction in antenna height. If painting and/or lighting of the antenna supporting structure is required, FCC Form 401–A must also be submitted.

(4) A reduction in the over-all number of transmitters authorized for mobile use.

(5) An increase in the over-all number of transmitters authorized for mobile use. This form may be used only when adding mobile transmitters which are included in the Commission's "List of Transmitting Equipments Acceptable for Licensing" and designated for use in the Public Safety, Industrial, and Land Transportation Radio Services.

(6) An extension of the time limit specified in a construction permit.

(c) Proposed changes which will not depart from any of the terms of the outstanding authorization for the station involved may be made without prior Commission approval. Included in such changes is the substitution of various makes of transmitting equipment at any station provided the particular equipment to be installed is included in the Commission's "List of Equipments Acceptable for Licensing" and designated for use in the Public Safety, Industrial, and Land Transportation Radio Services and provided the substitute equipment employs the same type of emission and does not exceed the power limitations as set forth in the station authorization.

§ 11.65 *Report of temporary location.* When a Base Station or Operational Fixed Station is authorized to operate in an area encompassing two or more Radio Districts, the following notification procedure shall be followed:

(a) When the station is placed in operation for the first time, the Engineer in Charge of the Radio District involved shall be notified.

(b) When the station is moved from one Radio District to another, the Engineer in Charge of each of the two Radio Districts involved shall be notified.

§ 11.66 *Discontinuance of station operation.* In case of permanent discontinuance of operation of a station licensed under this part, the licensee shall forward the station license to the Washington, D. C. office of the Commission for cancellation. A copy of the request for cancellation of the license shall be forwarded to the Commission's Engineer in Charge of the district in which the station is located. For purposes of this section, a station which is not operated for a period of one year is considered to have been permanently discontinued.

SUBPART C—TECHNICAL STANDARDS

§ 11.101 *Frequencies.* The frequencies available for use in these services, in accordance with the policy set forth in § 11.8, are listed in the applicable subpart of the rules in this part. The separation between assignable frequencies in the various bands does not necessarily indicate the actual amount of separation required for the operation of two or more systems within the same geographical area.

§ 11.102 *Frequency stability.* (a) A permittee or licensee in these services shall maintain the carrier frequency of each authorized transmitter within the following percentage of the assigned frequency, except as provided in paragraph (b) of this section:

Frequency range:	*Frequency tolerance (percent)*
Below 50 Mc	0.01
From 50–220 Mc	.005
Above 220 Mc	(1)

[1] To be specified in the authorization.

(b) For transmitters authorized to operate with a maximum plate power input to the final radio frequency stage of 3 watts or less, the frequency may be maintained as shown in the table below in lieu of the requirements in paragraph (a) of this section:

Frequency range:	*Frequency tolerance (percent)*
Below 50 Mc	0.02
From 50–220 Mc	.01

§ 11.103 *Types of emission.* (a) Except as provided in paragraph (b) of this section, stations in these services will be authorized to use only A3 or F3 emission for radiotelephony. The authorization to use A3 or F3 emission will be construed to include the use of tone signals or signaling devices whose sole function is to establish and maintain communication between stations.

(b) Other types of emission not described in paragraph (a) of this section may be authorized upon a satisfactory showing of need therefor. An application requesting such authorization shall fully describe the emission desired, shall indicate the bandwidth required for satisfactory communication, and shall state the purpose for which such emission is required. For information regarding the classification of emissions and the calculation of the bandwidth, reference should be made to Part 2 of the Commission's rules.

§ 11.104 *Emission limitations.* (a) Each authorization issued to a station operating in these services will show, as the prefix to the emission classification, a figure specifying the maximum authorized bandwidth in kc to be occupied by the emission. The specified band shall contain those frequencies upon which a total of 99 percent of the radiated power appears, extended to include any discrete frequency upon which the power is at least 0.25 percent of the total radiated power. Any radiation in excess of the limits specified in paragraph (c) of this section is considered to be an unauthorized emission.

(b) The emission prefix figures referred to in paragraph (a) of this section for the types of emission covered by paragraph (a) of § 11.103 are listed in the table below:

Type of emission:	*Authorized bandwidth (kc)*
A-3	8
F-3	40

(c) For purpose of demonstrating compliance with paragraph (a) of this section, the following limits apply:

(1) Any emission appearing on any frequency removed from the carrier frequency by at least 50 percent, but not more than 100 percent, of the maximum authorized bandwidth shall be attenuated not less than 25 db below the unmodulated carrier.

(2) Any spurious or harmonic emission appearing on any frequency removed from the carrier frequency by at least 100 percent of the maximum authorized bandwidth shall be attenuated below the unmodulated carrier by not less than the amount indicated in the following table:

Maximum authorized plate power input to the final radio frequency stage	*Attenuation (db)*
3 watts or less	40
Over 3 watts and including 150 watts	60
Over 150 watts and including 600 watts	70
Over 600 watts	80

(d) When an unauthorized emission results in harmful interference, the Commission may, in its descretion, require appropriate technical changes in equipment to alleviate the interference.

§ 11.105 *Modulation requirements.* (a) The maximum audio frequency required for satisfactory radiotelephone intelligibility in these services is considered to be 3000 cycles per second, and the transmission of higher frequencies is unauthorized.

(b) When amplitude modulation is used for telephony, the modulation percentage shall be sufficient to provide efficient communication and shall be normally maintained above 70 percent on peaks, but shall not exceed 100 percent on negative peaks.

(c) When phase or frequency modulation is used for telephony, the deviation arising from modulation shall not exceed plus or minus 15 kc from the unmodulated carrier.

(d) Each transmitter authorized or installed after July 1, 1950, shall be provided with a device which will automatically prevent modulation in excess of that specified in paragraphs (b) and (c) of this section which may be caused by greater than normal audio level: *Provided, however,* That this requirement shall not be applicable to transmitters authorized to operate with a maximum plate power input to the final radio frequency stage of 3 watts or less.

§ 11.106 *Power and antenna height.* (a) The power which may be used by a station in these services shall be no more than the minimum required for satisfactory technical operation commensurate with the size of the area to be served and local conditions which affect radio transmission and reception. In cases of harmful interference, the Commission may order a change in power, or antenna height, or both.

(b) Except where the power that may be used on a designated frequency is specifically limited to a lower value, plate power input to the final radio frequency stage in excess of the following tabulation will not be authorized:

Frequency:	*Maximum plate power input to the final radio frequency stage (watts)*
1.6–6.0 Mc	2,000
25–100 Mc	500
100–220 Mc	600
Above 220 Mc	(1)

[1] To be specified in the authorization.

§ 11.107 *Transmitter control requirements.* (a) Each transmitter shall be so installed and protected that it is not accessible to or capable of operation by persons other than those duly authorized by the licensee.

(b) A control point is an operating position which meets all of the following conditions:

(1) The position must be under the control and supervision of the licensee;

(2) It is a position at which the monitoring facilities required by this section are installed; and

(3) It is a position at which an operator responsible for the operation of the transmitter is stationed.

(c) Each station shall be provided with a control point, the location of which will be specified in the license. It will be assumed that the location of the control point is the same as that of the transmitting equipment unless the application includes a request for a different location. Authority must be obtained from the Commission for the installation of additional control points.

(d) A dispatch point is a position from which messages may be transmitted under supervision of a control point operator. Dispatch points may be installed without authorization from the Commission.

(e) At each control point, the following facilities shall be installed:

(1) A carrier operated device which will provide continuous visual indication when the transmitter is radiating; or, in lieu thereof, a pilot lamp or meter which will provide continuous visual indication when the transmitter control circuits have been placed in a condition to produce radiation: *Provided, however,* That the provisions of this subparagraph shall not apply to hand-carried or pack-carried transmitters;

(2) Equipment to permit the operator to aurally monitor all transmissions originating at dispatch points under his supervision;

(3) Facilities which will permit the operator either to disconnect the dispatch point circuits from the transmitter or to render the transmitter inoperative from any dispatch point under his supervision; and

(4) Facilities which will permit the operator to turn the transmitter carrier on and off at will.

§ 11.108 *Transmitter measurements.* (a) The licensee of each station shall employ a suitable procedure to determine that the carrier frequency of each transmitter, authorized to operate with a plate input power to the final radio frequency stage in excess of three watts, is maintained within the tolerance prescribed in the rules in this part. This determination shall be made, and the results

thereof entered in the station records, in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the carrier frequency or the stability thereof;

(3) At intervals not to exceed six months, for transmitters employing crystal-controlled oscillators;

(4) At intervals not to exceed one month, for transmitters not employing crystal-controlled oscillators.

(b) The licensee of each station shall employ a suitable procedure to determine that the plate power input to the final radio frequency stage of each base station or fixed station transmitter, authorized to operate with a plate input power to the final radio frequency stage in excess of three watts, does not exceed the maximum figure specified on the current station authorization. Where the transmitter is so constructed that a direct measurement of plate current in the final radio frequency stage is not practicable, the plate input power may be determined from a measurement of the cathode current in the final radio frequency stage. When the plate input to the final radio frequency stage is determined from a measurement of the cathode current, the required record entry shall indicate clearly the quantities that were measured, the measured values thereof, and the method of determining the plate power input from the measured values. This determination shall be made, and the results thereof entered in the station records, in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may increase the transmitter power input;

(3) At intervals not to exceed six months.

(c) The licensee of each station shall employ a suitable procedure to determine that the modulation of each transmitter, authorized to operate with a plate input power to the final radio frequency stage in excess of three watts, does not exceed the limits specified in the rules in this part. This determination shall be made and the results thereof entered in the station records, in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the modulation characteristics;

(3) At intervals not to exceed six months.

(d) The determinations required by paragraphs (a), (b), and (c) of this section may, at the option of the licensee, be made by any qualified engineering measurement service, in which case the required record entries shall show the name and address of the engineering measurement service as well as the name of the person making the measurements.

(e) In the case of mobile transmitters, the determinations required by paragraphs (a) and (c) of this section may be made at a test or service bench: *Provided,* That the measurements are made under load conditions equivalent to actual operating conditions: *And provided further,* That after installation in the mobile unit the transmitter is given a routine check to determine that it is capable of being received satisfactorily by an appropriate receiver.

SUBPART D—STATION OPERATING REQUIREMENTS

§ 11.151 *Permissible communications.* (a) Stations licensed under this part may transmit the following types of communications:

(1) Any communication related directly to the safety of life or the protection of property; and

(2) Communications considered essential to the efficient conduct of that portion of the enterprise for which the licensee is eligible to hold a station license under this part, subject to the condition that harmful interference is not caused to safety communications of stations licensed under this part.

(b) A station licensed under this part may communicate with other stations without restriction as to type, service, or licensee when the communications to be transmitted are of the type described in paragraph (a) (1) of this section.

(c) For transmission of all communications other than those described in paragraph (a) (1) of this section, a station licensed under this part shall communicate only as follows:

(1) Each unit of a Mobile Station is authorized primarily to communicate with other units of the Mobile Station, and with associated base stations. Secondarily, each unit of a Mobile Station is authorized to communicate with associated Operational Fixed Stations.

(2) Each Base Station is authorized primarily to communicate with the units of an associated Mobile Station. Secondarily, each Base Station may communicate with an associated Base Station, Operational Fixed Station, or fixed receiver when:

(i) The messages to be transmitted are of immediate importance to mobile units; or

(ii) Wireline communication facilities between such points are inoperative, economically impracticable or unavailable from communications common carrier sources: *Provided, however,* That temporary unavailability due to a busy wireline circuit is not considered to be within the provisions of this subparagraph.

(3) Each Operational Fixed Station is authorized primarily to communicate with associated Operational Fixed Stations and fixed receivers. Secondarily, each Operational Fixed Station is authorized to communicate with units of an associated Mobile Station, and, subject to the limitations of subparagraph (2) of this paragraph, with associated Base Stations.

(4) Subject to the other conditions of this paragraph, stations licensed under this part may communicate with other licensed stations and with U. S. Government stations in those cases which require cooperation or co-ordination of activities: *Provided, however,* That where communication is desired with stations authorized to operate under the authority of a foreign jurisdiction, prior approval of this Commission must be obtained: *And provided further,* That the authority under which such other stations operate does not prohibit the intercommunication.

(d) All communications, regardless of their nature, shall be restricted to the minimum practicable transmission time, and some type of standard operating procedure shall be employed by each licensee. Continuous radiation of an unmodulated carrier is prohibited, except when necessary for test purposes, or when specifically authorized in writing by the Commission.

(e) The licensee of any station in these services may, during a period of emergency in which the normal communication facilities are disrupted as a result of hurricane, flood, earthquake, or similar disaster, utilize such station for emergency communication without regard to provisions of this section other than the following:

(1) As soon as possible after the beginning of such emergency use, notice be sent to the Commission in Washington, D. C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the emergency and the use to which the station is being put;

(2) The emergency use of the station be discontinued as soon as substantially normal communication facilities are again available, and the Commission in Washington, D. C., and the Engineer in Charge be notified immediately when such special use of the station is terminated; and

(3) The Commission may at any time order discontinuance of such special use of the authorized facilities.

(f) Tests may be conducted by any licensed station as required for proper station and system maintenance, but such tests shall be kept to a minimum and precautions shall be taken "to avoid interference to other stations."

§ 11.152 *Station identification.* (a) Each station in these services which is capable of being identified by transmission of its assigned call signal shall transmit such call signal at the end of each transmission or exchange of transmissions, or once each fifteen minutes of the operating period, as the licensee may prefer.

(b) In lieu of the requirement of paragraph (a) of this section, mobile units communicating with a Base Station which transmits on the same frequency may transmit, once during each exchange of transmissions, any unit identifier which is on file in the station records of such Base Station.

(c) In lieu of the requirement of paragraph (a) of this section, mobile units communicating with a Base Station which transmits on a different frequency may transmit, once during each exchange of transmissions, any unit identifier which is on file in the station records of such Base Station and the assigned call signal of either the Mobile Station or the Base Station.

(d) A station which is transmitting for telemetering purposes or retransmitting by self-actuating means a radio signal received from another radio station or stations will be considered for exemption

from the requirements of paragraph (a) of this section in specific instances, upon request.

§ 11.153 *Suspension of transmissions required.* The radiation of the transmitter shall be suspended immediately upon detection or notification of a deviation from the technical requirements of the station authorization until such deviation is corrected, except for transmissions concerning the immediate safety of life or property, in which case the transmissions shall be suspended as soon as the emergency is terminated.

§ 11.154 *Operator requirements.* (a) All transmitter adjustments or tests during or coincident with the installation, servicing, or maintenance of a radio station, which may affect the proper operation of such station, shall be made by or under the immediate supervision and responsibility of a person holding a first or second class commercial radio operator license, either radiotelephone or radiotelegraph, who shall be responsible for the proper functioning of the station equipment: *Provided, however,* That only persons holding a first or second class commercial radiotelegraph operator license shall perform such functions at radiotelegraph stations transmitting by any type of the Morse Code.

(b) Except under the circumstances specified in paragraph (a) of this section, only a person holding a commercial radiotelegraph operator license or permit of any class issued by the Commission shall operate a station during the course of normal rendition of service, when transmitting radiotelegraphy by any type of the Morse Code.

(c) Except under the circumstances specified in paragraphs (a) and (b) of this section, and except as limited by paragraphs (g) through (j) of this section, an unlicensed person may operate a Mobile Station during the course of normal rendition of service when transmitting on frequencies above 25 Mc. after being authorized to do so by the station licensee.

(d) Except under the circumstances specified in paragraphs (a) and (b) of this section, and except as limited by paragraphs (g) through (j) of this section, only a person holding a commercial radio operator license or permit of any class issued by the Commission shall operate a Mobile Station during the course of normal rendition of service when transmitting on frequencies below 25 Mc.: *Provided, however,* That an unlicensed person, after being authorized to do so by the station licensee, may operate such a Mobile Station during the course of normal rendition of service when transmitting on frequencies below 25 Mc. while it is associated with and under the operational control of a Base Station of the same station licensee.

(e) Except under the circumstances specified in paragraphs (a) and (b) of this section, and except as limited by paragraphs (g) through (j) of this section, Base Stations and Operational Fixed Stations shall be operated in accordance with the following when transmitting during the course of normal rendition of service:

(1) From a control point, only a person holding a commercial radio operator license or permit of any class issued by the Commission shall operate a base station or fixed station.

(2) From a dispatch point, an unlicensed person may operate a Base Station or Operational Fixed Station after being authorized to do so by the station licensee: *Provided, however,* That such operation shall be under the direct supervision and responsibility of a person who (i) holds a commercial radio operator license or permit of any class issued by the Commission, and who (ii) is on duty at a control point meeting the requirements of Subpart C of this part.

(f) Except under the circumstances specified in paragraph (a) of this section, and except as limited by paragraphs (g) through (j) of this section, no person, whether or not a licensed operator, is required to be in attendance at a station when transmitting during the course of normal rendition of service and when either: (1) transmitting for telemetering purposes or (2) retransmitting by self-actuating means a radio signal received from another radio station or stations.

(g) The provisions of this section, authorizing certain unlicensed persons to operate certain stations when transmitting during the course of normal rendition of service, shall be applicable only to stations in the domestic service except that the provisions of paragraph (e) (2) of this section shall be applicable to stations in either the domestic or international service. For the purpose of this section, a station in the domestic service is one which is located within the United States, its territories or possessions and which, when communicating with other stations, is in communication exclusively with one or more other United States stations which are also located in the United States, its territories or possessions; a station in the international service is one which is not in the domestic service as just defined.

(h) The provisions of this section authorizing certain unlicensed persons to operate mobile stations shall not be construed to change or diminish in any respect the responsibility of station licensees to have and to maintain control over the stations licensed to them (including all transmitter units thereof), or for the proper functioning and operation of those stations (including all transmitter units thereof) in accordance with the terms of the licenses of those stations.

(i) Notwithstanding any other provisions of this section, unless the transmitter is so designed that none of the operations necessary to be performed during the course of normal rendition of service may cause off-frequency operation or result in any unauthorized radiation, such transmitter shall be operated by a person holding a first or Esecond class commercial radio operator license (either radiotelephone or radiotelegraph as may be appropriate for the type of emission being used) issued by the Commission.

(j) Any reference in this section to a commercial radio operator license or permit of any class issued by the Commission shall not be construed to include Aircraft Radiotelephone Operator Authorizations.

§ 11.155 *Posting of operator license.* (a) The original license of each base or fixed station operator, other than an operator exclusively performing service and maintenance duties, shall be posted or kept immediately available at the place where he is on duty as an operator: *Provided, however,* That if an operator who is on duty holds a restricted radiotelephone operator permit of the card form (as distinguished from such document of the diploma form) or holds a valid license verification card (FCC Form 758–F) attesting to the existence of any other valid commercial radio operator license, he may have such permit or verification card, as the case may be, in his personal possession.

(b) Whenever a licensed operator is required for a Mobile Station, the original license of each such operator, other than an operator exclusively performing service and maintenance duties, shall be kept in his personal possession whenever he performs the duties of an operator at such station: *Provided,* That in lieu of an original license of the diploma form (as distinguished from such document of the card form) he may have in his personal possession a valid verification card attesting to its existence.

(c) The original license of every station operator who exclusively performs service and maintenance duties at that station shall be posted at the transmitter involved whenever the transmitter is in actual operation while service or maintenance work is being performed by him or under his immediate supervision and responsibility: *Provided,* That in lieu of posting his license, he may have on his person his license or a valid verification card.

§ 11.156 *Transmitter identification card and posting of station license.* (a) The current authorization for each mobile station shall be retained as a permanent part of the station record, but need not be posted. An executed Transmitter Identification Card (FCC Form No. 452–C, Revised) shall be affixed to each mobile transmitter or associated control equipment. When the transmitter is not in view of and readily accessible to the operator, it is preferred that the identification card be affixed to the control equipment at the transmitter operating position. The following information shall be entered on the card by the permittee or licensee:

(1) Name of permittee or licensee;

(2) Station call signal assigned by the Commission;

(3) Exact location or locations of the transmitter records;

(4) Frequency or frequencies on which the transmitter to which attached is adjusted to operate; and

(5) Signature of the permittee or licensee, or a designated official thereof.

(b) The current authorization for each base or fixed station shall be posted at what the licensee considers to be the principal control position of that station. At all other control points listed on the station authorization, a photocopy of the

authorization shall be posted. In addition, an executed Transmitter Identification Card (FCC Form No. 452–C, Revised) shall be affixed to each transmitter operated at a fixed location, when such transmitter is not in view of, and readily accessible to, the operator at the principal control position.

(c) In lieu of the Transmitter Identification Card, FCC Form 452–C, Revised, as required by paragraphs (a) and (b) of this section, a permittee or licensee may at his option employ a plate of metal or other substantial material which shall bear the title "Radio Transmitter Identification," and shall clearly display all the information required to be shown on the FCC Form 452–C, Revised, with the exception of the signature.

§ 11.157 *Inspection of stations.* All stations and records of stations in these services shall be made available for inspection by an authorized representative of the Commission at any time while the station is in operation, and, when not in operation, shall be made available for inspection upon reasonable request of such representative.

§ 11.158 *Inspection and maintenance of tower marking and associated control equipment.* The licensee of any radio station which has an antenna structure required to be painted or illuminated pursuant to the provisions of section 303 (q) of the Communications Act of 1934, as amended, and/or Part 17 of this chapter, shall operate and maintain the tower marking and associated control equipment in accordance with the following:

(a) The tower lights shall be observed at least once each 24 hours, either visually or by observing an automatic and properly maintained indicator designed to register any failure of such lights, to insure that all such lights are functioning properly as required; or, alternatively, there shall be provided and properly maintained an automatic alarm system designed to detect any failure of the tower lights and to provide indication of such failure to the licensee.

(b) Any observed or otherwise known failure of a code or rotating beacon light or top light not corrected within thirty minutes, regardless of the cause of such failure, shall be reported immediately by telephone or telegraph to the nearest Airways Communication Station or office of the Civil Aeronautics Administration. Further notification by telephone or telegraph shall be given immediately upon resumption of the required illumination.

(c) All automatic or mechanical control devices, indicators, and alarm systems associated with the tower lights shall be inspected at intervals not to exceed three months, to insure that such apparatus is functioning properly.

(d) All lighting shall be exhibited from sunset to sunrise unless otherwise specified in the instrument of station authorization.

(e) A sufficient supply of spare lamps shall be maintained for immediate replacement purposes at all times.

(f) All towers shall be cleaned or repainted as often as is necessary to maintain good visibility.

§ 11.159 *Answers to notices of violations.* Any licensee receiving official notice of a violation of the terms of the Communications Act of 1934, as amended, any legislative act, treaty to which the United States is a party, or the rules and regulations of the Federal Communications Commission, shall, within 3 days from such receipt, send a written answer to the office of the Commission originating the official notice. If an answer cannot be sent, or an acknowledgment made within such 3-day period, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay. The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. The reply shall set forth the steps taken to prevent a recurrence of such lack of attention or improper operation.

§ 11.160 *Station records.* Each licensee of a station in these services shall maintain records as required elsewhere in this part and in accordance with the following:

(a) For all stations, the results and dates of the transmitter measurements required by § 11.108, and the name of the person or persons making the measurements.

(b) For all stations, when service or maintenance duties are performed which may affect their proper operation, the responsible operator shall sign and date an entry in the station record concerned, giving:

(1) Pertinent details of all duties performed by him or under his supervision;

(2) His name and address; and

(3) The class, serial number, and expiration date of his license: *Provided, however,* That the information called for under subparagraphs (2) and (3) of this paragraph, so long as it remains unchanged, is not required to be repeated in the case of a person who is regularly employed as operator on a full-time basis at the station.

(c) For Base Stations and Operational Fixed Stations only, the name or names of persons responsible for the operation of the transmitting equipment each day, together with the period of their duty.

(d) For Base Stations only, when they communicate with other Base Stations or with Operational Fixed Stations:

(1) Call sign of other stations; and

(2) Date, time, and approximate duration of each transmission.

(e) When a Base Station or Operational Fixed Station has an antenna structure which is required to be illuminated, appropriate entries shall be made as follows:

(1) The time the tower lights are turned on and off each day, if manually controlled.

(2) The time the daily check of proper operation of the tower lights was made.

(3) In the event of any observed or otherwise known failure of a tower light:

(i) Nature of such failure.

(ii) Date and time the failure was observed or otherwise noted.

(iii) Date, time and nature of the adjustments, repairs, or replacements made.

(iv) Identification of Airways Communication Station (Civil Aeronautics Administration) notified of the failure of any code or rotating beacon light not corrected within thirty minutes, and the date and time such notice was given.

(v) Date and time notice was given to the Airways Communication Station (Civil Aeronautics Administration) that the required illumination was resumed.

(4) Upon completion of the three-month periodic inspection required by § 11.158:

(i) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators and alarm systems.

(ii) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the date such adjustments, replacements, or repairs were made.

(f) The records shall be kept in an orderly manner, and in such detail that the data required are readily available. Key letters or abbreviations may be used if proper meaning or explanation is set forth in the record.

(g) Each entry in the records of each station shall be signed by a person qualified to do so, having actual knowledge of the facts to be recorded.

(h) No record or portion thereof shall be erased, obliterated, or wilfully destroyed within the required retention period. Any necessary correction may be made only by the person originating the entry, who shall strike out the erroneous portion, initial the correction made and indicate the date of correction.

(i) Records required by this part shall be retained by the licensee for a period of at least one year.

SUBPART E—DEVELOPMENTAL OPERATION

§ 11.201 *Eligibility.* An authorization for developmental operation in any of the services under this part will be issued only to those persons who are eligible to operate stations in such service on a regular basis.

§ 11.202 *Showing required.* (a) Except as provided in paragraph (b) of this section, each application for developmental operation shall be accompanied by a showing that:

(1) The applicant has an organized plan of development leading to a specific objective;

(2) A point has been reached in the program where actual transmission by radio is essential to the further progress thereof;

(3) The program has reasonable promise of substantial contribution to the expansion or extension of the radio art, or is along lines not already investigated;

(4) The program will be conducted by qualified personnel;

(5) The applicant is legally and financially qualified, and possesses adequate technical facilities for conduct of the program as proposed; and

(6) The public interest, convenience, or necessity will be served by the proposed operation.

(b) The provisions of paragraph (a) of this section do not apply when an application is made for developmental operation solely for the reason that the frequency requested is restricted to such developmental use.

§ 11.203 *Limitations on use.* Stations used for developmental operation shall be constructed and used in such a manner as to conform with all of the technical and operating requirements of Subparts C and D of this part, unless deviation therefrom is specifically provided in the instrument of authorization.

§ 11.204 *Frequencies available for assignment.* Stations engaged in developmental operation may be authorized to use a frequency, or frequencies, available for the service in which they propose to operate. The number of channels assigned will depend upon the specific requirements of the developmental program itself, and the number of frequencies available in the particular area where the station will be operated.

§ 11.205 *Interference.* The operation of any station engaged in developmental work shall be subject to the condition that no harmful interference is caused to the operation of stations licensed on a regular basis under any part of the Commission's rules.

§ 11.206 *Special provisions.* (a) The developmental program as described by the applicant in the application for authorization shall be substantially followed unless the Commission shall otherwise direct.

(b) Where some phases of the developmental program are not covered by the general rules of the Commission and the rules in this part, the Commission may specify supplemental or additional requirements or conditions in each case, as deemed necessary in the public interest, convenience, or necessity.

(c) The Commission may, from time to time, require a station engaged in developmental work to conduct special tests which are reasonable and desirable to the authorized developmental program.

§ 11.207 *Required supplementary statement.* Every application for authority to engage in developmental operation shall be accompanied by a statement signed by the applicant in which it is agreed that any authorization issued pursuant thereto will be accepted with the express understanding of the applicant that it is subject to change in any of its terms or to cancellation in its entirety at any time, upon reasonable notice but without a hearing, if, in the opinion of the Commission, circumstances should so require.

§ 11.208 *Report of operation.* A report on the results of the developmental program shall be filed with and made a part of each application for renewal of authorization or in cases where no renewal is requested, such report shall be filed within 60 days of the expiration of such authorization. Matters which the applicant does not wish to disclose publicly may be so labeled; they will be used solely for the Commission's information, and will not be publicly disclosed without permission of the applicant.

The report shall include comprehensive and detailed information on the following:

(a) The final objective.
(b) Results of operation to date.
(c) Analysis of the results obtained.
(d) Copies of any published reports.
(e) Need for continuation of the program.
(f) Number of hours of operation on each frequency.

SUBPART F—POWER RADIO SERVICE

§ 11.251 *Eligibility.* (a) The following persons are eligible to hold authorizations to operate radio stations in the Power Radio Service:

(1) A person who is engaged in generating, transmitting, collecting, purifying, storing, or distributing, by means of wire or pipe line, electrical energy, artificial or natural gas, water, or steam for use by the public, or by the members of a cooperative organization.

(2) A non-profit corporation or association, organized for the purpose of furnishing a radiocommunication service solely to persons who are actually engaged in one or more of the activities set forth in subparagraph (1) of this paragraph. Such a corporation or association shall render service only on a non-profit cost-sharing basis, said costs to be prorated on an equitable basis among all persons to whom service is rendered. Records which reflect this cost-sharing non-profit basis shall be maintained and held available for inspection by Commission representatives.

(b) Each application for authority to operate in the Power Radio Service shall be accompanied by a statement in detail sufficient to indicate clearly the applicant's eligibility under paragraph (a) of this section. In addition, each person licensed under the provisions of paragraph (a) (2) of this section shall obtain prior approval from the Commission for each person who proposes to participate in the licensee's service.

§ 11.252 *Frequencies available for Base and Mobile Stations.* (a) The following frequencies are available for assignment to Base and Mobile Stations in the Power Radio Service only:

Mc.	*Mc.*	*Mc.*	*Mc.*
37.46	47.70	48.14	153.41
37.50	47.74	48.18	153.47
37.54	47.78	48.22	153.53
37.58	47.82	48.26	153.59
37.62	47.86	48.30	153.65
37.66	47.90	48.34	153.71
37.70	47.94	48.38	158.13
37.74	47.98	48.42	158.19
37.78	48.02	48.46	158.25
37.82	48.06	48.50	
37.86	48.10	48.54	

(b) The following frequencies are available for assignment to Base Stations and Mobile Stations in the Power Radio Service on a shared basis with other services:

Frequency (kc)	*Frequency (Mc)*
[1] 2292	[2] 35.06
[1] 2398	[2] 35.10
[2] [4] 4637.5	[2] 35.14
	[2] 35.18

[1] Use of this frequency by stations licensed in the Power Radio Service is on a shared basis with other stations in the Industrial Radio Services, but is subject to the condition that harmful interference shall not be caused to the service of any station not in these services which, in the discretion of the Commission, may have priority on the frequency or frequencies used for the service to which interference is caused.

[2] The use of these frequencies by stations in the Power Radio Service is subject to causing no harmful interference to the Maritime Mobile Service.

[3] This frequency is limited to daytime use only, with a maximum plate power input to the final radio frequency stage not to exceed 100 watts.

[4] This frequency may be subject to change when the Atlantic City table of frequency allocations between 4 Mc and 27.5 Mc comes into force.

(c) Frequencies in the bands listed below are available for assignment to Base and Mobile Stations in the Power Radio Service on a shared basis with other services, under the terms of a developmental grant only; the exact frequency and the authorized bandwidth will be specified in the authorization.

Mc.	*Mc.*
2450–2500 [1]	6425– 6575
3500–3700	11700–12200

[1] Use of frequencies in the band 2450–2500 Mc. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequency 2450 Mc.

§ 11.253 *Frequencies available for Operational Fixed Stations.* (a) Subject to the condition that no harmful interference will be caused to reception of television channel number 4 or 5, the following frequencies are available for assignment to Operational Fixed Stations in the Power Radio Service on a shared basis with other services:

Mc.	*Mc.*	*Mc.*	*Mc.*
72.02	72.82	73.62	74.42
72.06	72.86	73.66	74.46
72.10	72.90	73.70	74.50
72.14	72.94	73.74	74.54
72.18	72.98	73.78	74.58
72.22	73.02	73.82	75.42
72.26	73.06	73.86	75.46
72.30	73.10	73.90	75.50
72.34	73.14	73.94	75.54
72.38	73.18	73.98	75.58
72.42	73.22	74.02	75.62
72.46	73.26	74.06	75.66
72.50	73.30	74.10	75.70
72.54	73.34	74.14	75.74
72.58	73.38	74.18	75.78
72.62	73.42	74.22	75.82
72.66	73.46	74.26	75.86
72.70	73.50	74.30	75.90
72.74	73.54	74.34	75.94
72.78	73.58	74.38	75.98

(b) Frequencies in the bands listed below are available for assignment to Operational Fixed Stations in the Power Radio Service on a shared basis with other services, under the terms of a developmental grant only; the exact frequency and the authorized bandwidth will be specified in the authorization.

Mc.	*Mc.*
[1] 890– 940	6575– 6875
952– 960	9800– 9900
1850–1990	12200–12700
2110–2200	[1] 16000–18000
[1] 2450–2500	26000–30000
2500–2700	

[1] Use of frequencies in the bands 890–940, 2450–2500, and 17850–18000 Mc. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequencies 915, 2450 and 18000 Mc.

(c) Pursuant to the provisions of § 11.8, and for the specific purpose of transmitting hydrological or meteorological data, the frequencies listed in this paragraph are available for assignment to Operational Fixed Stations in this Service: *Provided, however,* That harmful interference shall not be caused to Federal Government stations: *And provided further,* That the hydrological or meteorological data is made available to interested government agencies. Notwithstanding the provisions of § 11.151, Operational Fixed Stations authorized to operate on frequencies listed in this paragraph shall not communicate with or accept communications from any Mobile Station or Base Station unless written authorization to do so has been obtained from the Commission. Persons who desire to operate stations in accordance with the provisions of this paragraph should communicate with the Commission prior to filing formal application and request instructions concerning the procedure to be followed. The following frequencies are available for assignment:

Mc.	*Mc.*	*Mc.*
169.425	171.025	[1] 406.050
169.475	171.075	[1] 406.150
169.525	171.125	[1] 406.250
169.575	171.175	[1] 406.350
170.225	171.825	[1] 412.450
170.275	171.875	[1] 412.550
170.325	171.925	[1] 412.650
170.375	171.975	[1] 412.750

[1] Primarily for use by Fixed Relay Stations.

§ 11.254 *Frequencies available for Base, Mobile, and Operational Fixed Stations.* (a) The frequencies listed in paragraph (c) of this section are available for assignment to stations in the Power Radio Service for Developmental Operation only (see Subpart E of this part), and are shared with other radio services.

(b) The frequencies listed in paragraph (c) of this section are primarily for assignment to Mobile and Base Stations operating in the mobile service. However, the frequencies also are available for assignment to Operational Fixed Stations, subject to the following restrictions and limitations on assignment and use:

(1) All use by Operational Fixed Stations is subject to the condition that harmful interference shall not be caused to stations operating in the mobile service on frequencies in the 450–460 Mc. band, in accordance with the table of frequency allocations as set forth in Part 2 of this chapter.

(2) The frequencies are available for assignment only to those Operational Fixed Stations which function as integral and essential parts of a mobile service radio system. Such Operational Fixed Stations include only those which are operated as part of a radio circuit over which messages normally are sent to or from a Mobile Station without interruption for manual relaying at intermediate points.

(3) Operational Fixed Relay Stations may be used to provide two automatic retransmissions of a mobile service message. Additional automatic retransmissions on these frequencies by means of such stations is prohibited.

(c) Frequencies available for assignment as provided in paragraphs (a) and (b) of this section are as follows:

Mc.	*Mc.*	*Mc.*	*Mc.*
456.05	456.55	457.05	457.55
456.15	456.65	457.15	457.65
456.25	456.75	457.25	457.75
456.35	456.85	457.35	457.85
456.45	456.95	457.45	457.95

SUBPART G—PETROLEUM RADIO SERVICE

§ 11.301 *Eligibility.* (a) The following persons are eligible to hold authorizations to operate radio stations in the Petroleum Radio Service:

(1) A person who is engaged in prospecting for, producing, collecting, refining, or transporting by means of pipelines, petroleum or petroleum products (including natural gas).

(2) A non-profit corporation or association, organized for the purpose of furnishing a radiocommunication service solely to persons who are actually engaged in one or more of the activities set forth in subparagraph (1) of this paragraph. Such a Corporation or association shall render service only on a non-profit cost-sharing basis, said costs to be prorated on an equitable basis among all persons to whom service is rendered. Records which reflect this cost-sharing non-profit basis shall be maintained and held available for inspection by Commission representatives.

(b) Each application for authority to operate in the Petroleum Radio Service shall be accompanied by a statement in detail sufficient to indicate clearly the applicant's eligibility under paragraph (a) of this section. In addition, each person licensed under the provisions of paragraph (a) (2) of this section shall obtain prior approval from the Commission for each person who proposes to participate in the licensee's service.

§ 11.302 *Frequencies available for Base and Mobile Stations.* (a) The following frequencies are available for assignment to Base and Mobile Stations in the Petroleum Radio Service only:

Mc.	*Mc.*	*Mc.*	*Mc.*
25.02	33.18	48.66	48.98
25.06	33.22	48.70	49.02
25.10	33.26	48.74	49.06
25.14	33.30	48.78	49.10
25.18	33.34	48.82	49.14
25.22	33.38	48.86	49.18
25.26	48.58	48.90	
25.30	48.62	48.94	

(b) The following frequencies are available for assignment to Base Stations and Mobile Stations in the Petroleum Radio Service on a shared basis with other services:

Frequency (kc.)	*Frequency (Mc.)*	*Frequency (Mc.)*
1614	30.66	153.23
1628	30.70	153.29
1652	30.74	153.35
1676	30.78	158.31
1700	30.82	158.37
[1] 2292	153.05	158.43
[1] 2398	153.11	
[2] [3] 4637.5	153.17	

[1] Use of this frequency by stations licensed in the Petroleum Radio Service is on a shared basis with other stations in the Industrial Radio Services, but is subject to the condition that harmful interference shall not be caused to the service of any station not in these services which, in the discretion of the Commission, may have priority on the frequency or frequencies used for the service to which interference is caused.

[2] This frequency is limited to daytime use only, with a maximum plate power input to the final radio frequency stage not to exceed 100 watts.

[3] This frequency may be subject to change when the Atlantic City table of frequency allocations between 4 Mc. and 27.5 Mc. comes into force.

(c) In addition to the frequencies listed in paragraphs (a) and (b) of this section, petroleum stations operated in connection with natural gas pipe lines, if licensed to the same person operating radio stations in the Power Radio Service, may use the same frequency being used by the power service radio station(s): *Provided,* That a showing is made to establish that the natural gas pipe line operation is an integral part of the natural gas distribution system which is licensed in the Power Radio Service and that the coordinated use of the stations is essential to the operation of the natural gas distribution system.

(d) Frequencies in the bands listed below are available for assignment to Base and Mobile Stations in the Petroleum Radio Service on a shared basis with other services, under the terms of a developmental grant only; the exact frequency and the authorized bandwidth will be specified in the authorization.

Mc.	*Mc.*
[1] 2450–2500	6425– 6575
3500–3700	11700–12200

[1] Use of frequencies in the band 2450–2500 Mc. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequency 2450 Mc.

§ 11.303 *Frequencies available for Operational Fixed Stations.* (a) Subject to the condition that no harmful interference will be caused to reception of television channel number 4 or 5, the following frequencies are available for assignment to fixed stations in the Petroleum Radio Service on a shared basis with other services:

Mc.	*Mc.*	*Mc.*	*Mc.*
72.02	72.82	73.62	74.42
72.06	72.86	73.66	74.46
72.10	72.90	73.70	74.50
72.14	72.94	73.74	74.54
72.18	72.98	73.78	74.58
72.22	73.02	73.82	75.42
72.26	73.06	73.86	75.46
72.30	73.10	73.90	75.50
72.34	73.14	73.94	75.54
72.38	73.18	73.98	75.58
72.42	73.22	74.02	75.62
72.46	73.26	74.06	75.66
72.50	73.30	74.10	75.70
72.54	73.34	74.14	75.74
72.58	73.38	74.18	75.78
72.62	73.42	74.22	75.82
72.66	73.46	74.26	75.86
72.70	73.50	74.30	75.90
72.74	73.54	74.34	75.94
72.78	73.58	74.38	75.98

(b) Frequencies in the bands listed below are available for assignment to Operational Fixed Stations in the Petroleum Radio Service on a shared basis

with other services, under the terms of a developmental grant only; the exact frequency and the authorized bandwidth will be specified in the authorization.

Mc.	Mc.
[1] 890– 940	6575– 6875
952– 960	9800– 9900
1850–1990	12200–12700
2110–2200	[1] 16000–18000
[1] 2450–2500	26000–30000
2500–2700	

[1] Use of frequencies in the bands 890–940, 2450–2500, and 17850–18000 Mc. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequencies 915, 2450 and 18000 Mc.

(c) Pursuant to the provisions of § 11.8, and for the specific purpose of transmitting hydrological or meteorological data, the frequencies listed in this paragraph are available for assignment to Operational Fixed Stations in this Service: *Provided, however,* That harmful interference shall not be caused to Federal Government stations: *And provided further,* That the hydrological or meteorological data is made available to interested government agencies. Notwithstanding the provisions of § 11.151, Operational Fixed Stations authorized to operate on frequencies listed in this paragraph shall not communicate with or accept communications from any Mobile Station or Base Station unless written authorization to do so has been obtained from the Commission. Persons who desire to operate stations in accordance with the provisions of this paragraph should communicate with the Commission prior to filing formal application and request instructions concerning the procedure to be followed. The following frequencies are available for assignment:

Mc.	Mc.	Mc.
169.425	171.025	[1] 406.050
169.475	171.075	[1] 406.150
169.525	171.125	[1] 406.250
169.575	171.175	[1] 406.350
170.225	171.825	[1] 412.450
170.275	171.875	[1] 412.550
170.325	171.925	[1] 412.650
170.375	171.975	[1] 412.750

[1] Primarily for use by Fixed Relay Stations.

§ 11.304 *Frequencies available for Base, Mobile, and Operational Fixed Stations.* (a) The frequencies listed in paragraph (c) of this section are available for assignment to stations in the Petroleum Radio Service for Developmental Operation only (see Subpart E of this part), and are shared with other radio services.

(b) The frequencies listed in paragraph (c) of this section are primarily for assignment to Mobile and Base Stations operating in the mobile service. However, the frequencies also are available for assignment to Operational Fixed Stations, subject to the following restrictions and limitations on assignment and use:

(1) All use by Operational Fixed Stations is subject to the condition that harmful interference shall not be caused to stations operating in the mobile service on frequencies in the 450–460 Mc. band, in accordance with the table of frequency allocations as set forth in Part 2 of this chapter.

(2) The frequencies are available for assignment only to those Operational Fixed Stations which function as integral and essential parts of a mobile service radio system. Such Operational Fixed Stations include only those which are operated as part of a radio circuit over which messages normally are sent to or from a Mobile Station without interruption for manual relaying at intermediate points.

(3) Fixed Relay Stations may be used to provide two automatic retransmissions of a mobile service message. Additional automatic retransmissions on these frequencies by means of such stations is prohibited.

(c) Frequencies available for assignment as provided in paragraphs (a) and (b) of this section are as follows:

Mc.	Mc.	Mc.	Mc.
456.05	456.55	457.05	457.55
456.15	456.65	457.15	457.65
456.25	456.75	457.25	457.75
456.35	456.85	457.35	457.85
456.45	456.95	457.45	457.95

SUBPART H—FOREST PRODUCTS RADIO SERVICE

§ 11.351 *Eligibility.* (a) The following persons are eligible to hold authorizations to operate radio stations in the Forest Products Radio Service:

(1) A person who is engaged in tree logging, tree farming, or related woods operations.

(2) A non-profit corporation or association, organized for the purpose of furnishing a radio communication service solely to persons who are actually engaged in one or more of the activities set forth in subparagraph (1) of this paragraph. Such a corporation or association shall render service only on a non-profit cost-sharing basis, said costs to be prorated on an equitable basis among all persons to whom service is rendered. Records which reflect this cost-sharing, non-profit basis shall be maintained and held available for inspection by Commission representatives.

(b) Each application for authority to operate in the Forest Products Radio Service shall be accompanied by a statement in detail sufficient to indicate clearly the applicant's eligibility under paragraph (a) of this section. In addition, each person licensed under the provisions of paragraph (a) (2) of this section shall obtain prior approval from the Commission for each person who proposes to participate in the licensee's service.

§ 11.352 *Frequencies available for Base and Mobile Stations.* (a) The following frequencies are available for assignment to Base and Mobile Stations in the Forest Products Radio Service only:

Mc.	Mc.	Mc.	Mc.
29.73	49.26	49.38	49.50
29.77	49.30	49.42	
49.22	49.34	49.46	

(b) The following frequencies are available for assignment to Base and Mobile Stations in the Forest Products Radio Service on a shared basis with other services:

Frequency (kc.)	Frequency (Mc.)	Frequency (Mc.)
1676	49.54	153.05
1700	49.58	153.11
[1] 2398	49.62	153.17
	49.66	153.23
		153.29
		153.35
		158.31
		158.37
		158.43

[1] Use of this frequency by stations licensed in the Forest Products Radio Service is on a shared basis with other stations in the Industrial Radio Services, but is subject to the condition that harmful interference shall not be caused to the service of any station not in these services which, in the discretion of the Commission, may have priority on the frequency or frequencies used for the service to which interference is caused.

(c) Frequencies in the bands listed below are available for assignment to Base and Mobile Stations in the Forest Products Radio Service on a shared basis with other services, under the terms of a developmental grant only; the exact frequency and the authorized bandwidth will be specified in the authorization:

Mc.	Mc.
[1] 2450–2500	6425– 6575
3500–3700	11700–12200

[1] Use of frequencies in the band 2450–2500 Mc. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequency 2450 Mc.

§ 11.353 *Frequencies available for Operational Fixed Stations.* (a) Subject to the condition that no harmful interference will be caused to reception of television channel number 4 or 5, the following frequencies are available for assignment to Operational Fixed Stations in the Forest Products Radio Service on a shared basis with other services:

Mc.	Mc.	Mc.	Mc.
72.02	72.82	73.62	74.42
72.06	72.86	73.66	74.46
72.10	72.90	73.70	74.50
72.14	72.94	73.74	74.54
72.18	72.98	73.78	74.58
72.22	73.02	73.82	75.42
72.26	73.06	73.86	75.46
72.30	73.10	73.90	75.50
72.34	73.14	73.94	75.54
72.38	73.18	73.98	75.58
72.42	73.22	74.02	75.62
72.46	73.26	74.06	75.66
72.50	73.30	74.10	75.70
72.54	73.34	74.14	75.74
72.58	73.38	74.18	75.78
72.62	73.42	74.22	75.82
72.66	73.46	74.26	75.86
72.70	73.50	74.30	75.90
72.74	73.54	74.34	75.94
72.78	73.58	74.38	75.98

(b) Frequencies in the bands listed below are available for assignment to Operational Fixed Stations in the Forest Products Radio Service on a shared basis with other services, under the terms of a developmental grant only; the exact frequency and the authorized bandwidth will be specified in the authorization:

Mc.	Mc.
[1] 890– 940	6575– 6875
952– 960	9800– 9900
1850–1990	12200–12700
2110–2200	[1] 16000–18000
[1] 2450–2500	26000–30000
2500–2700	

[1] Use of frequencies in the bands 890–940, 2450–2500, and 17850–18000 MC. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequencies 915, 2450 and 18000 MC.

(c) Pursuant to the provisions of § 11.8, and for the specific purpose of transmitting hydrological or meteorological data, the frequencies listed in this paragraph are available for assignment to Operational Fixed Stations in this Service: *Provided, however,* That harmful interference shall not be caused to Federal Government stations: *And provided further,* That the hydrological or meteorological data is made available to interested government agencies. Notwithstanding the provisions of § 11.151, Operational Fixed Stations authorized to operate on frequencies listed in this paragraph shall not communicate with or accept communications from any Mobile Station or Base Station unless written authorization to do so has been obtained from the Commission. Persons who desire to operate stations in accordance with the provisions of this paragraph should communicate with the Commission prior to filing formal application and request instructions concerning the procedure to be followed. The following frequencies are available for assignment:

Mc	Mc	Mc
169.425	171.025	[1] 406.050
169.475	171.075	[1] 406.150
169.525	171.125	[1] 406.250
169.575	171.175	[1] 406.350
170.225	171.825	[1] 412.450
170.275	171.875	[1] 412.550
170.325	171.925	[1] 412.650
170.375	171.975	[1] 412.750

[1] Primarily for use by Fixed Relay Stations.

§ 11.354 *Frequencies available for Base, Mobile, and Operational Fixed Stations.* (a) The frequencies listed in paragraph (c) of this section are available for assignment to stations in the Forest Products Radio Service for Developmental Operation only (see Subpart E of this part), and are shared with other radio services.

(b) The frequencies listed in paragraph (c) of this section are primarily for assignment to Mobile and Base Stations operating in the mobile service. However, the frequencies also are available for assignment to Operational Fixed Stations, subject to the following restrictions and limitations on assignment and use:

(1) All use by Operational Fixed Stations is subject to the condition that harmful interference shall not be caused to stations operating in the mobile service on frequencies in the 450–460 Mc. band, in accordance with the table of frequency allocations as set forth in Part 2 of this chapter.

(2) The frequencies are available for assignment only to those Operational Fixed Stations which function as integral and essential parts of a mobile service radio system. Such Operational Fixed Stations include only those which are operated as part of a radio circuit over which messages normally are sent to or from a Mobile Station without interruption for manual relaying at intermediate points.

(3) Fixed Relay Stations may be used to provide two automatic retransmissions of a mobile service message. Additional automatic retransmissions on these frequencies by means of such stations is prohibited.

(c) Frequencies available for assignment as provided in paragraphs (a) and (b) of this section are as follows:

Mc.	Mc.	Mc.	Mc.
456.05	456.55	457.05	457.55
456.15	456.65	457.15	457.65
456.25	456.75	457.25	457.75
456.35	456.85	457.35	457.85
456.45	456.95	457.45	457.95

SUBPART I—MOTION PICTURE RADIO SERVICE

§ 11.401 *Eligibility.* (a) The following persons are eligible to hold authorizations to operate radio stations in the Motion Picture Radio Service:

(1) A person who is engaged in the production or filming of motion pictures.

(2) A non-profit corporation or association, organized for the purpose of furnishing a radiocommunication service solely to persons who are actually engaged in one or more of the activities set forth in subparagraph (1) of this paragraph. Such a corporation or association shall render service only on a non-profit cost-sharing basis among all persons to whom service is rendered. Records which reflect this cost-sharing non-profit basis shall be maintained and held available for inspection by Commission representatives.

(b) Each application for authority to operate in the Motion Picture Radio Service shall be accompanied by a statement in detail sufficient to indicate clearly the applicant's eligibility under paragraph (a) of this section. In addition, each person licensed under the provisions of paragraph (a) (2) of this section shall obtain prior approval from the Commission for each person who proposes to participate in the licensee's service.

§ 11.402 *Frequencies available for Base and Mobile Stations.* (a) The following frequencies are available for assignment to Base Stations and Mobile Stations in the Motion Picture Radio Service on a shared basis with other services:

Frequency (kc.)	Frequency (Mc.)	Frequency (Mc.)
1628	49.70	152.99
1652	49.74	173.225
[1] 2292	49.78	173.275
[1] 2398	49.82	173.325
[1] [2] 4637.5	152.87	173.375
	152.93	

[1] Use of this frequency by stations licensed in the Motion Picture Radio Service is on a shared basis with other stations in the Industrial Radio Services, but is subject to the condition that harmful interference shall not be caused to the service of any station not in these services which, in the discretion of the Commission, may have priority on the frequency or frequencies used for the service to which interference is caused.

[2] This frequency is limited to daytime use only, with a maximum plate power input to the final radio frequency stage not to exceed 100 watts.

[3] This frequency may be subject to change when the Atlantic City table of frequency allocations between 4 Mc and 27.5 Mc comes into force.

(b) Frequencies in the bands listed below are available for assignment to Base and Mobile Stations in the Motion Picture Radio Service on a shared basis with other services, under the terms of a developmental grant only; the exact frequency and the authorized bandwidth will be specified in the authorization:

Mc.	Mc.
[1] 2450–2500	6425– 6575
3500–3700	11700–12200

[1] Use of frequencies in the band 2450–2500 Mc. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequency 2450 Mc.

§ 11.403 *Frequencies available for Operational Fixed Stations.* (a) Subject to the condition that no harmful interference will be caused to reception of television channel number 4 or 5, the following frequencies are available for assignment to Operational Fixed Stations in the Motion Picture Radio Service on a shared basis with other services:

Mc.	Mc.	Mc.	Mc.
72.02	72.82	73.50	74.42
72.06	72.86	73.66	74.46
72.10	72.90	73.70	74.50
72.14	72.94	73.74	74.54
72.18	72.98	73.78	74.58
72.22	73.02	73.82	75.42
72.26	73.06	73.86	75.46
72.30	73.10	73.90	75.50
72.34	73.14	73.94	75.54
72.38	73.18	73.98	75.58
72.42	73.22	74.02	75.62
72.46	73.26	74.06	75.66
72.50	73.30	74.10	75.70
72.54	73.34	74.14	75.74
72.58	73.38	74.18	75.78
72.62	73.42	74.22	75.82
72.66	73.58	74.26	75.86
72.70	73.62	74.30	75.90
72.74	73.54	74.34	75.94
72.78	73.46	74.38	75.98

(b) Frequencies in the bands listed below are available for assignment to Operational Fixed Stations in the Motion Picture Radio Service on a shared basis with other services under the terms of a developmental grant only; the exact frequency and the authorized bandwidth will be specified in the authorization:

Mc.	Mc.
[1] 890– 940	6575– 6875
952– 960	9800– 9900
1850–1990	12200–12700
2110–2200	[1] 16000–18000
[1] 2450–2500	26000–30000
2500–2700	

[1] Use of frequencies in the bands 890–940, 2450–2500, and 17850–18000 MC. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequencies 915, 2450 and 18000 MC.

§ 11.404 *Frequencies available for Base, Mobile, and Operational Fixed Stations.* (a) The frequencies listed in paragraph (c) of this section are available for assignment to stations in the Motion

Picture Radio Service for Developmental Operation only (see Subpart E of this part), and are shared with other radio services.

(b) The frequencies listed in paragraph (c) of this section are primarily for assignment to Mobile and Base Stations operating in the mobile service. However, the frequencies also are available for assignment to Operational Fixed Stations, subject to the following restrictions and limitations on assignment and use:

(1) All use by Operational Fixed Stations is subject to the condition that harmful interference shall not be caused to stations operating in the mobile service on frequencies in the 450–460 Mc. band, in accordance with the table of frequency allocations as set forth in Part 2 of this chapter.

(2) The frequencies are available for assignment only to those Operational Fixed Stations which function as integral and essential parts of a Mobile Service radio system. Such Operational Fixed Stations include only those which are operated as part of a radio circuit over which messages normally are sent to or from a Mobile Station without interruption for manual relaying at intermediate points.

(3) Fixed Relay Stations may be used to provide two automatic retransmissions of a mobile service message. Additional automatic retransmissions on these frequencies by means of such stations is prohibited.

(c) Frequencies available for assignment as provided in paragraphs (a) and (b) of this section are as follows:

Mc.	*Mc.*	*Mc.*	*Mc.*
456.05	465.55	457.05	457.55
456.15	456.65	457.15	457.65
456.25	456.75	457.25	457.75
456.35	456.85	457.35	457.85
456.45	456.95	457.45	457.95

SUBPART J—RELAY PRESS RADIO SERVICE

§ 11.451 *Eligibility.* (a) The following persons are eligible to hold authorizations to operate radio stations in the Relay Press Radio Service:

(1) A person who is engaged in the publication of a newspaper or in the operation of an established press association.

(2) A non-profit corporation or association, organized for the purpose of furnishing a radiocommunication service solely to persons who are actually engaged in one or more of the activities set forth in subparagraph (1) of this paragraph. Such a corporation or association shall render service only on a non-profit cost-sharing basis, said cost to be prorated on an equitable basis among all persons to whom service is rendered. Records which reflect this cost-sharing non-profit basis shall be maintained and held available for inspection by Commission representatives.

(b) Each application for authority to operate in the Relay Press Radio Service shall be accompanied by a statement in detail sufficient to indicate clearly the applicant's eligibility under paragraph (a) of this section. In addition, each person licensed under the provisions of paragraph (a) (2) of this section shall obtain prior approval from the Commission for each person who proposes to participate in the licensee's service.

§ 11.452 *Frequencies available for Base and Mobile Stations.* (a) The following frequencies are available for assignment to Base and Mobile Stations in the Relay Press Radio Service on a shared basis with other services:

Mc.	*Mc.*
173.225	173.325
173.275	173.375

(b) Frequencies in the bands listed below are available for assignment to Base and Mobile Stations in the Relay Press Radio Service on a shared basis with other services, under the terms of a developmental grant only; the exact frequency and the authorized bandwidth will be specified in the authorization:

Mc.	*Mc.*
[1] 2450–2500	6425– 6575
3500–3700	11700–12200

[1] Use of frequencies in the band 2450–2500 Mc. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequency 2450 Mc.

§ 11.453 *Frequencies available for Operational Fixed Stations.* (a) Subject to the condition that no harmful interference will be caused to reception of television channel number 4 or 5, the following frequencies are available for assignment to Operational Fixed Stations in the Relay Press Radio Service on a shared basis with other services:

Mc.	*Mc.*	*Mc.*	*Mc.*
72.02	72.82	73.62	74.42
72.06	72.86	73.66	74.46
72.10	72.90	73.70	74.50
72.14	72.94	73.74	74.54
72.18	72.98	73.78	74.58
72.22	73.02	73.82	75.42
72.26	73.06	73.86	75.46
72.30	73.10	73.90	75.50
72.34	73.14	73.94	75.54
72.38	73.18	73.98	75.58
72.42	73.22	74.02	75.62
72.46	73.26	74.06	75.66
72.50	73.30	74.10	75.70
72.54	73.34	74.14	75.74
72.58	73.38	74.18	75.78
72.62	73.42	74.22	75.82
72.66	73.46	74.26	75.86
72.70	73.50	74.30	75.90
72.74	73.54	74.34	75.94
72.78	73.58	74.38	75.98

(b) Frequencies in the bands listed below are available for assignment to Operational Fixed Stations in the Relay Press Radio Service on a shared basis with other services, under the terms of a developmental grant only; the exact frequency and the authorized bandwidth will be specified in the authorization:

Mc.	*Mc.*
[1] 890– 940	6575– 6875
952– 960	9800– 9900
1850–1990	12200–12700
2110–2200	[1] 16000–18000
[1] 2450–2500	26000–30000
2500–2700	

[1] Use of frequencies in the bands 890–940, 2450–2500, and 17850–18000 Mc. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequencies 915, 2450 and 18000 Mc.

§ 11.454 *Frequencies available for Base, Mobile, and Operational Fixed Stations.* (a) The frequencies listed in paragraph (c) of this section are available for assignment to stations in the Relay Press Radio Service for Developmental Operation only (see Subpart E of this part), and are shared with other radio services.

(b) The frequencies listed in paragraph (c) of this section are primarily for assignment to Mobile and Base Stations operating in the mobile service. However, the frequencies also are available for assignment to Operational Fixed Stations, subject to the following restrictions and limitations on assignment and use:

(1) All use by Operational Fixed Stations is subject to the condition that harmful interference shall not be caused to stations operating in the mobile service on frequencies in the 450–460 Mc. band, in accordance with the table of frequency allocations as set forth in Part 2 of this chapter.

(2) The frequencies are available for assignment only to those Operational Fixed Stations which function as integral and essential parts of a mobile service radio system. Such Operational Fixed Stations include only those which are operated as part of a radio circuit over which messages normally are sent to or from a mobile station without interruption for manual relaying at intermediate points.

(3) Fixed Relay Stations may be used to provide two automatic retransmissions of a mobile service message. Additional automatic retransmissions on these frequencies by means of such stations is prohibited.

(c) Frequencies available for assignment as provided in paragraphs (a) and (b) of this section are as follows:

Mc.	*Mc.*	*Mc.*	*Mc.*
456.05	456.55	457.05	457.55
456.15	456.65	457.15	457.65
456.25	456.75	457.25	457.75
456.35	456.85	457.35	457.85
456.45	456.95	457.45	457.95

SUBPART K—SPECIAL INDUSTRIAL RADIO SERVICE

§ 11.501 *Eligibility.* (a) A person is eligible to hold an authorization to operate a radio station in the Special Industrial Radio Service when such person is engaged in an industrial activity the primary function of which is devoted to production, construction, fabrication, manufacturing, or similar processes as distinguished from activities of a service or distribution nature, and, in addition, meets one or more of the following requirements:

(1) Each station will be located and/or operated at all times in areas other than Standard Metropolitan Areas of 500,000 or more population as that term is defined in the 1950 Census of Population, Series PC–9, No. 6, released November 24, 1952, by the Bureau of the Census, United States Department of Commerce.

(2) The industrial operation is a construction project of a public character;

(3) The use of radio is required within the yard area of a single plant for mobile service communications and the use of the Low-Power Industrial Service does not meet the operational requirements of the industry otherwise found eligible un-

der this subparagraph. (Mobile units may be operated outside of the physical limits of the "yard area" for the purpose of maintaining plant security when authorized by the Commission in writing or by notation on the instrument of station authorization upon a showing that such operation is necessary in the interest of the national defense.)

(b) A subsidiary corporation organized for the sole purpose of furnishing a nonprofit communication service to its parent corporation and/or its subsidiaries may be considered eligible for this service if the parent corporation and/or its subsidiaries meet the requirements of paragraph (a) of this section.

(c) Each application for authority to operate in the Special Industrial Radio Service shall be accompanied by a statement in detail sufficient to indicate clearly the applicant's eligibility under paragraph (a) of this section.

§ 11.502 *Frequencies available for Base and Mobile Stations.* (a) The following frequencies are available for assignment to Base and Mobile Stations in the Special Industrial Radio Service only:

Mc.	*Mc.*	*Mc.*	*Mc.*
27.31	30.58	43.14	49.98
27.35	30.62	43.18	154.49
27.39	43.02	49.86	
27.43	43.06	49.90	
27.47	43.10	49.94	

(b) The following frequencies are available for assignment to Base Stations and Mobile Stations in the Special Industrial Radio Service on a shared basis with other services:

Frequency (*kc.*)	*Frequency* (*Mc.*)	*Frequency* (*Mc.*)
[1] 2292	49.54	49.78
[1] 2398	49.58	49.82
[2] [3] 4637.5	49.62	152.87
	49.66	152.93
	49.70	152.99
	49.74	154.57

[1] Use of this frequency by stations licensed in the Special Industrial Radio Service is on a shared basis with other stations in the Industrial Radio Services, but is subject to the condition that harmful interference shall not be caused to the service of any station not in these services which, in the discretion of the Commission, may have priority on the frequency or frequencies used for the service to which interference is caused.

[2] This frequency is limited to daytime use only, with a maximum plate power input to the final radio frequency stage not to exceed 100 watts.

[3] This frequency may be subject to change when the Atlantic City table of frequency allocations between 4 Mc. and 27.5 Mc. comes into force.

(c) Frequencies in the bands listed below are available for assignment to Base and Mobile Stations in the Special Industrial Radio Service on a shared basis with other services under the terms of a developmental grant only; the exact frequency and the authorized bandwidth will be specified in the authorization:

Mc.	*Mc.*
[1] 2450–2500	6425– 6575
3500–3700	11700–12200

[1] Use of frequencies in the band 2450–2500 Mc. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequency 2450 Mc.

§ 11.503 *Frequencies available for Operational Fixed Stations.* (a) Subject to the conditions that no harmful interference will be caused to reception of television channel No. 4 or 5, the following frequencies are available for assignment to Fixed Stations in the Special Industrial Radio Service on a shared basis with other services.

Mc.	*Mc.*	*Mc.*	*Mc.*
72.02	72.82	73.62	74.42
72.06	72.86	73.66	74.46
72.10	72.90	73.70	74.50
72.14	72.94	73.74	74.54
72.18	72.98	73.78	74.58
72.22	73.02	73.82	75.42
72.26	73.06	73.86	75.46
72.30	73.10	73.90	75.50
72.34	73.14	73.94	75.54
72.38	73.18	73.98	75.58
72.42	73.22	74.02	75.62
72.46	73.26	74.06	75.66
72.50	73.30	74.10	75.70
72.54	73.34	74.14	75.74
72.58	73.38	74.18	75.78
72.62	73.42	74.22	75.82
72.66	73.46	74.26	75.86
72.70	73.50	74.30	75.90
72.74	73.54	74.34	75.94
72.78	73.58	74.38	75.98

(b) Frequencies in the bands listed below are available for assignment to Operational Fixed Stations in the Special Industrial Radio Service on a shared basis with other services, under the terms of a developmental grant only. Exact frequency and the authorized bandwidth will be specified in the authorization:

Mc.	*Mc.*
[1] 890– 940	6575– 6875
952– 960	9800– 9900
1850– 1990	[2] 12200–12700
2110– 2200	[1] 16000–18000
[1] 2450– 2500	26000–30000
2500– 2700	

[1] Use of frequencies in the bands 890–940, 2450–2500, and 17850–18000 Mc. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequencies 915, 2450 and 18000 Mc.

(c) Pursuant to the provisions of § 11.8, and for the specific purpose of transmitting hydrological or meteorological data, the frequencies listed in this paragraph are available for assignment to Operational Fixed Stations in this Service: *Provided, however,* That harmful interference shall not be caused to Federal Government stations: *And provided further,* That the hydrological or meteorological data is made available to interested government agencies. Notwithstanding the provisions of § 11.151, Operational Fixed Stations authorized to operate on frequencies listed in this paragraph shall not communicate with or accept communications from any Mobile Station or Base Station unless written authorization to do so has been obtained from the Commission. Persons who desire to operate stations in accordance with the provisions of this paragraph should communicate with the Commission prior to filing formal application and request instructions concerning the procedure to be followed. The following frequencies are available for assignment:

Mc.	*Mc.*	*Mc.*
169.425	171.025	[1] 406.050
169.475	171.075	[1] 406.150
169.525	171.125	[1] 406.250
169.575	171.125	[1] 406.350
170.225	171.825	[1] 412.450
170.275	171.875	[1] 412.550
170.325	171.925	[1] 412.650
170.375	171.975	[1] 412.750

[1] Primarily for use by Fixed Relay Stations.

§ 11.504 *Frequencies available for Base, Mobile, and Operational Fixed Stations.* (a) The frequencies listed in paragraph (c) of this section are available for assignment to stations in the Special Industrial Radio Service for Developmental Operation only (see Subpart E of this part), and are shared with other radio services.

(b) The frequencies listed in paragraph (c) of this section are primarily for assignment to Mobile and Base Stations operating in the mobile service. However, the frequencies also are available for assignment to Operational Fixed Stations, subject to the following restrictions and limitations on assignment and use:

(1) All use by Operational Fixed Stations is subject to the condition that harmful interference shall not be caused to stations operating in the mobile service on frequencies in the 450–460 Mc. band in accordance with the table of frequency allocations as set forth in Part 2 of this chapter.

(2) The frequencies are available for assignment only to those Operational Fixed Stations which function as integral and essential parts of a mobile service radio system. Such Operational Fixed Stations include only those which are operated as part of a radio circuit over which messages normally are sent to or from a Mobile Station without interruption for manual relaying at intermediate points.

(3) Fixed Relay Stations may be used to provide two automatic retransmissions of a mobile service message. Additional automatic retransmissions on these frequencies by means of such stations is prohibited.

(c) Frequencies available for assignment as provided in paragraphs (a) and (b) of this section are as follows:

Mc.	*Mc.*	*Mc.*	*Mc.*
456.05	456.55	457.05	457.55
456.15	456.65	457.15	457.65
456.25	456.75	457.25	457.75
456.35	456.85	457.35	457.85
456.45	456.95	457.45	457.95

SUBPART L—LOW-POWER INDUSTRIAL RADIO SERVICE

§ 11.551 *Eligibility.* Subject to the general restrictions of § 11.4, any person engaged in a commercial activity or an industrial enterprise is eligible for station authorizations in the Low Power Industrial Radio Service for radio facilities to be used in conjunction with such activity or enterprise. For purposes of establishing eligibility under the terms of this section only, persons in the following classifications also are considered to be qualified: Educational or philanthropic institutions; and instrumentalities of State or local governments when the radio facility is to be used primarily

for purposes not directly related to public safety.

§ 11.552 *Classification of stations.* Each station authorized for operation in this service will be classified and licensed as a Mobile Station: *Provided, however,* Any station so licensed may be used as a Base Station in the mobile service. Notwithstanding such possible dual use, the only rules in this part applicable to stations in this service are those applying to Mobile Stations.

§ 11.553 *Frequencies available for Mobile Stations.* (a) The following frequencies are available for assignment to Mobile Stations, other than those aboard aircraft, in the Low Power Industrial Radio Service only:

Mc.	*Mc.*	*Mc.*
33.14	35.02	42.98

(b) The following frequency is available for assignment to Mobile Stations including those aboard aircraft, in the Low Power Industrial Radio Service only:

Mc.
27.51

(c) The following frequency is available for assignment to Mobile Stations other than those aboard aircraft, in the Low Power Industrial Radio Service on a shared basis with other services:

Mc.
154.57

(d) The following frequency is available for assignment to Mobile Stations including those aboard aircraft, in the Low Power Industrial Radio Service on a shared basis with other services.

Mc.
27.255

§ 11.554 *Special restrictions.* Each radio station authorization issued in the Low Power Industrial Radio Service is subject not only to the applicable requirements appearing in other subparts of this part and on the station authorization, but also to the following:

(a) Plate power input to the final radio frequency stage of each transmitter shall not exceed three watts, nor shall the radio frequency power output of each transmitter exceed the same figure;

(b) Emission shall be confined to voice radiotelephony only, which is construed as including tone signals or signaling devices whose sole function is to establish or maintain communication between associated stations and receivers: *Provided, however,* That other types of emission may be authorized on the frequency 27.255 Mc upon compliance with the provisions of § 11.103;

(c) The maximum distance between the transmitter and the center of the radiating portion of the antenna shall not exceed twenty-five feet: *Provided, however,* That this restriction shall not be applicable to stations aboard aircraft;

(d) When a transmitter licensed in this Service is used as a Base Station, the distance from any transmitter control point to the center of the radiating portion of the antenna shall not exceed twenty-five feet: *Provided, however,* That dispatch points may be installed without regard to this limitation;

(e) An antenna having radiation in any direction greater than the maximum from a simple half wave dipole antenna shall not be used;

(f) No transmitter licensed in this Service shall be used as a Mobile Relay Station, nor shall such transmitter be used as a station in the fixed service for any purpose;

(g) Except as provided in § 11.151 (e), no station licensed in this Service shall be used for communication with stations operating in another service; and

(h) A transmitter licensed in this Service shall not be used as an experimental or demonstration device.

§ 11.555 *Exemption from technical standards.* Transmitters licensed in this Service which have a plate power input to the final radio frequency stage not exceeding 200 milliwatts are exempt from the technical requirements set out in Subpart C of this part: *Provided, however,* That the sum of the bandwidth occupied by the emitted signal plus the bandwidth required for frequency tolerance shall be so adjusted that any emission appearing on a frequency 40 kc. or more removed from the assigned frequency is attenuated at least 30 db below the unmodulated carrier.

SUBPART M—INDUSTRIAL RADIOLOCATION SERVICE

§ 11.601 *Nature of service.* The rules in this subpart are designed to facilitate the eventual establishment, on a regular basis, of an Industrial Radiolocation Service to be used primarily in connection with geographical, geological, or geophysical activities. Since there does not appear to be any single radiolocation system which is satisfactory in all respects, all stations licensed under this subpart will be authorized only on a developmental basis. To encourage further development of radiolocation techniques, deviation from the rules in this subpart may be authorized on request where it appears to the Commission that the public interest, convenience or necessity would be served thereby.

§ 11.602 *Eligibility.* The following persons are eligible to hold authorizations to operate radio stations in the Industrial Radiolocation Service:

(a) Any person engaged in a commercial or industrial enterprise who has a substantial need in connection therewith to establish a position, distance, or direction by means of radiolocation devices for purposes other than navigation.

(b) A corporation or association organized for the purpose of furnishing a radiolocation service to persons eligible under paragraph (a) of this section.

§ 11.603 *Service authorized.* (a) Stations licensed under this subpart to operate on frequencies within the band 1750–1800 kc shall provide service without discrimination to all persons eligible under the provisions of § 11.602 (a).

(b) Stations licensed under this subpart to operate on frequencies in bands other than 1750–1800 kc. may be required by the Commission to provide service without discrimination to all persons eligible under the provisions of § 11.602 (a).

§ 11.604 *Showing required for authorization.* (a) Applications to operate stations in the Industrial Radiolocation Service will be granted only in these cases where it is shown: That the applicant is financially, legally and technically qualified to render the proposed service; and that a grant of the application would serve the public interest, convenience or necessity. A showing with respect to technical qualifications should include information which indicates the applicant's ability to construct and operate the proposed facilities; the availability of qualified operating and maintenance personnel; and complete details as to the manner in which the service will be made available to those seeking it under the provisions of § 11.603.

(b) Each application for a new station in this service shall be accompanied by:

(1) A functional description of the manner in which the system will operate, including the interrelationship and function of each unit in the system;

(2) A complete technical description of the equipment to be used, including:

(i) Emission bandwidth;

(ii) Modulation;

(iii) Plate power input to final radio frequency stage;

(iv) For equipment employing pulse modulation, the pulse width, pulse repetition rate, and peak power output;

(v) Physical and radiation characteristics of the antenna system; and

(3) A map of the area which it is proposed to serve, showing location of each station.

§ 11.605 *Report of operation.* (a) A report of the results of the operation of developmental stations in this service shall be filed within 60 days of the expiration of such authorization. Matters which the licensee does not wish to disclose publicly may be so labeled and submitted as separate documents; they will be used solely for the Commission's information, and will not be disclosed publicly without permission of the licensee. The report shall include comprehensive and detailed information covering the system and equipment, including the following:

(a) Results of operation to date, including:

(1) Maximum and minimum usable range;

(2) Maximum and average accuracy in various parts of the service area;

(3) Approximate number of hours of operation;

(4) Approximate number of position readings taken;

(5) Emission bandwidth;

(6) Type(s) of modulation;

(7) Minimum practical operating power (input to final stage);

(8) For equipment employing pulse modulation, the pulse width, pulse repetition rate and peak power output;

(9) Physical and radiation characteristics of the antenna systems employed;

(b) Copies of any reports published by the licensee; and

(c) Schedule of charges; reports of revenues received and sums disbursed.

§ 11.606 *Policy governing assignment of frequencies in the band 1750–1800 kc.* (a) Notwithstanding contrary provisions elsewhere in this part, each frequency assignment in the band 1750–1800 kc. will be on an exclusive basis within the daytime primary service area of the station to which assigned. The normal minimum geographical separation between stations of two different radiolocation systems shall be not less than 360 miles when the stations are operated on the same frequency or on different frequencies separated by less than 5 kc. Any person desiring geographical separations of less than 360 miles under these circumstances will be required to show that the desired separation will result in a protection ratio of at least 20 db throughout the daytime primary service area of other stations.

(b) For purposes of this section, the daytime primary service area of an Industrial Radiolocation Service station operating in the 1750–1800 Kc. band is defined as the area within which the signal intensities are adequate for satisfactory use by the petroleum industry for radiolocation purposes during the hours from sunrise to sunset from all stations in the radiolocation system of which the station in question is a part, i. e., the primary service area of the station coincides with the primary service area of the system.

(c) Where the number of applicants requesting authority to serve an area exceeds the number of frequencies available for assignment; or where it appears to the Commission that fewer applicants or licensees than the number before it should be given authority to serve a particular area; or where it appears that an applicant, either directly or indirectly, seeks to use more than 25 kc. of the available spectrum space in this band, the applications may be designated for hearing.

§ 11.607 *Frequencies available.* (a) Land Radiopositioning Stations and Mobile Radiopositioning Stations in this service, excluding speed measuring devices, may be authorized to use frequencies in the band 1750–1800 kc. Such use shall be in connection with petroleum industry activities only and shall be at locations within 150 miles of the shore line of the Gulf of Mexico. These frequencies are shared with the Disaster Communications Service and are subject to a number of special restrictions set forth elsewhere in this subpart.

(b) Land Radiopositioning Stations and Mobile Radiopositioning Stations in this service, including speed measuring devices, may be authorized to use frequencies in the band 2450–2500 Mc. on the condition that harmful interference will not be caused to the fixed and mobile services. Stations in the Industrial Radiolocation Service operating in this band also must accept any harmful interference that may be experienced from the operation of industrial, scientific and medical equipment operating in accordance with Part 18 of this subchapter, Rules and Regulations Relating to Industrial, Scientific and Medical Service.

(c) Land Radiopositioning Stations and Mobile Radiopositioning Stations in this Service, excluding speed measuring devices, may be authorized to use frequencies in the following bands on the condition that harmful interference will not be caused to stations in the Radionavigation Service:

2900–3246 Mc.	5460–5650 Mc.
3266–3300 Mc.	9000–9300 Mc.
5250–5440 Mc.	9320–9500 Mc.

(d) Land Radiopositioning Stations and Mobile Radiopositioning Stations in this service may be authorized on request to use frequencies allocated exclusively to Federal Government Stations in those instances where the Commission finds, after consultation with the appropriate Government agency or agencies, that such assignment is necessary or required for coordination with Government activities.

§ 11.608 *Special restrictions applicable to 1750–1800 kc. only.* Each station authorized to operate in the Radiolocation Service on frequencies between 1750–1800 kc. is subject to the following restrictions in addition to the other requirements in this part:

(a) Such stations shall be located within 150 miles of the shore line of the Gulf of Mexico;

(b) Such stations shall be used in connection with petroleum industry activities only;

(c) Plate power input to the final radio frequency stage shall not exceed 500 watts;

(d) In the absence of a satisfactory showing that the public interest, convenience or necessity would be served thereby, stations in this band will be restricted to a maximum authorized bandwidth of 3 kc.; and

(e) Land Radiopositioning Stations will not be authorized for operation at temporary locations.

§ 11.609 *Special exemptions.* Stations licensed under this subpart are exempt from the requirements of §§ 11.8, 11.151, 11.201, 11.202, 11.207, and 11.208 of this part.

§ 11.610 *License term.* Each station authorized to operate in this Service will receive a license term of two years from the date of final action on the license application or until July 1, 1955, whichever date is earlier.

§ 11.611 *Control of interference, 1750–1800 kc. only*—(a) *Nighttime protection.* Operation of stations in the Industrial Radiolocation Service on frequencies in the 1750–1800 kc. band is subject to the condition that during the hours from sunset to sunrise no harmful interference be caused to any proper operation of stations licensed to operate in the same band under Part 20 of this chapter, Rules Governing Disaster Communications Service.

(b) *Daytime protection.* Operation of stations in the Industrial Radiolocation Service on frequencies in the 1750–1800 kc. band is subject to the condition that during the hours from sunrise to sunset no harmful interference be caused to operation of stations licensed to operate in the same band under Part 20, Rules Governing Disaster Communications Service, when such stations are transmitting during an imminent or actual disaster in any area in connection therewith. (Except during such an imminent or actual disaster, operation of stations in the Disaster Communications Service shall not cause harmful interference during the hours from sunrise to sunset to operation of stations in the Industrial Radiolocation Service. See Rules, Part 20 of this subchapter.)

(c) For purposes of this section, irrespective of the time zones involved, it shall be assumed that the times of sunrise and sunset at each actual station location are the monthly average Central Standard times of sunrise and sunset at New Orleans, Louisiana, as set forth in the following table:

	Jan.	Feb.	Mar.	Apr.	May	June
Sunrise	7:00	6:45	6:15	5:30	5:15	5:00
Sunset	5:15	5:45	6:15	6:30	6:45	7:00
	July	Aug.	Sept.	Oct.	Nov.	Dec.
Sunrise	5:15	5:30	5:45	6:00	6:30	6:45
Sunset	7:00	6:45	6:00	5:30	5:00	5:00

(d) To carry into effect the requirements of paragraphs (a) and (b) of this section, including a positive means whereby operation in this service can be suspended to protect against harmful interference, there shall be established an adequate and reliable system of notification and liaison between licensees in this service and licensees in the Disaster Communications Service. The extent and division of responsibility for various phases of the notification and liaison system shall be as follows:

(1) Organization and establishment of a system of liaison within the Industrial Radiolocation Service; the devising of a system for the receipt and distribution of notification information; and the installation, operation and maintenance of such a system shall be the responsibility of licensees in the Industrial Radiolocation Service authorized to operate in the band 1750–1800 kc.

(2) Organization and establishment of a system of liaison within the Disaster Communications Service; and the devising of a method for the dispatch of notification information to the person or persons designated by licensees in the Industrial Radiolocation Service shall be the responsibility of licensees in the Disaster Communications Service authorized to operate in the band 1750–1800 kc.

(3) The responsibility for the initiation of liaison between licensees in the Industrial Radiolocation Service and the licensees in the Disaster Communications Service shall be the responsibility of the former.

(4) Once initiated, the maintenance, review and improvement of liaison between licensees in the two Services shall be the joint responsibility of both groups.

(5) Issuance of notification to suspend operation in the Industrial Radiolocation Service due to an impending or actual disaster shall be the responsibility of licensees in the Disaster Communications Service. Such notification shall be by those means which have been

mutually agreed upon as sufficiently adequate, prompt and reliable to effectuate the purpose of this section. Any desired communication method or combination of methods may be utilized.

(6) Prompt suspension of operation of the radiopositioning station or stations upon receipt of disaster notification shall be the responsibility of licensees in the Industrial Radiolocation Service.

(7) When stations in the Industrial Radiolocation Service have discontinued transmitting to protect disaster communications in connection with an imminent or actual disaster, and when the point has been reached where there is no reasonable possibility that radiolocation transmissions will cause harmful interference to the disaster communications, it shall be the responsibility of licensees in the Disaster Communications Service to communicate this information promptly to the licensees in the Industrial Radiolocation Service so that they may resume operation at will.

(8) Although the prearranged notification procedure required to be established by the terms of this section shall be the primary means by which licensees in the Industrial Radiolocation Service receive information necessary for compliance with the requirements of this section, it shall be the further responsibility of licensees in this Service to suspend operation upon receipt of any reliable intelligence which indicates a reasonable possibility that harmful interference is being caused to actual disaster transmissions.

(9) The notification and liaison procedure hereby required to be established shall be limited to that geographical area within which there is a reasonable anticipation, determined by actual tests wherever practicable, that harmful interference may be caused by a licensee in the Industrial Radiolocation Service to licensees in the Disaster Communications Service.

(10) All construction permits for radiopositioning stations in this band are granted subject to the condition that the permittee, at the time of filing for station licenses, accompany such applications with a comprehensive plan defining in detail the means of notification which have been agreed upon by the permittee and the licensees of Disaster Communications Service stations in the area. The notification plan shall be kept current by the licensee, through successive modifications as may be necessary, to incorporate stations in the Disaster Communications Service which subsequently may be authorized to operate in the same interference area. A copy of this notification plan and of all subsequent modifications shall be filed at the following points: The Commission's offices at Washington 25, D. C.; the offices of the Engineer in Charge of the Radio District in which the radiopositioning station is located; and the offices of the Engineer in Charge of the Radio District or Districts in which are located the Disaster Communications Service stations involved in the plan.

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TITLE 24—HOUSING AND HOUSING CREDIT

Chapter II — Federal Housing Administration, Housing and Home Finance Agency

Subchapter B—Property Improvement Loans

PART 203—TITLE I MORTGAGE INSURANCE; ELIGIBILITY REQUIREMENTS

MAXIMUM CHARGES AND FEES TO BE COLLECTED BY MORTGAGEE

Section 203.16 is hereby amended to read as follows:

§ 203.16 *Maximum charges and fees to be collected by mortgagee.* No mortgage shall be insured unless the mortgagee shall have delivered to the Commissioner at such time prior to insurance as he shall require, a certificate in form and content satisfactory to the Commissioner, certifying that it has not imposed upon or collected and will not impose upon or collect from the mortgagor, the builder, sponsor, broker, seller or other interested parties any charges, interest or fees in connection with the financing of the construction or in connection with the financing of the sale of the property described in the application other than (a) customary cost of title search, recording fees and similar out-of-pocket expenses of the mortgagee, as are approved by the Commissioner, and the application fee, mortgage insurance premiums and other fees and charges which the mortgagee is required to pay to the Commissioner under this part; (b) interest on the principal amount of any construction loan at a rate not in excess of 5 percent per annum; (c) fees and commissions aggregating not in excess of 1 percent of the original principal amount of the mortgage, and if a construction loan was made by it an additional amount not in excess of 2½ percent of the principal amount of such loan; and (d) an amount to cover any discount, warehousing fee or similar financing charge to reimburse the mortgagee for any loss which it may suffer in the bona fide sale or pledge of or an agreement to sell the mortgage: *Provided*, That if such mortgage loan is to finance the purchase of the property the amount of such charge, if any, shall not be collected from or paid by the purchaser but may be collected from and absorbed by the builder, seller, broker, or other interested party.

(Sec. 2, 48 Stat. 1246, as amended; 12 U. S. C. 1703g. Interprets or applies sec. 102, 64 Stat. 48; 12 U. S. C. 1706c)

Issued at Washington, D. C., July 28, 1953.

WALTER L. GREENE,
Acting Federal Housing Commissioner.

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Subchapter C—Mutual Mortgage Insurance

PART 221—MUTUAL MORTGAGE INSURANCE: ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING ONE- TO FOUR-FAMILY DWELLINGS

MAXIMUM CHARGES AND FEES TO BE COLLECTED BY MORTGAGEE

Section 221.25 is hereby amended to read as follows:

§ 221.25 *Maximum charges and fees to be collected by mortgagee.* No mortgage shall be insured unless the mortgagee shall have delivered to the Commissioner at such time prior to insurance as he shall require, a certificate in form and content satisfactory to the Commissioner, certifying that it has not imposed upon or collected and will not impose upon or collect from the mortgagor, the builder, sponsor, broker, seller or other interested parties any charges, interest or fees in connection with the financing of the construction or in connection with the financing of the sale of the property described in the application other than (a) customary cost of title search, recording fees and similar out-of-pocket expenses of the mortgagee, as are approved by the Commissioner, and the application fee, mortgage insurance premiums and other fees and charges which the mortgagee is required to pay to the Commissioner under this part; (b) interest on the principal amount of any construction loan at a rate not in excess of 5 percent per annum; (c) fees and commissions aggregating not in excess of 1 percent of the original principal amount of the mortgage, and if a construction loan was made by it an additional amount not in excess of 2½ percent of the principal amount of such loan; and (d) an amount to cover any discount, warehousing fee or similar financing charge to reimburse the mortgagee for any loss which it may suffer in the bona fide sale or pledge of or an agreement to sell the mortgage: *Provided*, That if such mortgage loan is to finance the purchase of the property the amount of such charge, if any, shall not be collected from or paid by the purchaser but may be collected from and absorbed by the builder, seller, broker, or other interested party.

(Sec. 211, as added by sec. 3, 52 Stat. 23; 12 U. S. C. 1715b)

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WALTER L. GREENE,
Acting Federal Housing Commissioner.

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Subchapter H—War Housing Insurance

PART 276—WAR HOUSING INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING ONE- TO FOUR-FAMILY DWELLINGS

MAXIMUM CHARGES AND FEES TO BE COLLECTED BY MORTGAGEE

Section 276.26 is hereby amended to read as follows:

§ 276.26 *Maximum charges and fees to be collected by mortgagee.* No mortgage shall be insured unless the mortgagee shall have delivered prior to the Commissioner at such time prior to insurance as he shall require, a certificate in form and content satisfactory to the Commissioner, certifying that it has not imposed upon or collected and will not impose upon or collect from the mortgagor, broker, seller or other interested parties any charges, interest or fees in connection with the financing of the sale of the property described in the application other than (a) customary cost of title search, recording fees and similar out-of-pocket expenses of the mortgagee, as are approved by the Commissioner, and the application fee, mortgage insurance premiums and other fees and charges which the mortgagee is required to pay to the Commissioner under this part; (b) fees and commissions aggregating not in excess of 1 percent of the original principal amount of the mortgage; and (c) an amount to cover any discount, warehousing fee or similar financing charge to reimburse the mortgagee for any loss which it may suffer in the bona fide sale or pledge of or an agreement to sell the mortgage: *Provided*, That if such mortgage loan is to finance the purchase of the property the amount of such charge, if any, shall not be collected from or paid by the purchaser but may be collected from and absorbed by the seller, broker, or other interested party.

(Sec. 607, as added by sec. 1, 55 Stat. 61; 12 U. S. C. and Sup. 1742)

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WALTER L. GREENE,
Acting Federal Housing Commissioner.

[F. R. Doc. 53-6767; Filed, Aug. 3, 1953; 8:47 a. m.]

PART 278—WAR HOUSING INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE UNDER SECTION 603 PURSUANT TO SECTION 610 OF THE NATIONAL HOUSING ACT

MAXIMUM CHARGES AND FEES TO BE COLLECTED BY MORTGAGEE

Section 278.18 is hereby amended to read as follows:

§ 278.18 *Maximum charges and fees to be collected by mortgagee.* No mortgage shall be insured unless the mortgagee shall have delivered to the Commissioner at such time prior to insurance as he shall require, a certificate in form and content satisfactory to the Commissioner, certifying that it has not imposed upon or collected and will not impose upon or collect from the mortgagor, broker, seller or other interested parties any charges, interest or fees in connection with the financing of the sale of the property described in the application other than (a) customary cost of title search, recording fees and similar out-of-pocket expenses of the mortgagee, as are approved by the Commissioner, and the application fee, mortgage insurance premiums and other fees and charges which the mortgagee is required to pay to the Commissioner under this part; (b) fees and commissions aggregating not in excess of 1 percent of the original principal amount of the mortgage; and (c) an amount to cover any discount, warehousing fee or similar financing charge to reimburse the mortgagee for any loss which it may suffer in the bona fide sale or pledge of or an agreement to sell the mortgage: *Provided*, That if such mortgage loan is to finance the purchase of the property the amount of such charge, if any, shall not be collected from or paid by the purchaser but may be collected from and absorbed by the seller, broker, or other interested party.

(Sec. 607, as added by sec. 1, 55 Stat. 61; 12 U. S. C. and Sup. 1742. Interprets or applies sec. 603, as added by sec. 1, 55 Stat. 56, as amended; 12 U. S. C. and Sup., 1738)

Issued at Washington, D. C., July 28, 1953.

WALTER L. GREENE,
Acting Federal Housing Commissioner.

[F. R. Doc. 53-6766; Filed, Aug. 3, 1953; 8:47 a. m.]

Subchapter I—War Rental Housing Insurance

PART 280—WAR RENTAL HOUSING INSURANCE: ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING MULTIFAMILY RENTAL HOUSING

ALL CHARGES SUBJECT TO APPROVAL OF COMMISSIONER

Section 280.20 is hereby amended to read as follows:

§ 280.20 *All charges subject to approval of Commissioner.* All charges made in connection with the mortgage transaction shall be subject to the approval of the Commissioner.

(Sec. 607, as added by sec. 1, 55 Stat. 61; 12 U. S. C. and Sup., 1742. Interprets or applies sec. 608, as added by sec. 11, 56 Stat. 303, as amended; 12 U. S. C. and Sup., 1743)

Issued at Washington, D. C., July 28, 1953.

WALTER L. GREENE,
Acting Federal Housing Commissioner.

[F. R. Doc. 53-6765; Filed, Aug. 3, 1953; 8:47 a. m.]

PART 283—MULTIFAMILY WAR HOUSING INSURANCE: ELIGIBILITY REQUIREMENTS OF MORTGAGE UNDER SECTION 608 PURSUANT TO SECTION 610 OF THE NATIONAL HOUSING ACT

ALL CHARGES SUBJECT TO APPROVAL OF COMMISSIONER

Section 283.20 is hereby amended to read as follows:

§ 283.20 *All charges subject to approval of Commissioner.* All charges made in connection with the mortgage transaction shall be subject to the approval of the Commissioner.

(Sec. 607, as added by sec. 1, 55 Stat. 61; 12 U. S. C. and Sup., 1742. Interprets or applies sec. 608, as added by sec. 11, 56 Stat. 303, as amended; 12 U. S. C. and Sup., 1743)

Issued at Washington, D. C., July 28, 1953.

WALTER L. GREENE,
Acting Federal Housing Commissioner.

[F. R. Doc. 53-6764; Filed, Aug. 3, 1953; 8:47 a. m.]

Subchapter K—Single-Family Project Loans, War Housing Insurance

PART 287—ELIGIBILITY REQUIREMENTS OF PROJECT MORTGAGE COVERING GROUP OF SINGLE-FAMILY DWELLINGS

ALL CHARGES SUBJECT TO APPROVAL OF COMMISSIONER

Section 287.22 is hereby amended to read as follows:

§ 287.22 *All charges subject to approval of Commissioner.* All charges made in connection with the mortgage transaction shall be subject to the approval of the Commissioner.

(Sec. 607, 55 Stat. 61, 12 U. S. C. 1742)

Issued at Washington, D. C., July 28, 1953.

WALTER L. GREENE,
Acting Federal Housing Commissioner.

[F. R. Doc. 53-6763; Filed, Aug. 3, 1953; 8:47 a. m.]

Subchapter M—Military Housing Insurance

PART 292—ELIGIBILITY REQUIREMENTS FOR MILITARY HOUSING INSURANCE

ALL CHARGES SUBJECT TO APPROVAL OF COMMISSIONER

Section 292.20 is hereby amended to read as follows:

§ 292.20 *All charges subject to approval of Commissioner.* All charges made in connection with the mortgage transaction shall be subject to the approval of the Commissioner.

(Sec. 808, 63 Stat. 570; 12 U. S. C. 1748g)

Issued at Washington, D. C., July 28, 1953.

WALTER L. GREENE,
Acting Federal Housing Commissioner.

[F. R. Doc. 53-6760; Filed, Aug. 3, 1953; 8:46 a. m.]

Subchapter N—National Defense Housing Insurance

PART 294—ELIGIBILITY REQUIREMENTS FOR NATIONAL DEFENSE HOUSING INSURANCE

MAXIMUM CHARGES AND FEES TO BE COLLECTED BY MORTGAGEE

Section 294.17 is hereby amended to read as follows:

§ 294.17 *Maximum charges and fees to be collected by mortgagee.* No mortgage shall be insured unless the mortgagee shall have delivered to the Commissioner at such time prior to insurance as he shall require, a certificate in form and content satisfactory to the Commis-

sioner, certifying that it has not imposed upon or collected and will not impose upon or collect from the mortgagor, the builder, sponsor, broker, seller or other interested parties any charges, interest or fees in connection with the financing of the construction or in connection with the financing of the sale of the property described in the application other than (a) customary cost of title search, recording fees and similar out-of-pocket expenses of the mortgagee, as are approved by the Commissioner, and the application fee, mortgage insurance premiums and other fees and charges which the mortgagee is required to pay to the Commissioner under this part; (b) interest on the principal amount of any construction loan at a rate not in excess of 5 percent; (c) fees and commissions aggregating not in excess of 1 percent of the original principal amount of the mortgage, and if a construction loan was made by it an additional amount not in excess of 2½ percent of the principal amount of such loan; and (d) an amount to cover any discount, warehousing fee or similar financing charge to reimburse the mortgagee for any loss which it may suffer in the bona fide sale or pledge of or an agreement to sell the mortgage: *Provided*, That if such mortgage loan is to finance the purchase of the property the amount of such charge, if any, shall not be collected from or paid by the purchaser but may be collected from and absorbed by the builder, seller, broker, or other interested party.

(Sec. 907, 65 Stat. 301; 12 U. S. C. 1750f)

Issued at Washington, D. C., July 28, 1953.

WALTER L. GREENE,
Acting Federal Housing Commissioner.

[F. R. Doc. 53-6762; Filed, Aug. 3, 1953; 8:46 a. m.]

Subchapter O—National Defense Rental Housing Insurance

PART 296—ELIGIBILITY REQUIREMENTS FOR NATIONAL DEFENSE RENTAL HOUSING INSURANCE

MAXIMUM CHARGES AND FEES TO BE COLLECTED BY MORTGAGEE

Section 296.18 is hereby amended to read as follows:

§ 296.18 *Maximum charges and fees to be collected by mortgagee.* The mortgagee may charge the mortgagor the amount of the fees provided in §§ 296.1 and 296.2, and an initial service charge to reimburse itself for the cost of closing the transaction in an amount not in excess of 1½ percent of the original principal amount of the mortgage.

(Sec. 907, 65 Stat. 301; 12 U. S. C. 1750f)

Issued at Washington, D. C., July 28, 1953.

WALTER L. GREENE,
Acting Federal Housing Commissioner.

[F. R. Doc. 53-6761; Filed, Aug. 3, 1953; 8:46 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 6035, Regs. 111]

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

CHANGE OF ACCOUNTING PERIOD

Section 29.46-1 as amended by Treasury Decision 5614, approved May 11, 1948, is further amended as follows:

(A) By adding a heading designated as "(a)" immediately following the section heading to read as follows:

§ 29.46-1 *Change of accounting period*—(a) *Short taxable years ending prior to July 1, 1953.* * * *

(B) By revising the second and third sentences thereof to read as follows: "However, if the short taxable year for which a return would be required to effect the change ends after July 31, 1943, but not later than June 30, 1953, such taxpayer shall, before using the new period for income tax purposes, secure the consent of the Commissioner, and application for permission to change the accounting period shall be made direct to the Commissioner on Form 1128 at least 60 days prior to the close of the short taxable year for which a return would be required to effect the change. If a change of accounting period of a subsidiary is required for income tax purposes under § 24.14 of this subchapter, the information required on Form 1128 shall be furnished by the subsidiary at or before the time of filing the consolidated income tax return."

(C) By adding at the end thereof a paragraph (b) to read as follows:

(b) *Short taxable years ending after June 30, 1953*—(1) *General.* A change of accounting period for income tax purposes requiring a return for a short taxable year ending after June 30, 1953, is authorized, except where inconsistent with section 41, requiring the use of the calendar year basis in certain specific cases, and except as provided in subparagraph (2) of this paragraph, and no application for such change need be filed. To make such a change the taxpayer shall file a tax return on or before the 15th day of the third full calendar month following the close of the short taxable year accompanied by a statement that it is made under the authorization conferred by this section. Once a change of accounting period has been made, the taxpayer shall thereafter make his returns and compute his net income on the basis of the new accounting period.

(2) *Cases in which approval of change of accounting period is required.* The prior approval of the Commissioner will be required before a taxpayer may change his accounting period if any of the following conditions exist:

(i) At any time within the five calendar years ending with the calendar year which includes the beginning of the short taxable year required to effect the change of accounting period the taxpayer has changed his accounting period for income tax purposes. For the purpose of this subparagraph a change of accounting period for income tax purposes by a partnership shall be considered as a change by each member thereof and a change by any member shall be deemed to be a change by the partnership. Likewise, a change of accounting period for income tax purposes by a trust shall be considered as a change by each beneficiary thereof and a change by a beneficiary shall be deeemd to be a change by the trust.

(ii) The short taxable year required to effect the change of accounting period ends more than three months and less than nine months after the close of the accounting period used by the taxpayer for purposes of filing his income tax return for the previous full taxable year.

(iii) The taxpayer's net income for the short taxable year required to effect the change of accounting period, as annualized in the manner provided in § 29.47-2, is less than 80 percent of the net income of the taxpayer for the full taxable year immediately preceding such short taxable year. The application of certain of the foregoing provisions is illustrated by the following example:

Example. X files his income tax returns on a calendar year basis. He desires to change his accounting period during the year 1954 in order to file his returns on a fiscal year basis ending March 31. X has not previously changed his accounting period. His income for the period January 1 through March 31, 1954, when annualized in accordance with § 29.47-2, equals at least 80 percent of his net income for the calendar year 1953. X is authorized to change his accounting period by filing, on or before June 15, 1954, a tax return for the short taxable year beginning January 1 and ending March 31, 1954. Thereafter, X shall make his annual returns and compute his net income on the basis of a fiscal year ending March 31.

Had X preferred, he could have changed to a fiscal year basis ending the last day of January, February, September, October, or November. However, if X had elected to change to a fiscal year accounting period ending on the last day of April, May, June, July or August the prior approval of the Commissioner would be required since such a change would result in a return for a short taxable year ending more than three months and less than nine months after the close of the accounting period regularly used by X.

Where prior approval of a change of accounting period is required, application shall be filed on Form 1128 with the Commissioner of Internal Revenue, Washington, D. C., on or before the 15th day following the close of the short taxable year for which a return would be required to effect the change of accounting period. In general, an application for a change of accounting period will be approved where the taxpayer establishes valid business reasons for making such change. A change of accounting period intended to be made primarily for the purpose of effecting a tax saving shall not be allowed except where such tax saving results from the application of section 12 (d), the so-called "income splitting" provision, in the case where a husband and wife adopt the same accounting period in order to file a joint return and no other reason appears which is considered sufficient by the Commissioner for denying such permission.

(3) *Change of accounting period by a subsidiary corporation filing a consolidated return.* The foregoing provisions of this paragraph have no application in the case of a subsidiary corporation required to change its accounting period because it has elected to file consolidated returns. (See § 24.14 of this subchapter.) In such a case, if a change of accounting period is made on or after July 1, 1953, the corporation shall complete Form 1128 and forward it to the director of internal revenue with whom the consolidated return is to be filed at or before the time of filing of such consolidated return.

Because this Treasury decision makes only procedural changes in net effect relieving restrictions, it is found unnecessary to issue such Treasury decision with notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of said act.

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

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: July 29, 1953.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 53-6781; Filed, Aug. 3, 1953; 8:52 a. m.]

Subchapter B—Estate and Gift Taxes

[T. D. 6034, Regs. 105]

PART 81—REGULATIONS RELATING TO ESTATE TAX

FOREIGN ESTATE TAX CREDIT

On March 11, 1953, notice of proposed rule making with respect to amendments conforming the estate tax regulations to section 603 of the Revenue Act of 1951, approved October 20, 1951, was published in the FEDERAL REGISTER (18 F. R. 1389). After consideration of such relevant suggestions as were presented by interested persons regarding the proposals, the following amendments to Regulations 105 (26 CFR Part 81) are hereby adopted:

PARAGRAPH 1. Section 81.2, as amended by Treasury Decision 5941, approved October 24, 1952 (26 CFR 81.2), relating to description of tax, is further amended by inserting immediately after paragraph (e) thereof (which paragraph commences "Credits for Federal gift taxes") the following new paragraph (f) and by redesignating present paragraph (f) as paragraph (g):

(f) Credits for death taxes paid foreign countries by estates of certain decedents dying after October 20, 1951, are authorized against both the basic and additional taxes. See § 81.9 (b) as to conditions and limitations.

PAR. 2. Section 81.7, as amended by Treasury Decision 5239, approved March 10, 1943, relating to rates and computation of tax, is further amended as follows:

(A) By inserting in the second sentence of paragraph (C) thereof, immediately after "for gift tax" the following: "or for death taxes"; and

(B) By striking the last sentence in example (2) thereof and inserting in lieu thereof the following sentence: "It will be noted that credit for estate or inheritance taxes paid to any State is not allowable against the additional tax imposed by section 935."

PAR. 3. There is inserted immediately preceding § 81.8 the following:

SEC. 603. FOREIGN ESTATE TAX CREDIT (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Credit against basic estate tax.* Section 813 (relating to credits against estate tax) is hereby amended by adding at the end thereof the following new subsection:

(c) *Same; paid to foreign countries*—(1) *In general.* The tax imposed by section 810 shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property situated within such foreign country and included in the gross estate (not including any such taxes paid with respect to the estate of a person other than the decedent). If the decedent at the time of his death was not a citizen of the United States, credit shall not be allowed under this subsection unless the foreign country of which such decedent was a citizen or subject, in imposing such taxes, allows a similar credit in the case of a citizen of the United States resident in such country. The determination of the country within which property is situated shall be made in accordance with the rules applicable under Part III of this subchapter in determining whether property is situated within or without the United States.

(2) *Limitations on credit.* The credit provided in this subsection with respect to such taxes paid to any foreign country—

(A) Shall not, with respect to any such tax, exceed an amount which bears the same ratio to the amount of such tax actually paid to such foreign country as the value of property which is—

(i) Situated within such foreign country,

(ii) Subjected to such tax, and

(iii) Included in the gross estate bears to the value of all property subjected to such tax; and

(B) Shall not, with respect to all such taxes, exceed an amount which bears the same ratio to the tax imposed by section 810 (after deducting from such tax the credits provided by subsections (a) and (b) of this section) as the value of property which is—

(i) Situated within such foreign country,

(ii) Subjected to the taxes of such foreign country, and

(iii) Included in the gross estate bears to the value of the entire gross estate reduced by the aggregate amount of the deductions allowed under subsections (c), (d), and (e) of section 812.

(3) *Valuation of property.* (A) The values referred to in the ratio stated in paragraph (2) (A) are the values determined for the purposes of the tax imposed by such foreign country.

(B) The values referred to in the ratio stated in paragraph (2) (B) are the values determined under this chapter; but, in applying such ratio, the value of any property described in clauses (i), (ii), and (iii) thereof shall be reduced by such amount as will properly reflect, in accordance with regulations prescribed by the Secretary, the deductions allowed in respect of such property under subsections (c), (d), and (e) of section 812.

(4) *Proof of credit.* The credits provided in this subsection and in section 936 (c) shall be allowed only if the taxpayer establishes to the satisfaction of the Secretary (A) the amount of taxes actually paid to the foreign country, (B) the amount and date of each payment thereof, (C) the description and value of the property in respect of which such taxes are imposed, and (D) all other information necessary for the verification and computation of the credits.

(5) *Period of limitation.* The credits provided in this subsection and in section 936 (c) shall be allowed only for such taxes as were actually paid and credit therefor claimed within four years after the filing of the return required by section 821, except that—

(A) If a petition for redetermination of a deficiency has been filed with The Tax Court of the United States within the time prescribed in section 871, then within such four-year period or before the expiration of 60 days after the decision of The Tax Court becomes final.

(B) If, under section 822 (a) (2) or section 871 (h), an extension of time has been granted for payment of the tax shown on the return, or of a deficiency, then within such four-year period or before the date of the expiration of the period of the extension.

Refund based on such credits may (despite the provisions of sections 910 to 912, inclusive) be made if claim therefor is filed within the period above provided. Any such refund shall be made without interest.

(b) *Credit against additional estate tax.* Section 936 (relating to credits against estate tax) is hereby amended by adding at the end thereof the following new subsection:

(c) *Estate, etc., taxes paid to foreign countries*—(1) *In general.* In the case of the estate of a citizen or resident of the United States, the tax imposed by section 935 shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property situated within such foreign country and included in the gross estate (not including any such taxes paid with respect to the estate of a person other than the decedent). If the decedent at the time of his death was not a citizen of the United States, credit shall not be allowed under this subsection unless the foreign country of which such decedent was a citizen or subject, in imposing such taxes, allows a similar credit in the case of a citizen of the United States resident in such country. The determination of the country within which property is situated shall be made in accordance with the rules applicable under Part III of subchapter A in determining whether property is situated within or without the United States.

(2) *Limitations on credit.* The credit provided in this subsection with respect to such taxes paid to any foreign country—

(A) Shall not exceed the amount by which such taxes paid to the foreign country exceed the amount of the credit allowed therefor under section 813 (c); and

(B) Shall not exceed an amount which bears the same ratio to the tax imposed by section 935 (after deducting from such tax the credit provided by subsection (b) of this section) as the value of property which is—

(i) Situated within such foreign country,

(ii) Subjected to the taxes of such foreign country, and

(iii) Included in the gross estate bears to the value of the entire gross estate reduced by the aggregate amount of the deductions allowed under subsections (c), (d), and (e) of section 812.

(3) *Same; special rules.* (A) For the purposes of paragraph (2) (A), "such taxes paid to the foreign country" shall, with respect to any tax paid to the foreign country, be the amount computed under section 813 (c) (2) (A).

(B) The values referred to in the ratio stated in paragraph (2) (B) are the values determined under this chapter; but, in ap-

plying such ratio, the value of any property described in clauses (i), (ii), and (iii) thereof shall be reduced by such amount as will properly reflect, in accordance with regulations prescribed by the Secretary, the deductions allowed in respect of such property under subsections (c), (d), and (e) of section 812.

(4) *Proof of credit.* For provisions relating to proof of credit, see section 813 (c) (4).

(5) *Period of limitation.* For provisions relating to period of limitation on claiming of credit or refund based thereon and nonpayment of interest on refund, see section 813 (c) (5).

* * * * *

(e) *Effective date.* The amendments made by this section shall be applicable with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 615. TREATY OBLIGATIONS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

No amendment made by this Act shall apply in any case where its application would be contrary to any treaty obligation of the United States.

PAR. 4. Section 81.8, as amended by Treasury Decision 5699, approved May 13, 1949, is further amended as follows:

(A) By striking the word "and" from the first sentence of paragraph (a) thereof;

(B) By striking the period at the end of the first sentence of paragraph (a) thereof and inserting in lieu thereof the following: ", and, fourth, if the decedent died after October 20, 1951, the credit under § 81.9 (b) for death taxes paid to a foreign country."; and

(C) By substituting "§ 81.9 (a)" for "§ 81.9" wherever "§ 81.9" appears in such section.

PAR. 5. Section 81.9, as amended by Treasury Decision 5820, approved December 7, 1950, is further amended as follows:

(A) By amending the heading thereof to read as follows: *"Credit for death taxes—(a) Taxes paid a State, Territory, The District of Columbia or a possession of the United States";*

(B) By deleting present paragraphs (b) and (c) thereof; and

(C) By inserting at the end thereof the following new paragraphs (b) and (c):

(b) *Foreign death taxes—(1) In general.* (i) Subject to certain limitations indicated hereinafter, sections 813 (c) and 936 (c) of the Internal Revenue Code, as added by section 603 of the Revenue Act of 1951, approved October 20, 1951, authorize additional credits against the basic and additional estate taxes for any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of property situated in such foreign country and included in the gross estate. Such taxes are herein referred to as "foreign death taxes". The credit is available to estates of decedents dying after October 20, 1951, who were citizens of the United States at death. Credit is also allowable in the case of a decedent dying after October 20, 1951, who was a resident but not a citizen of the United States if the country, of which the decedent was a national, in imposing death taxes allows a similar credit to estates of citizens of the United States resident in such country. For definition of resident see § 81.5.

(ii) The credit is allowable not only as to death taxes paid foreign countries which are states in the international sense, but also as to estate, inheritance, legacy, or succession taxes paid to possessions or political subdivisions of foreign states. However, the credit is limited to estate, inheritance, legacy, or succession taxes imposed with respect to the death of such a decedent and does not apply to any such taxes paid with respect to the estate of a person other than the decedent. No credit is allowable as to property situated outside of the foreign country in which is imposed the tax in respect of which credit is claimed. Whether particular property of the decedent is situated in the foreign country imposing the tax is determined in accordance with the same principles that would be applied in determining whether similar property of a nonresident decedent not a citizen of the United States is situated within the United States for Federal estate tax purposes. See § 81.50. For example, under that section, a bond for the payment of money is not within the United States unless the certificate is physically located in the United States; accordingly, a bond is deemed situated in the foreign country imposing the tax only if the certificate therefor is physically located in such foreign country. Similarly, under § 81.50, stock of a domestic (United States) corporation, irrespective of location of the certificate, and stock of a foreign corporation, if the certificate therefor is located in the United States, is deemed to be situated in the United States; therefore, a share of corporate stock is regarded as situated in the foreign country imposing the tax if the issuing corporation is incorporated in that country, or if the certificate of stock (regardless of country of incorporation) is physically located in such country. Further, under the provisions of section 863 (b) and § 81.50, moneys deposited with any person carrying on the banking business by or for a nonresident not a citizen of the United States who was not engaged in business in the United States at time of death is not deemed to be situated in the United States. Consequently, such an account with a foreign bank in the country imposing the tax is not considered to be situated in such country.

(iii) The credit is limited to the foreign estate, inheritance, legacy, or succession tax attributable to property situated in a foreign country and included in the gross estate. Further, the credit cannot exceed the Federal estate tax attributable to such property, determined in the manner hereinafter prescribed. No credit is allowable for any interest or penalty paid in connection with the foreign estate, inheritance, legacy, or succession tax. Where credit for a particular foreign death tax is authorized by convention, there shall be allowed either the credit provided by the convention or the credit computed under this section, whichever is the greater. Where a foreign death tax is imposed by both a foreign country with which the United States has entered into a death duty convention and one of its possessions or political subdivisions, the credit authorized by such convention or by this section, whichever is the greater, shall be allowed. For example, if a portion of the estate of a citizen of the United States is situated in Canada and is subjected to death taxes imposed by both the Dominion of Canada and the Province of Quebec, credit is allowable for the Dominion duty computed under the estate tax convention with Canada or for the combined Dominion duty and the provincial duties under this section, whichever is greater. Where foreign death taxes are imposed in respect of the same property by more than one foreign country, credit shall be allowed for all such taxes, whether such credit is allowed under a convention or under this section, subject to the limitations prescribed in this section. These rules may be illustrated by the following examples:

Example (1). The decedent was a citizen of and domiciled in the United States at death. His estate consisted of bonds of United States corporations, the certificates for which were physically located in Quebec, $750,000; stocks of Canadian corporations, the certificates for which were located in the United States, $200,000; and bonds of Canadian corporations, the certificates being located in the United States at death, $50,000. Debts and charges amounted to $40,000. The Federal estate tax prior to allowance of credit for foreign death taxes amounted to $257,740. Assume that the net succession duty imposed by the Dominion of Canada on the Canadian stock and bonds amounted to $28,320. Under the Death Duty Convention between the United States and Canada, the Federal estate tax attributable to such property is: $\frac{250,000}{1,000,000} \times \$257,740 = \$64,435$. On the basis of these facts alone, credit would be allowable under the Canadian Convention for the tax paid to the Dominion of Canada in the amount of $28,320, since this amount is less than the Federal estate tax attributable to the property. No credit is allowable under the Convention for the tax imposed by the Province of Quebec.

Assume further that a succession duty was imposed by the Province of Quebec on the bonds of United States corporations in the amount of $48,096. Under the situs rules in subdivision (ii) of this subparagraph, the bonds of United States corporations and stocks of Canadian corporations are deemed to be situated in the foreign country. Under the rules in subparagraph (2) (ii) of this paragraph for determining the amount of the first limitation the total Quebec duty attributable to the United States bonds situated in Canada amounted to $48,096, and the Dominion succession duty attributable to the Canadian stocks amounted to $22,656. The total foreign death tax attributable to the property situated in a foreign country and included in the gross estate amounted to $70,752. The credit cannot exceed the Federal estate tax attributable to such property which is computed as follows:

$$\frac{950,000}{1,000,000} \times \$257,740 = \$244,853$$

Since this limitation exceeds the foreign tax attributable to the property, the credit under this section for both the taxes imposed by the Dominion of Canada and the Province of Quebec is limited to $70,752. Credit may not be claimed separately under the convention for the Dominion succession duty and under this section for the Quebec succession duty.

Example (2). The decedent was a citizen of the United States, domiciled in France at death. It is assumed that death occurred after November 21, 1951, the effective date of the supplementary convention between the United States and Canada. The

estate of the decedent consisted of stock of United States corporations valued at $750,000, the certificates for which were physically located in the United States; stock of French corporations endorsed in blank, the certificates for which were located in Canada, $50,000; and bearer bonds of French corporations, the certificates for which were in Canada, $200,000. Under the Convention between the United States and France, the French stocks and bonds are deemed to be situated in France, and credit for the tax imposed by France in respect of such property is allowable under such Convention. If not claimed under such Convention, credit for the tax imposed by France is available under this section with respect to the stock of French corporations for the reason that under § 81.50 stocks of corporations are deemed situated in the country where the issuing company is incorporated or at the physical location of the certificates. No credit is allowable, under this section for tax imposed by France on the bonds of French corporations since, in accordance with § 81.50, bonds are considered as being situated at the physical location of the bonds. No credit is available under the Convention between the United States and Canada with respect to the tax imposed by Canada on the French stocks and bonds for the reason that under such Convention, the property is deemed to be situated in France. Credit, however, is allowable under this section for the Canadian tax attributable to the French stocks and bonds, the certificates for which were located in Canada.

(iv) If at the time the Federal estate tax return, Form 706, is filed, the foreign death tax has not been determined and paid, credit therefor may be entered on the return in an estimated amount. The computation of the credit should be set forth on a schedule attached to Form 706. However, before credit for foreign death tax is finally allowed satisfactory evidence such as a statement by an authorized official of each country, possession, or political subdivision thereof, imposing such tax must be submitted certifying (*a*) the full amount of such tax (exclusive of any interest or penalties), as computed before allowance of any credit, remission or relief; (*b*) the amount of any credit, allowance, remission, or relief, and other pertinent information, including the nature of such allowance and a description of the property to which it pertains; (*c*) the net foreign death tax payable after such allowance; (*d*) the date on which such death tax was paid, or if not all paid at one time, the amount of each partial payment; and (*e*) a list of the property situated in such foreign country and subjected to its tax, showing a description and the value thereof. Satisfactory evidence must also be submitted showing that no refund of such death tax is pending and none authorized or, if any such refund is pending or has been authorized, the amount thereof and other pertinent information. The following information should also be submitted whenever applicable:

(*1*) If any of the property subjected to such death tax was situated outside of the country imposing the tax, the description of each item of such property and the value thereof.

(2) If more than one inheritance or succession is involved with respect to which credit is claimed, or where the foreign country, possession or political subdivision thereof imposes more than one kind of death tax, or where the foreign country, possession or political subdivision thereof each imposes a death tax, separate computation with respect to each inheritance, succession tax.

(v) In addition to the foregoing, the Commissioner may require the submission of any further proof deemed necessary to establish the right to credit.

(2) *Limitation on amount of credit allowable*—(i) *General.* The credit allowable under this section is limited to the smaller of the following amounts:

(*a*) The foreign death tax attributable to property situated in a foreign country, subject to foreign death tax, and included in the gross estate; or

(*b*) The Federal estate tax attributable to such property, as prescribed hereinafter.

(ii) *First limitation.* (*a*) The amount of the foreign death tax attributable to the property described in subdivision (i) (*a*) of this subparagraph, is an amount A, which bears the same ratio to B (the amount of the foreign death tax imposed upon the particular inheritance or succession, without allowance of credit, if any, for Federal estate tax) that C (the value of the inheritance or succession situated in the foreign country which was included in the gross estate for Federal estate tax) bears to D (the value of the entire inheritance or succession subjected to the foreign death tax). Where the foreign country imposes more than one kind of death tax or imposes taxes at different rates upon the several shares of an estate, or where the foreign country and a political subdivision or possession thereof each impose a death tax, the first limitation is to be computed separately for each such tax or rate. The values used in this proportion are the values determined for the foreign death tax. The amount of the foreign death tax for which credit is allowable must be converted into United States money.

(*b*) As an example of the determination of the foreign death tax attributable to specific property, assume that the decedent was a citizen of the United States and his widow and son are beneficiaries under his will. The decedent owned real estate in Country X valued at $90,000 and stock of Y Corporation (a corporation organized under the laws of Country X) valued at $75,000. There is no death duty convention between the United States and Country X. $60,000 of the real estate and $15,000 of the stock of Y Corporation passed to the surviving spouse. Assume that under the laws of Country X the inheritance tax is computed as follows:

Properties Included in the Widow's Inheritance for Tax of Country X

1. Value of real estate in X	$60,000
2. Value of stock of Corporation Y	15,000
Total value	75,000
Tax of Country X	12,000

Property Included in the Son's Inheritance for Tax of Country X

1. Value of real estate in X	$30,000
2. Value of stock of Corporation Y	60,000
Total value	90,000
Tax of Country X	14,400

The amount of the foreign inheritance tax attributable to personal property in the widow's inheritance is

$$\frac{\$15,000}{\$75,000} \times \$12,000 = \$2,400$$

The amount of the foreign inheritance tax attributable to personal property in the son's inheritance is

$$\frac{\$60,000}{\$90,000} \times \$14,400 = \$9,600$$

1. Country X tax on personalty on widow's inheritance	$2,400
2. Country X tax on personalty on son's inheritance	9,600
Total Country X inheritance tax attributable to included property	12,000

(iii) *Second limitation.* For the purpose of subdivision (i) (*b*) of this subparagraph, the amount of the Federal estate tax attributable to property for which the credit is allowable is to be computed as follows:

(*a*) The first step is to determine the value of the foreign property which enters into the computation. In case no deduction is allowed under section 812 (c) (relating to the deduction for property previously taxed), section 812 (d) (relating to the so-called charitable deduction), or section 812 (e) (relating to the so-called marital deduction), such value shall be the value of property situated in the foreign country, subject to the foreign death tax, and included in the gross estate. However, if any deduction is allowable under section 812 (c), (d), or (e) such value shall be the value of property situated in the foreign country, subject to the foreign death tax, and included in the gross estate, reduced in accordance with the following rules: (*1*) Where any such property is specifically bequeathed, devised, or transferred to an organization described in section 812 (d), or passes to the surviving spouse within the meaning of section 812 (e), such value is to be reduced by the amount of the deduction under section 812 (d) or (e) attributable to such bequest, devise, or transfer, or to the passing of such property; (2) where any such property is property with respect to which a deduction may be allowed under section 812 (c), such value shall be reduced by that part of the aggregate deduction allowed under section 812 (c) which the value of such property with respect to which a deduction may be allowed under the first three paragraphs of section 812 (c) bears to the value of all property with respect to which a deduction may be allowed under the first three paragraphs of section 812 (c); (3) where an interest in a group of assets which consists in part of such property is bequeathed, devised, or transferred to an organization described in section 812 (d), or passes to the surviving spouse within the meaning of section 812 (e), such value is to be reduced by an amount A which bears the same ratio to B (the amount of such bequests to charity or such property passing to the surviving spouse) which C (such property less the amount of reductions computed under paragraphs (a) and (b) of this section) bears to D (the value of all property less (*i*) the amount of all property specif-

ically bequeathed, devised, or transferred to an organization described in section 812 (d), or specifically passing to the surviving spouse within the meaning of section 812 (e), and (*ii*) the aggregate deductions allowed under section 812 (c)); (*4*) for the purpose of determining the deduction under section 812 (e) under rules (a) and (c) if the aggregate marital deduction allowed under section 812 (e) is less than the amount of such deduction computed without regard to the limitation stated in § 81.47d, then the portion of such deduction attributable to particular property is an amount which bears the same ratio to the deduction which would be attributable to such property without regard to the limitation stated in § 81.47d as the aggregate marital deduction allowed bears to the aggregate marital deduction computed without regard to the limitation stated in § 81.47d.

(*b*) The second step is to compute the amount of the Federal estate tax attributable to property for which the credit is allowable, which is an amount A, which bears the same ratio to B (the Federal estate tax, after allowance of credits for State inheritance, etc., taxes under section 813 (b) and for gift taxes under sections 813 (a) and 936 (b)) as C (the value of the foreign property which enters into the computation, as determined under the first step) bears to D (the value of the gross estate, reduced by the aggregate amount of the deductions allowed under sections 812 (c), (d) and (e)).

The following examples indicate the application of the above rules of this subdivision. These examples are solely for the purpose of illustrating the determination of the amount of credit under this section and are without regard to the amount of credit which may be allowable under the Convention between the United States and France.

Example (*1*). The decedent was a citizen of, and domiciled in, the United States at time of death; a son and daughter were beneficiaries, each taking one-half of the residue of the estate, and cash in the amount of $400,000 was bequeathed to a charitable organization in the United States. The estate consists of shares of stock of United States corporations, the certificates for which were physically located in the United States, $750,000; bonds issued by the French Government physically located in the United States, $50,000; shares of stock of French corporations, the certificates for which were physically located in France, $200,000; and debts and administration expenses total $40,000. Under the situs rules prescribed in subparagraph (1) (ii) of this paragraph, the French stock comprises the only property deemed to be situated in France. The amount of the French inheritance tax in United States money imposed in respect of such property is $48,000. The amount of Federal estate tax is $133,300 after the allowance of State inheritance tax. The credit cannot exceed the amount of the Federal estate tax attributable to the included property which is

$$\frac{120{,}000 \text{ (French stocks adjusted)}}{600{,}000 \text{ (Gross estate adjusted)}} \times \$133{,}300$$

=$26,660. Since the cash bequest to charity is not specifically identifiable with any particular property, each amount used in the above proportion is adjusted to reflect its prorated share of the charitable deduction allowed. The credit is allowable in the lesser of the two amounts, $26,660.

Example (*2*). The facts are the same as in example (1) except that, in lieu of the cash bequest to charity, $40,000 of the French stocks are specifically bequeathed to a public charitable establishment in France. The total amount of French inheritance tax attributable to property included in the gross estate is $42,800 ($4,800 allocable to the bequest to charity and $38,000 to the shares passing to the son and daughter). The amount of the Federal estate tax is $245,180. The credit cannot exceed the amount of the Federal estate tax attributable to the French stocks which is

$$\frac{160{,}000 \text{ (Value of French stocks adjusted)}}{960{,}000 \text{ (Gross estate adjusted)}} \times \$245{,}180 = \$40{,}863.33.$$

Since a charitable deduction is involved in this case, the value of the French stocks and the value of the gross estate are adjusted in computing the Federal estate tax attributable to the included property. As the amount of the Federal estate tax attributable to the property included in the gross estate (as adjusted) is less than the amount of the French tax attributable to the included property, the credit is allowable in the former amount, $40,863.33.

Example (*3*). The decedent was domiciled in the United States at death; his wife, son, daughter, and a charitable organization being the beneficiaries of his estate. The estate consists of shares of stocks of United States corporations, the certificates for which were physically located in the United States, $440,000; United States real estate, $100,000; shares of stocks of French corporations, the certificates for which were in France, $300,000; and debts and administration expenses total $40,000. He bequeathed $40,000 in real estate to a charity in the United States and $300,000 of French stocks and $200,000 of United States stocks to his wife. The residue of the estate passed to his children. Under the situs rules of subparagraph (1) (ii) of this paragraph, the only property considered to be situated in France comprises the shares of stocks of the French corporations. The amount of French inheritance taxes in United States money is $71,250.

The adjusted gross estate is $840,000 less $40,000 debts and charges, or $800,000. The marital deduction is therefore limited to one-half of $800,000 or $400,000. The amount of the Federal estate tax, after the allowance of the 80 percent State inheritance tax credit, is $76,180. The French property comprised in the marital deduction is

$$\frac{400{,}000}{500{,}000} \times \$300{,}000 \text{ or } \$240{,}000$$

The French inheritance tax attributable to the property included in the gross estate is $71,250. The credit, however, cannot exceed

$$\frac{60{,}000 \text{ (French property adjusted)}}{400{,}000 \text{ (Gross estate adjusted)}} \times \$76{,}180$$

or $11,427. The value of the French stock is adjusted for its prorated share of the marital deduction allowed and the value of the gross estate is adjusted for the marital deduction and the bequest to charity. As the amount of the Federal estate tax attributable to the included property is less than the amount of the French inheritance tax imposed on the property included in the gross estate, the credit is allowable in the amount of the former, $11,427.

(*c*) For the purposes of this limitation, where a particular foreign country imposes more than one kind of death tax or imposes taxes at different rates upon the several shares of an estate or a particular country and its possession or political subdivision each impose a death tax, the foreign property entering into the computation (as determined under subdivision (*a*) of this subparagraph) which is subjected to each such tax or different rate shall be combined. The combined value shall not exceed the value at which such property was included in the gross estate for Federal estate tax purposes. For example, if the Dominion of Canada imposes a succession duty with respect to property A at 10 percent and with respect to property B at 20 percent, or property A is subjected to tax by the Dominion of Canada and property B by the Province of Quebec, the total value of properties A and B shall be combined in computing this limitation. Further, in such a case, the foreign death taxes attributable to such property separately computed with respect to each tax or rate under the first limitation shall be combined when determining whether the foreign death tax is greater or smaller than the Federal estate tax attributable to such property. See Part 1 of example (1) below.

(*d*) In case credits against the Federal estate tax are allowable under this section or under this section and one or more death duty conventions in respect of death taxes paid to more than one country, such credits shall be combined and the aggregate amount thereof credited against the Federal estate tax. If a particular item of property included in the gross estate is subjected to tax by more than one foreign country, the total amount of the credits is limited to the amount of the Federal estate tax attributable to such property, adjusted to give effect to the principles stated in subdivision (*c*) of this subparagraph. See Part 2 of example (1) below. The amount of the Federal estate tax attributable to such property shall be determined in accordance with the rules prescribed for computing the second limitation in this subdivision.

Example (*1*). The decedent's estate consisted of properties A, B and C, each valued at $100,000 for Federal estate tax purposes, and the total Federal estate tax with respect to all such property amounted to $72,000. Assume that properties A and B qualify for the credit and that such properties were fully subjected to foreign death tax as follows:

Property A by the Dominion of Canada	$20,000
Property B by the Province of Quebec	26,000
Property A by Country X	10,000

Since properties A and B were fully subjected to foreign death tax, the amount of the foreign death tax attributable to such property (computed separately under the first limitation for each separate foreign death tax) is the full amount of the foreign death taxes. The foreign death tax attributable to such property, thus computed separately under the first limitation with respect to each separate foreign death tax, is to be compared with the Federal estate tax attributable to such property computed under the second limitation.

Part (*1*). In the case of the property subjected to tax by the Dominion of Canada and the Province of Quebec, the amount of the Federal estate tax attributable to such property is not to be computed separately, under the second limitation with respect to each separate foreign tax, but properties A and B are combined as follows:

$$\frac{200{,}000 \text{ (Property subject to tax by Canada and Quebec)}}{300{,}000 \text{ (Gross estate)}} \times \$72{,}000 \text{ (Federal tax)} = \$48{,}000$$

Further, the amounts of the Canadian and Quebec taxes attributable to properties A and B computed under the first limitation are combined ($46,000) for purposes of comparison with the Federal estate tax attributable to such property ($48,000) in determining the allowable credit with respect to the foreign death taxes imposed by Canada and Quebec. Credit is, therefore, allowable in the amount of $46,000 with respect to the taxes imposed by Canada and Quebec since this amount is less than the amount computed under the second limitation.

NOTE: That if the second limitation were computed separately for properties A and B, the total credit allowable with respect to property B would be only $24,000 rather than $26,000.

Part (2). In the case of property A subjected to tax by Country X, the second limitation is computed as follows:

$$\frac{100{,}000 \text{ (Property subject to tax by X)}}{300{,}000 \text{ (Gross estate)}}$$

× $72,000 (Federal tax) = $24,000. The foreign tax imposed by Country X attributable to such property under the first limitation is $10,000. This amount is less than the Federal estate tax attributable to such property ($24,000), and on the basis of these facts alone, credit would be allowable for the tax imposed by Country X in the amount of $10,000. However, the Federal estate tax attributable to property A is $24,000 and, of this amount, $22,000 has been taken into account in Part 1 of this example in determining the credit allowable with respect to the death taxes imposed by the Dominion of Canada and the Province of Quebec as follows:

$20,000 credit allowed with respect to property A for the tax imposed by the Dominion of Canada;

$2,000 credit allowed with respect to property B in excess of the Federal estate tax attributable to such property ($24,000) for the tax imposed by the Province of Quebec.

Accordingly, additional credit allowable for the tax imposed by Country X is limited to $2,000. If, under the facts in this example, property B had also been subjected to death tax by Country X no additional credit would be allowable for such tax for the reason that the Federal estate tax attributable to such property amounted to only $24,000. Nevertheless, the credit of $26,000 otherwise allowable with respect to property B shall not be reduced. The combined credits allowable with respect to all foreign death taxes is limited to $48,000.

Example (2). If it be assumed under the facts otherwise indicated in example (1) above that only property A was subjected to foreign death tax, the total credit allowable with respect to such property would be $24,000. While the total death taxes imposed with respect to property A amounted to $30,000, the Federal estate tax attributable to such property amounted to only $24,000 and the credit is, accordingly, limited to the smaller amount.

(iv) *Allocation of credit.* The amount computed under the lower of the two limitations is the total credit authorized with respect to both the basic and additional taxes. The amount of credit authorized against the basic estate tax is the lower of (*a*) the amount computed under the "first limitation" and (*b*) the amount of the basic estate tax attributable to the property computed in the manner described under the "second limitation". For this purpose, the basic estate tax is the net basic tax after allowance of credits for State inheritance, etc., taxes under section 813 (b) and gift taxes under section 813 (a). The amount of credit authorized against the additional estate tax is the lower of (*c*) the amount computed under the "first limitation" less the credit allowed against the basic estate tax and (*d*) the amount of the additional estate tax attributable to the property computed in the manner described in the "second limitation". For this purpose, the additional estate tax is the net additional tax after allowance of credit for gift tax under section 936 (b).

(c) *Claim for credit or refund and interest on refund.* (1) The credit is also limited to such taxes as were actually paid and credit therefor claimed within four years after the filing of the return, except as otherwise provided in this paragraph. If a petition is filed with the Tax Court for the redetermination of a deficiency within the time prescribed by section 871 (a) (see § 81.73), the credit is limited to such taxes as were actually paid and credit therefor claimed within four years after the filing of the return or before the expiration of 60 days after the decision of the Tax Court becomes final, whichever period is the longer. If an extension of time has been granted for payment of the tax shown on the return or of a deficiency under section 822 (a) (2) or section 871 (h), the credit is limited to such taxes as were actually paid and credit therefor claimed within four years after the filing of the return or before the date of the expiration of the extension, whichever period is the longer. Should the executor, in accordance with the provisions of sections 925 and 926, elect to postpone the payment of the Federal estate tax attributable to a reversionary or remainder interest, the credit allowable against the tax attributable to such interest is limited to estate, inheritance, legacy, or succession taxes attributable to such interest as are actually paid and credit therefor claimed prior to the expiration of 60 days after the termination of the precedent interest. (See section 927 of the Internal Revenue Code and § 81.79 (b).)

(2) Refund based on the credit, despite the provisions of sections 910, 911, and 912, will be made if claim therefor is filed within the period provided for filing claim for credit. Such refunds will be made without interest.

(d) *Recovery of death tax claimed as credit.* If subsequent to the allowance of credit for death taxes under section 813 (b) or (c) or section 936 (c), recovery is made of any overpayment of such taxes, then the executor or other person recovering such overpayment is required at once to notify the Commissioner thereof. The Commissioner will thereupon redetermine the additional amount of estate tax due resulting from the incorrect credit allowed and such amount will be paid by the executor upon receipt of notice and demand therefor. Assessment of such additional tax may be made at any time.

PAR. 6. Section 81.56 is amended by changing the first sentence thereof to read as follows: "The provisions relating to credits under §§ 81.8 and 81.9 (a) and to rates and payment of the tax are the same in estates of nonresidents not citizens and of residents or citizens."

PAR. 7. There is inserted immediately after section 874 and preceding section 875 of the Internal Revenue Code which precede § 81.74 the following:

SEC. 603. FOREIGN ESTATE TAX CREDIT (REVENUE ACT OF 1951, ENACTED OCTOBER 20, 1951).

* * *

(d) *Extension of period of limitations, etc., in case of recovery of taxes claimed as credit.* Section 874 (b) (relating to exceptions to general rule as to period of limitation upon assessment and collection of estate tax) is hereby amended by inserting at the end thereof the following new paragraph:

(3) *Recovery of taxes claimed as credit.* If any tax claimed as a credit under section 813 (b) or (c) or section 936 (c) is recovered from any foreign country, any State, any Territory or possession of the United States; or the District of Columbia, the executor, or any other person or persons recovering such amount, shall give notice of such recovery to the Secretary at such time and in such manner as may be required by regulations prescribed by him, and the Secretary shall redetermine the amount of the tax under this chapter and the amount, if any, of the tax due upon such redetermination, shall be paid by the executor or such person or persons, as the case may be, upon notice and demand.

(e) *Effective date.* The amendments made by this section shall be applicable with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 8. Section 81.74 is amended by striking the first sentence of paragraph (d) and inserting in lieu thereof the following: "All assessments against executors (as to assessments against transferees and fiduciaries, see § 81.102), except in the case of a false or fraudulent return, or of a failure to file a return, or in the case of the recovery of tax claimed as a credit under section 813 (b) or (c) or section 936 (c), must be made within three years after the return was filed."

PAR. 9. There is inserted immediately preceding § 81.79 the following:

SEC. 603. FOREIGN ESTATE TAX CREDIT (REVENUE ACT OF 1951, ENACTED OCTOBER 20, 1951).

* * *

(c) *Reversionary or ramainder interest.* Section 927 (relating to credit for State death taxes) is hereby amended to read as follows:

SEC. 927. CREDIT FOR DEATH TAXES.

Such part of any estate, inheritance, legacy, or succession taxes allowable as a credit under section 813 (b) or (c) against the tax imposed by this subchapter, or under section 936 (c) against the tax imposed by subchapter B, as is attributable to such reversionary or remainder interest may be allowed as a credit against the tax attributable to such interest, subject to the limitations on the amount of credit contained in such sections, if such part is paid, and credit therefor claimed, at any time prior to the expiration of 60 days after the termination of the precedent interest or interests in the property.

* * * * *

(e) *Effective date.* The amendments made by this section shall be applicable with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 10. Section 81.79, as amended by Treasury Decision 5699 is further amended as follows:

(A) By striking therefrom the sentence in paragraph (a) (3) (iii) beginning "An extension of time to pay the tax", and inserting in lieu thereof the following: "An extension of time to pay the tax may extend the period within which taxes allowed as a credit by section 813 (b) or (c) or section 936 (c) are required to be paid and the credit therefor claimed. (See § 81.9);"

(B) By amending paragraph (b) (5) thereof to read as follows:

(5) If the time for payment of Federal estate tax attributable to a reversionary or remainder interest in property is postponed, all estate, inheritance, legacy, or succession taxes allowable as a credit under the provisions of sections 813 (b) or (c), or 936 (c), which are paid and for which credit is claimed within the period provided in such sections will be allowed (not to exceed the limitations in such sections) and the allowance will be applied first to the respective portions of the Federal tax attributable to the same interests in property to which the estate, inheritance, legacy, or succession taxes are attributable. Estate, inheritance, legacy, or succession taxes, as described in section 813 (b) or (c), or under section 936 (c), which are attributable to the reversionary or remainder interest and which are paid and for which credit is claimed after the expiration of the period provided in those sections will also be allowed as a credit against the Federal tax attributable to such interest (not to exceed the limitations in such sections) if such taxes are paid and credit therefor is claimed prior to the expiration of 60 days after the termination of the preceding interest or interests in the property;

(C) By inserting the following example immediately following the example in paragraph (b) (5):

Example. The facts are the same as in the preceding example except that, in addition, the estate is entitled to a credit for foreign death tax paid in the amount of $4,000. The additional Federal estate tax before allowance of such credit is $142,500, of which $47,500 is attributable to the reversionary or remainder interest and $95,000 is attributable to other property. Of the total credit of $4,000 for foreign death tax, $1,000 is attributable to the reversionary or remainder interest and $3,000 to other property. $500 of the credit is allowable against the Federal basic tax and $3,500 against the additional tax. Assume that the foreign death tax paid within the four-year period amounts to $3,500 none of which is attributable to the reversionary or remainder interest. Of this payment, $500 will be credited against the Federal basic tax and $3,000 against the additional tax. Accordingly, under these added facts, the estate will be required to pay at once $1,500 (Federal basic tax attributable to property other than the reversionary or remainder interest minus the credits of $8,000 and $500) and the additional Federal tax of $92,000 (the additional Federal estate tax of $95,000 attributable to property other than the reversionary or remainder interest minus the credit of $3,000). An extension will be allowed for payment of $4,000 (Federal basic tax of $5,000 minus credit for State inheritance tax of $1,000) and $47,500 (the portion of the additional Federal tax attributable to the reversionary or remainder interest). After expiration of the four-year period, but before expiration of 60 days after termination of the precedent interest, the estate pays additional State estate, inheritance, legacy or succession taxes of $5,000 and foreign death tax of $1,000 attributable to the reversionary or remainder interest. As the maximum credit for both taxes is $16,000, and $12,500 has already been allowed, there will be an additional allowance of $3,500 and the estate will be required to pay $48,000 at the end of the extension period.

and

(D) By inserting in the first sentence of paragraph (b) (6) thereof immediately after "District of Columbia" the following: ", or by any foreign country".

PAR. 11. The second sentence of § 81.80 (f) is amended to read as follows: "An extension of time to pay the deficiency may extend the period within which taxes allowed as a credit by section 813 (b) or (c) or section 936 (c) are required to be paid and the credit therefor claimed. (See § 81.9.)"

PAR. 12. Section 81.97 is amended by striking therefrom the last sentence of paragraph (b) and inserting in lieu thereof the following: "If a refund is based upon the credit for payment of estate, inheritance, legacy, or succession taxes allowed by section 813 (b) or (c) or section 936 (c) (see § 81.9), the refund will be made without interest."

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

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: July 29, 1953.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 53-6780; Filed, Aug. 3, 1953; 8:51 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter XXI—Office of Rent Stabilization, Economic Stabilization Agency

ABOLITION

EDITORIAL NOTE: For order abolishing the Office of Rent Stabilization, see Executive Order 10475, *supra*.

TITLE 43—PUBLIC LANDS: INTERIOR

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

PART 250—PUBLIC SALES

DEFINITIONS; BIDDING; PLACE FOR SALE

Part 250 is amended, as follows:

1. Paragraphs (c) and (d) of § 250.2 are amended to read:

§ 250.2 *Definitions.* * * *

(c) "Regional Administrator" means the regional administrator for the region in which the land is situated.

(d) "Manager" means the manager of the land office for the district in which the land is situated. When there is no district land office in a State, it means the regional officer who has been authorized to perform the functions of the manager for sales under this part of public lands in that State.

2. The section headnote for § 250.10 and paragraph (a) are amended to read:

§ 250.10 *The bidding; place for sale.* (a) The land will be offered for sale at public auction, at not less than its appraised value, at the time and place fixed in the public notice. The land will be offered for sale at the land office of the district in which the land is situated, if there is a land office in the State. If there is no land office in the State, the sale may be held at a place within the region in which the lands are situated, to be designated by the regional administrator.

(R. S. 2478; 43 U. S. C. 1201)

DOUGLAS MCKAY,
Secretary of the Interior.

JULY 29, 1953.

[F. R. Doc. 53-6759; Filed, Aug. 3, 1953; 8:46 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

AIR NAVIGATION SITE WITHDRAWAL NO. 4, ENLARGEMENT

JULY 24, 1953.

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; U. S. C. 214), and pursuant to section 2.22 (2), of Delegation Order No. 427, of August 16, 1950 (15 F. R. 5641), it is ordered as follows:

Subject to valid existing rights, the tract of public lands near Haines, Alaska, described below by metes and bounds, is 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. 4 Enlargement:

T. 31 S., R. 59 E., C. R. M.
Section 2, Lots 7, 8, 9, and 17

The tract described contains approximately 7.30 acres.

This order shall be subject to the right of the public to continue to use the existing road right-of-way crossing Lot 9 of Section 2, T. 31 S., R. 59 E., C. R. M.

It is intended that the public land described herein shall be returned to the administration of the Department of the Interior when it is no longer needed for the purpose for which it is reserved.

LOWELL M. PUCKETT,
Regional Administrator,
Region VII.

[F. R. Doc. 53-6758; Filed, Aug. 3, 1953; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

MISSISSIPPI

SALE OF MINERAL INTERESTS; REVISED AREA DESIGNATION

Schedule A, entitled Fair Market Value Areas, and Schedule B, entitled One Dollar Areas, accompanying the Secretary's order dated June 26, 1951 (16 F. R. 6318), are amended as follows:

In Schedule A, under Mississippi, in alphabetical order, add the county "Bolivar."

In Schedule B, under Mississippi, delete the county "Bolivar."

(Sec. 3, Pub. Law 760, 81st Cong.)

Done at Washington, D. C., this 31st day of July 1953.

[SEAL] J. EARL COKE,
Acting Secretary of Agriculture.

[F. R. Doc. 53-6847; Filed, Aug. 3, 1953; 9:09 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-1966, G-2175, G-1967, G-2176]

HOME GAS CO. AND MANUFACTURERS LIGHT AND HEAT CO.

ORDER CONSOLIDATING PROCEEDINGS AND FIXING DATE OF HEARING

In the matters of Home Gas Company, Docket Nos. G-1966 and G-2175; the Manufacturers Light and Heat Company, Docket Nos. G-1967 and G-2176.

The proposed rate increases by Home Gas Company (Home) which are involved in Docket Nos. G-1966 and G-2175 were set for hearing on August 17, 1953, by order of the Commission issued on June 10, 1953. The proposed rate increases by the Manufacturers Light and Heat Company (Manufacturers), which are involved in Docket Nos. G-1967 and G-2176 were consolidated and set for hearing on August 3, 1953, by Commission order issued June 29, 1953.

On July 7, 1953, Central Hudson Gas and Electric Corporation (Central Hudson) filed a petition for consolidation of the above-docketed proceedings. In its petition, Central Hudson alleges that Manufacturers and Home constitute a single integrated system; that both Home and Manufacturers maintain a principal office in Pittsburgh, Pennsylvania, at which the books and records of both companies are kept; that both companies have common officers and employees; and that the rate for Home should be determined by combining and averaging the aggregate costs of Manufacturers and Home.

Central Hudson requests that the proceedings involving the two companies be consolidated so that it can present evidence in support of its allegations.

On July 10, 1953, the New York Public Service Commission filed an answer to Central Hudson's petition in which it joins in the request for consolidation of the proceedings.

On July 17, 1953, Rockland Light and Power Company (Rockland) filed with the Commission a statement in support of Central Hudson's petition for consolidation. Rockland states that it will be prepared at a consolidated hearing to present evidence in support of the principle that Home and Manufacturers constitute a single integrated system. Rockland further points out that the proposed rate increases by Home and Manufacturers involve numerous additional common questions of law and fact which may adversely affect its interests and that consolidation of these proceedings is desirable and necessary for the expeditious disposition of such issues.

On July 17, 1953, Home and Manufacturers filed an answer opposing the combining and averaging of their respective costs for rate-making purposes.

The Commission finds:

(1) The petition filed by Central Hudson raises issues of fact and law as to which parties interested should have an opportunity to present evidence.

(2) The proceedings in Matters of Manufacturers Light and Heat Company, Docket Nos. G-1967 and G-2176, now scheduled for hearing on August 3, 1953, should be postponed until August 17, 1953, and consolidated for purposes of hearing with Matter of Home Gas Company, Docket Nos. G-1966 and G-2175. In the consolidated proceedings, Home and Manufacturers should be permitted to present evidence in support of their respective proposed rate increases, and other parties permitted to present evidence as to the reasonableness of such rates, charges, services and classifications, including the question whether, for rate-making purposes, Home and Manufacturers should be treated as an integrated operating system.

The Commission orders:

(A) The proceedings at Docket Nos. G-1967 and G-2176 be and they hereby are consolidated for purposes of hearing with the proceedings at Docket Nos. G-1966 and G-2175.

(B) A public hearing be held in these consolidated proceedings commencing August 17, 1953, at 10 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 441 G Street NW., Washington 25, D. C., concerning the issues heretofore specified in the Commission's orders issued June 10 and June 29, 1953 in Docket Nos. G-1967 and G-2176, and in Docket Nos. G-1966 and G-2175, and including the issue of whether, for rate-making purposes, Home and Manufacturers should be treated as a single integrated operating system.

(C) At the hearing, Manufacturers and Home shall go forward first and shall present and complete their cases-in-chief before cross-examination is undertaken.

(D) On or before August 11, 1953, Manufacturers and Home shall serve upon all parties copies of all prepared testimony and exhibits proposed to be offered at the hearing, and shall file three (3) copies of such testimony and exhibits with the Commission.

Adopted: July 28, 1953.

Issued: July 29, 1953.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-6771; Filed, Aug. 3, 1953; 8:48 a. m.]

[Docket No. G-2219]

TEXAS ILLINOIS NATURAL GAS PIPELINE CO.

ORDER SUSPENDING PROPOSED TARIFF SHEETS AND PROVIDING FOR HEARING

Texas Illinois Natural Gas Pipeline Company (Texas Illinois) on June 29, 1953, filed Second Revised Sheets Nos. 5, 6, 9 and 10 and First Revised Sheets Nos. 11 and 12-A to its FPC Gas Tariff, Original Volume No. 1, proposing to make effective as of August 1, 1953, increases in rates and charges for the sale of natural gas for resale.

Texas Illinois, a Delaware corporation having its principal office at Chicago, Illinois, owns and operates a natural-gas transmission pipe-line system located in the States of Texas, Arkansas, Missouri and Illinois, and is engaged in the transportation of natural gas produced in Texas, and the sale of such natural gas for resale for ultimate public consumption.

Based on estimated sales for the year ending July 31, 1954, the proposed revised tariffs would result in an estimated increase of $5,857,591, or approximately 15.2 percent, in the presently effective rates and charges applicable to 15 customers of Texas Illinois.

The proposed increased rates, which are sought to be supported, in large part, upon estimates of future operations, have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, and may place an undue burden upon the ultimate consumers of natural gas.

As required by § 154.16 of the Commission's regulations under the Natural Gas Act, copies of the proposed tariff sheets have been sent to each customer of Texas Illinois which would be affected thereby. At least two of the non-affiliated customers have indicated their dissatisfaction with the proposed increases.

Unless suspended by order of the Commission, Second Revised Sheets Nos. 5, 6, 9 and 10 and First Revised Sheets Nos. 11 and 12-A to Texas Illinois' FPC Gas Tariff, Original Volume No. 1, will become effective as of August 1, 1953, pursuant to the provisions of the Natural Gas Act and the general rules and regulations thereunder.

The Commission finds: It is necessary and proper in the public interest and to

aid in the enforcement of the provisions of the Natural Gas Act, that the Commission enter upon a hearing, pursuant to the authority contained in section 4 (e) of that act, concerning the lawfulness of the rates and charges contained in Texas Illinois' FPC Gas Tariff, Original Volume No. 1, as proposed to be amended by Second Revised Sheets Nos. 5, 6, 9 and 10 and First Revised Sheets Nos. 11 and 12–A and that said proposed tariff sheets and the rates and charges contained therein be suspended as hereinafter provided, and the use thereof deferred pending hearing and decision herein.

The Commission orders:

(A) A public hearing be held at a date to be set by further order concerning the lawfulness of the rates and charges contained in Texas Illinois' FPC Gas Tariff, Original Volume No. 1 as proposed to be amended by Second Revised Sheets Nos. 5, 6, 9 and 10 and First Revised Sheets Nos. 11 and 12–A.

(B) Pending such hearing and decision thereon, the proposed rates and charges contained in the revised tariff sheets, listed in (A) above, filed by Texas Illinois, hereby are suspended and their use deferred until January 1, 1954, unless otherwise ordered by the Commission, and until such further time thereafter as they may be made effective in the manner prescribed by the Natural Gas Act.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Adopted: July 29, 1953.

Issued: July 29, 1953.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53–6770; Filed, Aug. 3, 1953; 8:48 a. m.]

[Project No. 271]

ARKANSAS POWER & LIGHT CO.

ORDER INSTITUTING AN INVESTIGATION

Arkansas Power & Light Company owns and operates the Carpenter and Remmel hydroelectric developments at miles 471 and 452, respectively, on the Ouachita River, designated as Project No. 271. This project is located downstream from the Blakely Mountain multiple-purpose dam and reservoir now under construction by the Corps of Engineers, Department of the Army.

Pursuant to the provisions of section 10 (f) of the Federal Power Act, we are required to determine and assess headwater improvement benefit charges against the owner of any project directly benefited by headwater improvements constructed by the United States. Preliminary studies made by the staff of the Commission indicate that Arkansas Power & Light Company's Project No. 271 will probably receive benefits from the Blakely Mountain project's storage after the latter goes into commercial operation.

Studies made by the Corps of Engineers, the Company, and the Commission's staff reveal that the period between the time of the commencement of filling of the Blakely Reservoir and the time the first generating unit of the Blakely project is placed in commercial operation will result in a material reduction in the energy generation at the Carpenter and Remmel plants. The Corps of Engineers has advised that it has no authority under existing laws to pay for any losses which may be sustained by Arkansas Power & Light Company during the filling of the Blakely Reservoir.

The Commission finds: It is appropriate and in the public interest that an investigation be instituted by the Commission as hereinafter provided.

The Commission orders: An investigation is hereby instituted pursuant to the provisions of the Federal Power Act, particularly section 10 (f) thereof, for the purpose of enabling the Commission to determine whether the Carpenter and Remmel plants of Arkansas Power & Light Company's Project No. 271 downstream from the Blakely Mountain project will be directly benefited in the future by the construction and operation of that project and if it so finds, to determine the equitable proportion of the estimated annual charges for interest, maintenance and depreciation on the Blakely Mountain project which it is probable the Arkansas Light & Power Company may be required to pay annually: *Provided, however*, That in making such determination, the Commission shall allow any losses sustained because of the headwater improvement commencing with the start of filling of the Blakely Mountain project as an offset against any headwater benefit payments subsequently assessed against Arkansas Power & Light Company, the downstream beneficiary.

Adopted: July 23, 1953.

Issued: July 29, 1953.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53–6772; Filed, Aug. 3, 1953; 8:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION

GLENN LOWELL CARMICHAEL ET AL.

MEMORANDUM OPINION AND ORDER REVOKING BROKER-DEALER REGISTRATIONS

JULY 27, 1953.

In the matter of Glenn Lowell Carmichael, Route No. 1, Lenexa, Kansas; Glyness B. Luce d/b/a Luce & Company, 37 Bancroft Street, Portland, Maine; Alvin Oaksmith Steward, 63 Park Avenue, New York 16, N. Y.

These are proceedings pursuant to section 15 (b) of the Securities Exchange Act of 1934 ("the act") to determine whether the registrants named above, each of whom is registered as a broker and/or dealer, willfully violated section 17 (a) of the act and Rule X-17A–5 thereunder and, if so, whether it is in the public interest to revoke their registrations.[1]

The proceedings were instituted by the issuance of separate notices and orders for hearing, copies of which were sent by registered mail to the addresses last furnished us by the registrants in their registration applications or amendments thereto. The notices were returned to us by the Post Office Department with notations indicating that they could not be delivered to the registrants at the addresses given. None of the registrants appeared in person or by representative on the date set for hearing.

The registrations of the registrants have not been withdrawn, cancelled, revoked or suspended, and are in full force and effect. On November 28, 1942, we promulgated Rule X-17A–5 under section 17 (a) of the act, which provides, among other things, that every registered broker or dealer must file with this Commission a report of financial condition during each calendar year. Registrants have been specifically notified of the requirements of this rule.

Upon review of the records in the proceedings, we find that each of the registrants failed to file the required reports of financial condition and thereby violated section 17 (a) of the act and Rule X-17A–5 thereunder. We conclude also that such violations were willful within the meaning of section 15 (b).

On the basis of the foregoing, we are of the opinion that it is in the public interest to revoke the registration of each of the registrants.

Accordingly it is ordered, That the registrations of Glenn Lowell Carmichael, Glyness B. Luce, d/b/a Luce & Company, and Alvin Oaksmith Steward be, and each of them hereby is, revoked.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53–6732; Filed, July 31, 1953; 8:47 a. m.]

JOHN J. CUNNINGHAM

MEMORANDUM OPINION AND ORDER PERMITTING WITHDRAWAL OF REGISTRATION AND DISCONTINUING PROCEEDING

JULY 27, 1953.

In the matter of John J. Cunningham, 173 West 81st Street, New York, New York.

This is a proceeding pursuant to section 15 (b) of the Securities Exchange Act of 1934 ("the act") to determine

[1] Section 15 (b) provides in part: "The Commission shall, after appropriate notice and opportunity for hearing, by order * * * revoke the registration of any broker or dealer if it finds that such * * * revocation is in the public interest and that (1) such broker or dealer * * * (D) has willfully violated any provision * * * of this title, or of any rule or regulation thereunder."

whether John J. Cunningham, a registered dealer, willfully violated section 17 (a) of the act and Rule X-17A-5 thereunder by failing to file financial reports and, if so, whether it is in the public interest to revoke his registration.[1]

A copy of our notice and order for hearing was sent by registered mail to registrant but registrant did not appear nor was he represented by counsel on the date set for hearing. Thereafter, we received from registrant a letter which stated that he has been inactive as a broker or dealer for approximately two years and requested withdrawal of his registration.

Registrant's registration became effective March 28, 1951, and is in full force and effect. On November 28, 1942, we promulgated Rule X-17A-5 under section 17 (a) of the act, which provides, among other things, that every registered broker or dealer must file with this Commission a report of financial condition during each calendar year.

Upon review of the record in this proceeding, we find that registrant failed to file the required report of financial condition for the year 1952 and thereby violated section 17 (a) of the act and Rule X-17A-5 thereunder. We also conclude his violation was willful within the meaning of section 15 (b). However, in view of registrant's desire to withdraw his registration, we do not consider that under the facts of the case revocation is in the public interest. While the withdrawal of registration after the institution of revocation proceedings is not a matter of right, it may be permitted in our discretion if it appears to us that such withdrawal would be consistent with the public interest and the protection of investors.[2] As noted, registrant stated that he has not been actively engaged as a dealer for approximately two years. Under these circumstances and in view of the nature of the violation we have found, we are of the opinion that the public interest and the protection of investors are adequately served by permitting withdrawal of registrant's registration as a dealer.

Accordingly it is ordered, Pursuant to section 15 (b) of the Securities Exchange Act of 1934, that the notice of withdrawal of the registration as a dealer of John J. Cunningham be, and it hereby is, permitted to become effective forthwith, and that this proceeding under section 15 (b) of the act be, and it hereby is, discontinued.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 53-6730; Filed, July 31, 1953; 8:46 a. m.]

[1] Section 15 (b) provides in part: "The Commission shall, after appropriate notice and opportunity for hearing, by order * * * revoke the registration of any broker or dealer if it finds that such * * * revocation is in the public interest and that (1) such broker or dealer * * * (D) has willfully violated any provision * * * of this title, or of any rule or regulation thereunder."

[2] Section 15 (b) also provides: "Any registered broker or dealer may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission."

FRANK WESLEY ROE AND S. R. GAYNES & CO.

MEMORANDUM OPINION AND ORDER REVOKING BROKER-DEALER REGISTRATIONS

JULY 28, 1953.

In the matter of Frank Wesley Roe, 1122 Hazel Street, Texarkana, Texas; S. R. Gaynes & Co., 277 Broadway, New York, New York.

These are proceedings pursuant to section 15 (b) of the Securities Exchange Act of 1934 ("the act") to determine whether the above named registered brokers and dealers willfully violated section 17 (a) of the act and Rule X-17A-5 thereunder and, if so, whether it is in the public interest to revoke their registrations.[1]

A copy of our notice and order for hearing was sent by registered mail to each registrant but no representative of either of them appeared on the date set for hearing.

The registrations of the registrants have not been withdrawn, cancelled, revoked or suspended and are in full force and effect. Rule X-17A-5 adopted pursuant to section 17 (a) of the act provides, among other things, that every registered broker or dealer must file with this Commission a report of financial condition during each calendar year. Registrants have been specifically notified of the requirements of this rule.

Upon review of the records in these proceedings, we find that each of the registrants failed to file the required reports of financial condition and thereby violated section 17 (a) of the act and Rule X-17A-5 thereunder. We conclude also that such violations were willful within the meaning of section 15 (b).

On the basis of the foregoing, we are of the opinion that it is in the public interest to revoke the registration of each of the registrants.

Accordingly it is ordered, That the registrations of Frank Wesley Roe and S. R. Gaynes & Co. be, and each of them hereby is, revoked.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 53-6739; Filed, July 31, 1953; 8:48 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

[Vesting Order 16986, Amdt.]

M. B. H. STAAB-VAN DEN VRIJHOEF

In re: Securities owned by M. B. H. Staab-van den Vrijhoef, also known as Maria Van Den Vryhoef.

Vesting Order 16986, dated January 8, 1951, is hereby amended as follows and not otherwise:

By deleting from subparagraph 2b of said Vesting Order 16986 the phrase "10 shares of $10.00 par value common capital stock" and substituting therefor the phrase "10 shares of $5.00 par value common stock".

All other provisions of said Vesting Order 16986 and all action taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on July 30, 1953.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 63-6782; Filed, Aug. 3, 1953; 8:52 a. m.]

[Vesting Order P-2, Amdt.]

FURUKAWA PLANTATION CO.

Under the authority of the Trading With the Enemy Act, as amended (50 U. S. C. App. and Sup. 1-40); Executive Order 9193, as amended by Executive Order 9567 (3 CFR 1943 Cum. Supp.; 3 CFR 1945 Supp.); Executive Order 9788 (3 CFR 1946 Supp.) and Executive Order 9989 (3 CFR 1948 Supp.), and pursuant to law, after investigation, Vesting Order P-2 is hereby amended nunc pro tunc to read as follows:

It is hereby found:

1. That Yoshizo Furukawa, Katsuji Matsumoto, Daido Boeki Kaisya, Kotoro Takuma, Asakichi Tsutaya, Kaoru Nakagawa, Chisato Yamasaki, Koichiro Uyemura, Tomizo Yabe, Tamio Mizobe and Nase Itakura, each of whose last known address is Japan, are residents and nationals of a designated enemy country (Japan);

2. That Furukawa Plantation Company, the last known address of which is The Philippines, is a corporation, partnership, association or other business organization organized under the laws of The Philippines which on or since the effective date of Executive Order 8389, as amended, has been owned or controlled directly or indirectly by the persons referred to in subparagraph 1 hereof and is a national of a designated enemy country (Japan);

3. That the property described as follows:

a. 9,975 shares of the ₱100 par value capital stock of Furukawa Plantation Company, a corporation organized and doing business under the laws of the Commonwealth of the Philippines and a business enterprise within the United States,

b. Any and all additional shares of stock of Furukawa Plantation Company or the right to subscribe to and receive such additional shares which accrued or may accrue to the shares described in subparagraph 3a hereof, or the holders thereof, by virtue of any action taken to increase the capital stock of Furukawa Plantation Company,

c. Any and all obligations, contingent or otherwise and whether or not matured, owing by Furukawa Plantation Company to the persons named in subparagraph

1, and each of them, and any and all security rights in and to any and all collateral for any and all such obligations, and the right to enforce and collect the same,

d. Real property situated in the Philippines more particularly described as follows:

(1) A parcel of agricultural land, known as Lot No. 280 of the Cadastral Survey of Davao, situated in Barrio Rapnaga, City of Davao, containing an area of 2,254 sq. m., covered by T. C. T. No. 153, Office of the Register of Deeds of Davao City, in the name of Tadao Nanbu, and assessed under Tax Declaration No. 48333,

(2) A parcel of agricultural land, known as Lot No. 281 of the Cadastral Survey of Davao, situated in Barrio Rapnaga, City of Davao, containing an area of 14,531 sq. m., covered by T. C. T. No. 152, Office of the Register of Deeds, City of Davao, in the name of Tadao Nanbu, and assessed under Tax Declaration No. 48334, and

(3) A parcel of land, partly residential and partly agricultural, known as Lot No. 382 of the Cadastral Survey of Davao, situated in the Barrio of Matina, City of Davao, containing an area of 665,881 sq. m., covered by T. C. T. No. 1064, Office of the Register of Deeds, City of Davao, in the name of Tadeo Nanbu, and assessed under Tax Declaration No. 46026,

together with all hereditaments, fixtures, improvements and appurtenances thereto and any and all claims for rents, refunds, benefits, or other payments arising from the ownership of such property,

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 of the persons referred to in subparagraph 1 and 2 hereof, and/or represents an interest in Furukawa Plantation Company by the persons named in subparagraph 1 hereof;

and it is hereby determined:

4. That Furukawa Plantation Company is controlled by the persons named in subparagraph 1 hereof or is acting for or on behalf of a designated enemy country (Japan) or persons within such country and is a national of a designated enemy country (Japan);

5. That to the extent that such nationals are persons 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 (Japan);

and having made all determinations and taken all action required by law, including appropriate consultation and certification, and deeming it necessary in the national interest,

There is hereby vested the property described in subparagraph 3-a, 3-b, and 3-c hereof, together with all declared and unpaid dividends in said stock, and all right, title and interest of whatsoever kind or nature of any and all other nationals, whomsoever they may be, of Germany and Japan, in and to said property,

There is hereby vested the property described in subparagraph 3-d hereof, subject to recorded liens, encumbrances and other rights of record held by persons who are not nationals of designated enemy countries, other than those of Tadeo Nanbu,

All such property so vested to be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States.

There is hereby undertaken the direction, management, supervision and control of said business enterprise and all property of any nature whatsoever situated in the United States, owned or controlled by, payable or deliverable to, or held on behalf of or on account of, or owing to said business enterprise, to the extent deemed necessary or advisable from time to time. This order shall not be deemed to limit the power to vary the extent of or terminate such direction, management, supervision or control.

The terms "national", "designated enemy country" and "business enterprise within the United States" as used herein and in said Vesting Order P-2 shall have and had the meanings prescribed in section 10 of Executive Order No. 9095, as amended by Executive Order 9193.

Executed at Washington, D. C., on July 30, 1953.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 53-6783; Filed, Aug. 3, 1953; 8:52 a. m.]