

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 20 1934 NUMBER 114

Washington, Saturday, June 11, 1955

TITLE 6—AGRICULTURAL CREDIT

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

Subchapter B—Loans, Purchases, and Other Operations

[1953 C. C. C. Grain Price Support Bulletin 1, Supp. 4, Corn]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1953-CROP CORN EXTENDED RESEAL LOAN PROGRAM

An extended reseal loan program has been announced for 1953-crop corn. The 1953 C. C. C. Grain Price Support Bulletin 1 (18 F. R. 1960, 3705, and 19 F. R. 1149), issued by the Commodity Credit Corporation and containing the general requirements with respect to price support operations for grains and related commodities produced in 1953, supplemented by Supplements 1, 2, and 3, Corn (18 F. R. 5359, 6983, 19 F. R. 1595, 2712, 5591, 6809, and 20 F. R. 3584), containing the specific requirements for the 1953-crop corn price support program, is hereby further supplemented as follows:

- Sec.
- 421.251 Applicable sections of 1953 C. C. C. Grain Price Support Bulletin 1, and Supplements 1, 2, and 3, Corn.
- 421.252 Availability.
- 421.253 Eligible corn.
- 421.254 Approved storage.
- 421.255 Approved forms.
- 421.256 Quantity eligible for extended reseal.
- 421.257 Service charges.
- 421.258 Transfer of producer's equity.
- 421.259 Storage and track-loading payments.
- 421.260 Maturity and satisfaction.
- 421.261 Support rates.
- 421.262 CSS commodity offices.

AUTHORITY: §§ 421.251 to 421.262, issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051; 15 U. S. C. 714c, 7 U. S. C. 1421, 1441.

§ 421.251 *Applicable sections of 1953 C. C. C. Grain Price Support Bulletin 1, and Supplements 1, 2, and 3, Corn.* The following sections of the 1953 C. C. C. Grain Price Support Bulletin 1, as

amended, and Supplements 1, 2, and 3, Corn, as amended, published in 18 F. R. 1960, 3705, 5359, 6983, 19 F. R. 1149, 1595, 2712, 5591, 6809, and 20 F. R. 3584, shall be applicable to the 1953 Corn Extended Reseal Loan Program: § 421.1 *Administration*; § 421.5 *Approved lending agencies*; § 421.8 *Liens*; § 421.10 *Set-offs*; § 421.70 *Interest rate*; § 421.13 *Safe-guarding the commodity*; § 421.14 *Insurance on farm-storage loans*; § 421.15 *Loss or damage to the commodity*; § 421.16 *Personal liability of the producer*; § 421.17 *Release of the commodity under loan*; § 421.19 *Foreclosure*; § 421.20 *Purchase of notes*; § 421.55 *Determination of quantity*; § 421.56 *Determination of quality*; § 421.64 *Eligible producer*. Other sections of 1953 C. C. C. Grain Price Support Bulletin 1, as amended, and Supplements 1, 2, and 3, Corn, as amended, shall be applicable to the extent indicated in this subpart.

§ 421.252 *Availability*—(a) *Area and scope.* The extended reseal program will be available in all counties where 1953-crop corn is under reseal loan except in designated angoumois moth areas: *Provided, however,* That the program will be available only where ASC State committees determine that there may be a shortage of storage space and that the corn can be safely stored on the farm for the period of the extended reseal loan. This program provides, under certain circumstances, for the extension of 1953-crop corn farm-storage reseal loans. Neither warehouse-storage loans nor purchase agreements will be available to producers under this program.

(b) *Time and source.* The producer who has a reseal loan and who desires to extend such loan must make application to the county committee which approved his reseal loan before the final date for delivery specified in the delivery instructions issued to him by the county committee.

§ 421.253 *Eligible corn*—(a) *Requirements of eligibility.* The corn (1) must be in farm storage presently under a reseal loan; (2) must meet the requirements set forth in § 421.53 (a), (b), (c) and (e) of 1953 C. C. C. Grain Price Support Bulletin 1, Supplement 1, Corn; and (3) must grade No. 3 or better, or No. 4 on the factor of test weight only, but

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Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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(For use during 1955)

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Title 7: Part 900 to end (\$2.25)
Title 8 (\$0.45)

Previously announced: Title 3, 1954 Supp. (\$1.75); Title 7: Parts 1-209 (\$0.60); Title 9 (\$0.65); Titles 10-13 (\$0.50); Title 14: Parts 1-399 (\$2.25); Part 400 to end (\$0.65); Title 16 (\$1.25); Title 18 (\$0.50); Title 19 (\$0.40); Title 20 (\$0.75); Titles 22-23 (\$0.75); Title 24 (\$0.75); Title 25 (\$0.50); Titles 28-29 (\$1.25); Titles 30-31 (\$1.25); Titles 35-37 (\$0.75); Titles 40-42 (\$0.50); Titles 44-45 (\$0.75); Title 49: Parts 1-70 (\$0.60); Parts 71-90 (\$0.75); Parts 91-164 (\$0.50); Part 165 to end (\$0.60)

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otherwise No. 3 or better, and must contain not in excess of 15.5 percent moisture in the case of ear corn nor in excess of 13.5 percent moisture in the case of shelled corn.

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

§ 421.254 *Approved storage.* Corn covered by any extended reseal loans must be stored in structures which meet the requirements for farm-storage loans as provided in § 421.6 (a). Consent for storage for any loans extended must be obtained by the producer for the period ending September 30, 1956, if the structure is owned or controlled by someone other than the producer, or if the lease expires prior to September 30, 1956.

§ 421.255 *Approved forms.* (a) The approved forms, which together with the provisions of this subpart govern the rights and responsibilities of the producer, shall consist of a Producer's Note and Supplemental Loan Agreement, Commodity Loan Form A, secured by a Commodity Chattel Mortgage on Commodity Loan Form AA, and such other

forms and documents as may be prescribed by CCC. Notes and chattel mortgages must have State and documentary revenue stamps affixed thereto where required by law. Loan documents executed by an administrator, executor or trustee will be acceptable only where legally valid.

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

§ 421.256 *Quantity eligible for extended reseal.* The quantity of corn eligible for an extended reseal loan will be the quantity shown on the original note and chattel mortgage, less any quantity delivered or redeemed.

§ 421.257 *Service charges.* When a reseal loan is extended, the producer will not be required to pay an additional service charge.

§ 421.258 *Transfer of producer's equity.* The producer shall not transfer either his remaining interest in or his right to redeem the corn mortgaged as security for an extended reseal loan under this program. A producer who wishes to liquidate all or part of his loan by contracting for the sale of the corn must obtain written prior approval of the county committee on Commodity Loan Form 12 to remove the corn from storage when the proceeds of the sale are needed to repay all or any part of the loan. Any such approval shall be subject to the terms and conditions set out in Commodity Loan Form 12, copies of which may be obtained by producers or prospective purchasers at the office of the county committee.

§ 421.259 *Storage and track-loading payments—(a) Storage payment for 1954-55 storage period.* (1) A producer who extends his farm-storage reseal loan will at the time of extension of the reseal loan receive a payment for earned storage during the reseal loan period. This payment will be computed at the rate of 15 cents per bushel on the quantity of corn held in farm storage for the full reseal period, ending July 31, 1955. The reseal storage payment will be disbursed to the producer by the ASC county committee.

(2) Upon delivery of the 1953-crop corn to CCC, the actual quantity of corn held in farm storage under the extended reseal loan program will be determined by weighing. The storage payment previously made to the producer at the time the reseal loan was extended, covering the 1954-55 storage period, will then be recomputed on the basis of the actual quantity determined to have been covered by the extended reseal loan. Any amount due the producer for such storage on the quantity delivered in excess of the quantity stated in the extended reseal loan documents will be regarded as an additional credit in effecting settlement with the producer. The amount of any overpayment which is determined to have been made to the producer at the time the reseal loan was extended shall be collected from the producer.

(b) *Storage payment for 1955-56 storage period.* A storage payment for

the 1955-56 extended reseal storage period will be made as follows:

(1) *Storage payment for full reseal period.* A storage payment computed at the rate of 15 cents per bushel will be made to the producer on the quantity involved if he (i) redeems corn from the loan on or after July 31, 1956, (ii) delivers corn to CCC on or after July 31, 1956, or (iii) delivers corn to CCC prior to July 31, 1956, pursuant to demand by CCC for repayment of the loan solely for the convenience of CCC, if the corn was not damaged or otherwise impaired due to negligence on the part of the producer.

(2) *Prorated storage payment.* A prorated storage payment computed at the rate of 0.00049 per bushel a day, but not to exceed 15 cents per bushel, according to the length of time the quantity of corn was in store after September 30, 1955, will be made to the producer (i) in the case of loss assumed by CCC under the provisions of the loan program, (ii) in the case of corn redeemed from the loan prior to July 31, 1956, and (iii) in the case of corn delivered to CCC prior to July 31, 1956, pursuant to its demand and not solely for the convenience of CCC, or upon request of the producer and with the approval of CCC: *Provided, however,* That no storage payment will be made with respect to corn so delivered which is damaged or otherwise impaired due to negligence on the part of the producer. In the case of losses assumed by CCC, the period for computing the storage payment shall end on the date of the loss; and in the case of redemptions, on the date of repayment.

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

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

§ 421.260 *Maturity and satisfaction.* Extended reseal loans will mature on demand but not later than July 31, 1956. The producer must pay off his loan, plus interest, on or before maturity or deliver the mortgaged corn in accordance with the instructions of the county committee. If the producer desires to deliver the corn he should, prior to maturity, give the county committee notice in writing of his intention to do so. The producer may, however, pay off his loan and redeem his corn at any time prior to delivery of the corn to CCC or removal of the corn by CCC. Credit will be given at the applicable settlement value according to grade and/or quality for the total quantity eligible for delivery. Delivery of corn will be accepted only from bin(s) in which the corn under extended reseal loan is stored. The provisions of § 421.18 (a), (c), (e) and (f) and of § 421.60 (a) shall be applicable thereto.

§ 421.261 *Support rates.* (a) The support rate for an extended reseal loan

shall remain the same as for the original loan.

(b) Any discounts or premiums established for variation in classification and quality as shown in § 421.58 (b), shall be applicable in determining the settlement value.

§ 421.262 *CSS commodity offices.* The CSS commodity offices and the areas served by them are shown below:

Chicago 5, Ill., 623 South Wabash Avenue; Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia.

Dallas 26, Tex., 3306 Main Street; Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas.

Kansas City 6, Mo., 911 Walnut Street; Colorado, Kansas, Missouri, Nebraska, Wyoming.

Minneapolis 8, Minn., 1006 West Lake Street; Minnesota, Montana, North Dakota, South Dakota, Wisconsin.

Portland 5, Oreg., 515 Southwest Tenth Avenue; Arizona, California, Idaho, Nevada, Oregon, Utah, Washington.

Issued this 7th day of June 1955.

[SEAL] PRESTON RICHARDS,
Acting Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 55-4674; Filed, June 10, 1955;
8:48 a. m.]

[1955 C. C. C. Grain Price Support Bulletin 1,
Supp. 1, Corn]

PART 421—GRAINS AND RELATED
COMMODITIES

SUBPART—1955 CROP CORN LOAN AND
PURCHASE AGREEMENT PROGRAM

A price support program has been announced for the 1955 crop of corn. The 1955 C. C. C. Grain Price Support Bulletin 1 (20 F. R. 3017), issued by the Commodity Credit Corporation and containing the regulations of a general nature with respect to price support operations for grains and other commodities produced in 1955, is supplemented as follows:

Sec.

- 421.1136 Purpose.
- 421.1137 Availability of price support.
- 421.1138 Eligible corn.
- 421.1139 Warehouse receipts.
- 421.1140 Determination of quantity.
- 421.1141 Determination of quality.
- 421.1142 Maturity of loans and delivery.
- 421.1143 Determination of support rates.
- 421.1144 Warehouse charges.
- 421.1145 Settlement.

AUTHORITY: §§ 421.1136 to 421.1145 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; 15 U. S. C. 714c, 7 U. S. C. 1441, 1421.

§ 421.1136 *Purpose.* Sections 421.1136 to 421.1145 state additional specific requirements which, together with the general regulations contained in the 1955 C. C. C. Grain Price Support Bulletin 1 (§§ 421.1001 to 421.1021), apply to loans and purchase agreements under the 1955-Crop Corn Price Support Program.

§ 421.1137 *Availability of price support—(a) Method of support.* Price support will be made available through farm-storage and warehouse-storage loans and through purchase agreements.

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

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

(d) *When to apply.* Loans and purchase agreements will be available from the time of harvest through May 31, 1956; *Provided,* That in areas where it is determined by the State committee that producers may not be, or are not, in a position to store corn safely for the full storage period because of infestation by angoumois moths or other insects, adverse climatic conditions, or other factors affecting the safe storage of corn, the final date of availability for loans and purchase agreements shall be such earlier date as may be determined by the State committee. The State committee shall notify producers in the area through public announcement sufficiently in advance of such date in order to allow producers a reasonable period of time in which to place their corn under loans or purchase agreements. The applicable documents must be signed by the producer and delivered to the county committee not later than the final date of availability for loans and purchase agreements in the area. Applicable documents include the Producer's Note and Loan Agreement for warehouse-storage loans, the Producer's Note and Supplemental Loan Agreement and the Commodity Chattel Mortgage for farm-storage loans, and the Purchase Agreement for purchase agreements.

(e) *Eligible producer.* An eligible producer shall be an individual, partnership, association, corporation, estate, trust, or other business enterprise, or legal entity, and wherever applicable, a State, political subdivision of a State, or any agency thereof producing corn in 1955 as a landowner, landlord, tenant, or sharecropper; *Provided,* That a producer shall not be an eligible producer unless he is in compliance with the regulations pertaining to corn acreage allotments for the 1955 crops as determined in accordance with 1955 C. C. C. Corn Bulletin A, and any amendments thereto.

§ 421.1138 *Eligible corn.* In addition to meeting the eligibility requirements of 1955 C. C. C. Corn Bulletin A, the corn, when placed under loan or delivered under a purchase agreement, must meet the following requirements:

(a) The corn must be of the classes Yellow Corn (Class I), White Corn (Class II), or Mixed Corn (Class III) and must have been produced in the continental United States in 1955 by an eligible producer.

(b) The corn must be ear or shelled corn; *Provided,* That ear corn must be shelled before delivery is made in liquidation of a loan or under a purchase agreement. If the corn is not shelled prior to delivery, the cost of shelling on or after delivery shall be for the account of the producer.

(c) (1) The beneficial interest in the corn must be in the person tendering the corn for loan or for delivery under a purchase agreement, and must always have been in him, or must have been in him and a former producer whom he succeeded before the corn was harvested.

(2) To meet the requirements of succession to a former producer, the rights responsibilities and interest of the former producer with respect to the farming unit on which the corn was produced shall have been substantially assumed by the person claiming succession. Mere purchase of the crop prior to harvest, without acquisition of any additional interest in the farming unit, shall not constitute succession. The county committee shall determine whether the requirements with respect to succession have been met.

(d) Corn placed under loan must, except for moisture content, grade No. 3 or better, or No. 4 on the factor of test weight only, but otherwise No. 3 or better, and must meet the following requirements: For ear corn placed under a farm-storage loan, the moisture content must not exceed 20.5 percent if the corn is tested for loan from time of harvest through February, 1956; 19.0 percent if tested for loan during March, 1956; 17.5 percent if tested for loan during April, 1956; and 15.5 percent if tested for loan during May, 1956. For corn placed under a warehouse-storage loan, and for shelled corn placed under a farm-storage loan, the moisture content must not exceed 13.5 percent irrespective of when the corn is tested for loan.

(e) Corn placed under loan must not grade "weevily."

(f) Corn delivered under a purchase agreement must grade No. 3 or better, or No. 4 on the factor of test weight only but otherwise No. 3 or better. Corn delivered from farm storage under a purchase agreement must not contain in excess of 17.5 percent moisture. Corn placed in warehouse storage prior to issuance of delivery instructions and represented by warehouse receipts tendered to CCC under a purchase agreement must not contain in excess of 13.5 percent moisture and must not grade "weevily."

§ 421.1139 *Warehouse receipts.* Warehouse receipts, representing corn in approved warehouse storage to be placed under loan or delivered under a purchase agreement, must meet the requirements of this section:

(a) Warehouse receipts must be issued in the name of the producer, must be properly endorsed in blank so as to vest title in the holder, and must be receipts issued by a warehouse approved by CCC under the Uniform Grain Storage Agreement which indicate that the corn is insured, or must be receipts issued on warehouses operated by Eastern common carriers under tariffs ap-

proved by the Interstate Commerce Commission for which custodian agreements are in effect.

(b) Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate), properly identified with the warehouse receipt, must show: (1) Gross weight or bushels, (2) class, (3) grade, (4) test weight, (5) moisture, and (6) any other grading factor(s), when such factor(s), and not test weight or moisture, determine the grade. In areas where licensed inspectors are not available at terminal and subterminal warehouses, CCC will accept inspection certificates based on representative samples which have been forwarded to and graded by a licensed grain inspector.

(c) In the case of warehouse receipts issued for corn delivered by rail or barge, CCC will accept inbound weight and inspection certificates properly identified with the corn covered thereby in lieu of the information required by paragraph (b) of this section.

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

(e) The warehouse receipt may be subject to liens for warehouse charges only to the extent indicated in § 421.1144.

§ 421.1140 *Determination of quantity.*

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

(b) When determined by measurement, a bushel of ear corn shall be 2.5 cubic feet of ear corn testing not more than 15.5 percent in moisture content. An adjustment in the number of bushels of ear corn will be made for moisture content in excess of 15.5 percent in accordance with the following schedule:

Moisture content (percent):	Adjustment factor (percent)
15.6 to 16.5, both inclusive	98
16.6 to 17.5, both inclusive	96
17.6 to 18.5, both inclusive	94
18.6 to 19.5, both inclusive	92
19.6 to 20.5, both inclusive	90
Above 20.5	No loan

(c) A bushel of shelled corn, when determined by measurement, shall be 1.25 cubic feet of shelled corn testing not more than 13.5 percent in moisture content.

(d) In determining the quantity of sacked corn by weight, a deduction of 3/4 of a pound for each sack will be made.

(e) Since dockage is not a grade factor in the case of corn, the quantity of corn will be determined without reference to dockage.

§ 421.1141 *Determination of quality.*

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

§ 421.1142 *Maturity of loans and delivery.*

(a) Loans mature on demand but not later than July 31, 1956.

(b) Corn may be delivered under purchase agreement and in satisfaction of farm-storage loans after maturity in accordance with § 421.1018, 1955 C. C. C. Grain Price Support Bulletin 1.

(c) In areas where it is determined by the State committee that some producers may not be in a position to store corn safely for the full storage period (for reasons set forth in § 421.1137 (d)), the State committee may establish an earlier delivery period prior to maturity (in addition to the regular delivery period) during which producers may voluntarily deliver corn in farm storage under loans and purchase agreements. Such earlier delivery period, if established, shall begin at least 30 days after the final date of availability established by the State committee, and not before April 1, 1956. CCC will accept deliveries of corn during such early delivery period, provided the producer notifies the county committee of his intention to deliver at least 10 days prior to the first day of the delivery period.

(d) If the State committee determines that producers in any area are not in a position to safely store corn for the full storage period (for reasons set forth in § 421.1137 (d)), all farm-storage loans in such area shall be called promptly by the State committee, and producers who elect to make deliveries from farm storage under purchase agreements shall be required to do so during the delivery period for loans. Such earlier delivery period, if established, shall begin at least 30 days after the final date of availability of loans and purchase agreements established by the State committee, and not before April 1, 1956.

(e) Corn under farm-storage loan may be delivered before maturity, upon prior approval of the county committee, for any of the reasons stated in § 421.1018 (a) (1) of the 1955 C. C. C. Grain Price Support Bulletin 1, or if the corn is threatened with damage by flood or other conditions which are beyond the control of the producer.

§ 421.1143 *Determination of support rates.* Basic county support rates, and the schedule of premiums and discounts, for corn will be set forth in 1955 C. C. C. Grain Price Support Bulletin 1, Supplement 2, Corn. Both warehouse-storage and farm-storage loans will be made on the basis of the rate established for the county in which the corn is produced.

§ 421.1144 *Warehouse charges.*

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

(b) Where the date of deposit (the date of the warehouse receipt if the date of deposit is not shown) on warehouse receipts representing corn stored in warehouses operating under the Uniform Grain Storage Agreement is on or before July 31, 1956, there shall be deducted in computing the amount of the loan or purchase price the storage charges per bushel as shown in the fol-

lowing table unless written evidence has been submitted with the warehouse receipt that all warehouse charges, except receiving and loading out charges, have been prepaid through the maturity date, July 31, 1956.

Date of deposit (all dates inclusive):	Amount of deduction (cents per bushel)
Prior to Aug. 27, 1955	15
Aug. 27 to Sept. 25	14
Sept. 26 to Oct. 25	13
Oct. 26 to Nov. 24	12
Nov. 25 to Dec. 24	11
Dec. 25, 1955 to Jan. 13, 1956	10
Jan. 14 to Feb. 2	9
Feb. 3 to Feb. 22	8
Feb. 23 to Mar. 13	7
Mar. 14 to Apr. 2	6
Apr. 3 to Apr. 22	5
Apr. 23 to May 12	4
May 13 to June 1	3
June 2 to June 21	2
June 22 to July 31	1

(c) Warehouse receipts and the corn represented thereby stored in approved warehouses operated by Eastern common carriers may be subject to liens for warehouse elevation (receiving and delivering) and storage charges from the date of deposit at rates approved by the Interstate Commerce Commission. There shall be deducted in computing the amount of the loan or purchase price the amount of the approved tariff rate for storage (not including elevation) which will accumulate from the date of deposit through July 31, 1956, unless written evidence has been submitted with the warehouse receipt that the storage charges have been prepaid. The county office shall request the CSS commodity office to determine the amount of such charges. Where the producer presents evidence showing that elevation charges have been prepaid, the amount of the storage charges to be deducted shall be reduced by the amount of the elevation charges prepaid by the producer.

§ 421.1145 *Settlement—(a) Settlement value.*

(1) In the case of corn delivered to CCC under farm-storage loans grading No. 3, or better, or No. 4 on the factor of test weight only but otherwise grading No. 3, or better, settlement shall be made at the applicable support rate determined in accordance with § 421.1018 (f), of the 1955 C. C. C. Grain Price Support Bulletin 1. The support rate shall be for the grade and quality of the total quantity of corn eligible for delivery subject to premiums and discounts shown in the "Schedule of Premiums and Discounts" in 1955 C. C. C. Grain Price Support Bulletin 1, Supplement 2, Corn. If, upon delivery, the corn under farm-storage loan grades sour or heating, or otherwise does not meet the requirements set forth in the "Schedule of Premiums and Discounts," or is of a grade and/or quality for which no support rate has been established, the settlement value shall be computed at the support rate established for the grade and/or quality of the corn placed under loan, less the difference, if any, at the time of delivery, between the market price of the grade and/or quality (except for the factor of moisture) placed under loan and the market price of the corn delivered,

as determined by CCC: *Provided, however*, That if such corn is sold by CCC in order to determine its market price the settlement value shall not be less than such sales price.

(2) In the case of eligible corn delivered at CCC under purchase agreement, settlement shall be made at the applicable support rate determined in accordance with § 421.1018 (f), of the 1955 C. C. C. Grain Price Support Bulletin 1 (20 F. R. 3017), subject to premiums and discounts shown in the "Schedule of Premiums and Discounts" in 1955 C. C. C. Grain Price Support Bulletin 1, Supplement 2, Corn.

(b) *Storage deduction for early delivery.* Whenever farm-stored corn under loan or purchase agreement is delivered to CCC before July 31, 1956, a deduction for storage shall be made in accordance with the schedule of deductions for warehouse charges (§ 421.1144), except that no such deduction shall be made if such early delivery is made because the loan is called solely for the convenience of CCC, or if it is determined by CCC at the time of delivery that the corn will be sold rather than stored, or if CCC requires early delivery on an area basis.

(c) *Refund of prepaid handling charges.* In case a warehouseman charges the producer for the receiving or the receiving and loading out charges on corn under loan or purchase agreement stored in warehouses under the Uniform Grain Storage Agreement, the producer shall, upon delivery of the corn to CCC, be reimbursed or given credit by the county office for such prepaid charges in an amount not to exceed the charges authorized under the Uniform Grain Storage Agreement, provided, the producer furnishes to the county committee written evidence signed by the warehouseman that such charges have been paid.

(d) *Track loading.* A track-loading payment of 3 cents per bushel shall be made to the producer on corn delivered to CCC on track at a country point.

Issued this 7th day of June 1955.

[SEAL] PRESTON RICHARDS,
Acting Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 55-4675; Filed, June 10, 1955;
8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 725—BURLEY AND FLUE-CURED TOBACCO

[1026 (Burley and Flue-55)-1]

MARKETING QUOTA REGULATIONS, 1955-56

MARKETING YEAR

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725.652	Producer's records and reports.
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AUTHORITY: §§ 725.630 to 725.662 issued under sec. 375, 52 Stat. 66; 7 U. S. C. 1375. Interpret or apply 52 Stat. 38, 47, 48, 65, 66, as amended, 7 U. S. C. 1301, 1313, 1314, 1315, 1372, 1373, 1374, 1375.

GENERAL

§ 725.630 *Basis and purpose.* Sections 725.630 to 725.662 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the issuance of marketing cards, the identification of tobacco, the collection and refund of penalties, and the records and reports incident thereto on the marketing of Burley and flue-cured tobacco during the 1955-56 marketing year. Prior to preparing §§ 725.630 to 725.662, public notice (20 F. R. 2988) of their formulation was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). The data, views and recommendations pertaining to §§ 725.630 to 725.662, which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended. Since county committees are now determining the acreage of tobacco on farms so that farmers may know as soon as possible whether there is excess tobacco available for marketing from the farm, it is hereby determined that compliance

with the provisions of the Administrative Procedure Act with respect to the effective date is contrary to the public interest. Sections 725.630 to 725.662 shall therefore become effective upon filing with the Director, Division of Federal Register.

§ 725.631 *Definitions.* As used in §§ 725.630 to 725.662, and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938, as amended.

(b) "Carry-over" tobacco means, with respect to a farm, tobacco produced prior to the beginning of the calendar year 1955, which has not been marketed or which has not been disposed of under § 725.645.

(c) *Committees:*

(1) "Community committee" means the persons elected within a community as the community committee pursuant to regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees.

(2) "County committee" means the persons elected within a county as the county committee pursuant to regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees.

(3) "State committee" means the persons in a State designated by the Secretary as the Agricultural Stabilization and Conservation State committee.

(d) "County office manager" means the person employed by the county committee to execute the policies of the county committee and be responsible for the day-to-day operations of the ASC county office, or the person acting in such capacity.

(e) "Dealer" or "buyer" means a person who engages to any extent in the business of acquiring tobacco from producers without regard to whether such person is registered as a dealer with the Internal Revenue Service.

(f) "Deputy Administrator" means the Deputy Administrator or the Acting Deputy Administrator for Production Adjustment, Commodity Stabilization Service, United States Department of Agriculture.

(g) "Director" means Director or Acting Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture.

(h) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land which the county committee determines is operated by the same person as part of the same unit with respect to the rotation of crops and with work-stock, farm machinery, and labor substantially separate from that for any other land; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land in-

cluded in the farm, constitutes a unit with respect to the rotation of crops.

(i) "Field assistant" means any duly authorized employee of the United States Department of Agriculture, and any duly authorized employee of an ASC county office whose duties involve the preparation and handling of records and reports pertaining to tobacco marketing quotas.

(j) "Floor sweepings" means scraps, leaves, or bundles of tobacco, generally of inferior quality, which accumulate on the warehouse floor and which not being subject to identification with any particular lot of tobacco are gathered up by the warehouseman for sale. Floor sweepings shall not include tobacco defined as "pick-ups".

(k) "Leaf account tobacco" means all tobacco purchased by or for a warehouseman and "leaf account" shall include the records required to be kept and copies of the reports required to be made under §§ 725.630 to 725.662 relating to tobacco purchased by or for a warehouseman and resales of such tobacco.

(l) "Market" means the disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. "Marketing" and "marketed" shall have corresponding meanings to the term "market".

(m) "Nonwarehouse sale" means any first marketing of farm tobacco other than by sale at public auction through a warehouse in the regular course of business.

(n) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(o) "Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity, and wherever applicable, a State, a political subdivision of a State or any agency thereof.

(p) "Pick-ups" means (1) "Pick-ups (a)," any tobacco sorted and reclaimed from leaves or bundles which have fallen to the warehouse floor in the usual course of business or (2) "Pick-ups (b)," any tobacco previously purchased at auction but not delivered to the buyer because of rejection by the buyer, lost ticket, or any other reason, and which is not turned back to a dealer other than the warehouseman and shall include tobacco delivered to the buyer but returned by the buyer to the warehouseman, and which is not turned back to a dealer other than the warehouseman.

(q) "Producer" means a person who, as owner, landlord, tenant, sharecropper, or laborer is entitled to share in the tobacco available for marketing from the farm or in the proceeds thereof.

(r) "Pound" means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producers, would equal one pound standard weight.

(s) "Resale" means the disposition by sale, barter, exchange, or gift inter vivos, of tobacco which has been marketed previously.

(t) "Sale day" means the period at the end of which the warehouseman bills to

buyers the tobacco so purchased during such period.

(u) "Scrap tobacco" means the residue which accumulates in the course of preparing flue-cured tobacco for market, consisting chiefly of portions of tobacco leaves and leaves of poor quality.

(v) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(w) "State administrative officer" means the person employed by the State committee to execute the policies of the State committee and be responsible for the day-to-day operations of the ASC State office, or the person acting in such capacity.

(x) "Suspended sale" means any first marketing of farm tobacco at a warehouse sale for which a memorandum of sale is not issued by the end of the sale day on which such marketing occurred.

(y) "Tobacco" means Burley tobacco, type 31, or flue-cured tobacco types 11, 12, 13, and 14, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the Bureau of Agricultural Economics of the United States Department of Agriculture, or both, as indicated by the context.

(1) Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths as either Burley or flue-cured tobacco shall be considered respectively either Burley or flue-cured tobacco regardless of any factors of historical or geographical nature which cannot be determined by examination of the tobacco.

(2) For the purpose of discovering and identifying all tobacco subject to marketing quotas the term "tobacco" with respect to any farm located in an area in which any kind of tobacco subject to marketing quotas is normally produced, shall include all acreage of tobacco on the farm. The acreage of each kind of tobacco shall be determined by the county committee on the basis of seeding, cultivating, curing, and marketing practices commonly known to the area. The production of the acreage of each kind of tobacco so determined shall be considered to be tobacco of the kind available for marketing until such time as the operator of the farm furnishes to the county committee satisfactory proof that a part or all of the production of such acreage has been classified pursuant to Part 29, of this title when marketed, as a different kind of tobacco. Any amount of tobacco so classified as a different kind shall be converted to acres on the basis of the average yield per acre of the entire acreage of tobacco grown on the farm in 1955 for the purpose of determining the harvested acreage of such kind of tobacco produced on the farm.

(z) "Tobacco available for marketing" means all tobacco produced on the farm in the calendar year 1955 plus any carry-over tobacco, less any tobacco disposed of in accordance with § 725.645.

(aa) "Tobacco subject to marketing quotas" means:

(1) Any Burley tobacco marketed during the period, October 1, 1955, to September 30, 1956, inclusive, and any Burley tobacco produced in the calendar year 1955 and marketed prior to October 1, 1955.

(2) Any flue-cured tobacco marketed during the period July 1, 1955, to June 30, 1956, inclusive, and any flue-cured tobacco produced in the calendar year 1955 and marketed prior to July 1, 1955.

(bb) "Trucker" means a person who engages to any extent in the business of trucking or hauling tobacco for producers to a point where it may be marketed or otherwise disposed of in the form and in the condition in which it is usually marketed by producers.

(cc) "Warehouseman" means a person who engages to any extent in the business of holding sales of tobacco at public auction at a warehouse.

(dd) "Warehouse sale" means a marketing of tobacco by a sale at public auction through a warehouse in the regular course of business, and shall include all lots or baskets of tobacco marketed in sequence at a given time.

§ 725.632 *Instructions and forms.* The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions with respect to internal management as are necessary, for carrying out the regulations in this part. The forms and instructions shall be approved by, and the instructions shall be issued by, the Deputy Administrator.

§ 725.633 *Extent of calculations and rule of fractions.*—(a) The acreage of tobacco harvested on a farm in 1955 shall be expressed in hundredths and fractions of less than one hundredth of an acre shall be dropped. For example, 1.550, 1.555, or 1.559 acres would be 1.55 acres.

(b) The percentage of excess tobacco available for marketing from a farm, hereinafter referred to as the "percent excess," shall be expressed in tenths and fractions of less than one-tenth shall be dropped. For example, 12.59 percent would be 12.5 percent.

(c) The amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty," shall be expressed in tenths of a cent and fractions of less than a tenth shall be dropped, except that if the resulting converted rate of penalty is less than a tenth of a cent, it shall be expressed in hundredths and fractions of less than a hundredth shall be dropped. For example, 3.68 cents per pound would be 3.6 cents and 0.068 cent per pound would be 0.06 cent.

IDENTIFICATION AND LOCATION OF FARMS AND DETERMINATION OF ACREAGE

§ 725.634 *Identification and location of farms.* (a) Each farm as operated for the 1955 crop of tobacco shall be identified by a farm serial number assigned by the county office manager and all records pertaining to marketing quotas for the 1955 crop of tobacco shall be identified by such number.

(b) A farm shall be regarded as located in the county in which the prin-

cipal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the farm is located.

§ 725.635 *Determination of tobacco acreage*—(a) *County committees*. For the purpose of ascertaining with respect to each farm whether there is excess tobacco of the 1955 crop available for marketing, the county committee shall determine the acreage of tobacco on each farm in the county for which a 1955 tobacco acreage allotment has been established and on any other farms in the county on which the county committee has reason to believe tobacco was planted. The county committee's determination shall be based upon a measurement of the acreage made by identification of fields or parts of fields by use of a map, aerial photography, or by means of a steel or metallic tape or chain, or rod and chain, or by use of a measurement wheel when authorized by the Deputy Administrator, or by a combination of one or more of these methods. Such measurement shall be made by an employee of the county committee who has been designated as a reporter and determined by the County office manager to be qualified to carry out the duties of a reporter. The reporter shall visit each farm assigned to him for measurement and enter thereon if such entry will facilitate measurement.

(b) *Farm operators*. The farm operator or his representative or any producer, at the reporter's request for such information or assistance, shall designate all fields on the farm being utilized for growing tobacco and may assist in measuring the farm, the acreage of cropland in the farm, or the acreage of tobacco being grown on the farm.

(c) *Harvested acreage of tobacco*. The acreage of tobacco determined or as re-determined for a farm by the county committee pursuant to this section shall be the harvested acreage of tobacco for the farm for the purpose of issuing the correct marketing card for the farm as provided in § 725.638 unless the farm operator furnishes to the county committee satisfactory proof that a portion of the acreage planted will not be harvested or that a representative portion of the production of the acreage harvested will be disposed of other than by marketing.

(d) *Acreage not determined*. If the farm operator prevents the county committee or its representative from obtaining information necessary to determine the correct acreage of tobacco on a farm, in addition to any other liability which might be imposed upon the operator, all acreage of tobacco on the farm shall be deemed to be in excess of the farm acreage allotment.

(e) *Prior measurements*. Measurements made prior to the effective date of this section, and in accordance with procedures then in effect may be utilized where pertinent for the purpose of ascertaining with respect to any farm the 1955 tobacco acreage and the tobacco acreage in excess of the 1955 farm tobacco acreage allotment.

FARM MARKETING QUOTAS AND MARKETING CARDS

§ 725.636 *Amount of farm marketing quota*. (a) The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment, as established for the farm in accordance with §§ 725.611 to 725.629, 1023 (Burley and Flue-55)-1, Burley and Flue-cured Tobacco Marketing Quota Regulations, 1955-56 Marketing Year, as amended (19 F. R. 3549, 19 F. R. 7151, 20 F. R. 2299). The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1955 times the farm acreage allotment.

(b) The excess tobacco on any farm shall be (1) that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1955 times the number of acres harvested in excess of the farm acreage allotment plus (2) any excess carry-over of tobacco.

§ 725.637 *Transfer of farm marketing quota*. There shall be no transfer of farm marketing quotas except as provided in §§ 725.620 and 725.626 of the Burley and flue-cured tobacco marketing quota regulations for determining acreage allotments and normal yields, 1955-56 marketing year.

§ 725.638 *Issuance of marketing cards*. (a) A marketing card shall be issued for each farm having tobacco available for marketing. Subject to the approval of the county office manager or the State administrative officer as provided in § 725.639 two or more marketing cards may be issued for any farm. Upon the return to the ASC issuing office of the marketing card after all of the memoranda of sale have been issued therefrom and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. A new marketing card of the same kind shall be issued to replace a card which has been determined by the issuing officer to have been lost, destroyed or stolen.

(b) *Within Quota Marketing Card (MQ-76—Tobacco)*. A Within Quota Marketing Card authorizing price support loans and the marketing without penalty of any tobacco available for marketing shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco for the farm in 1955 is not in excess of the farm acreage allotment therefor and any excess carry-over tobacco can be marketed without penalty under the provisions of § 725.644 (b) except that if more than one kind of tobacco is produced on a farm in 1955 a "zero percent" excess marketing card (ineligible for price support loans) shall be issued for each kind of tobacco for which the harvested acreage is not in excess of the farm acreage allotment if the harvested acreage of any kind on the farm is in excess of the farm acreage allotment.

(2) If all excess tobacco produced on a farm is disposed of in accordance with

§ 725.645 (b) except that if: (i) For any farm, the operator or any producer fails to file with the county ASC office a written request (with a deposit to cover the cost as estimated by the county committee) to dispose of excess tobacco or for a remeasurement of the tobacco acreage within seven (7) days in the case of flue-cured tobacco and in the case of Burley tobacco grown in the State of Virginia and ten (10) days in the case of Burley tobacco grown in States other than Virginia from the date of mailing to the farm operator a Notice of Tobacco Acreage in Excess of Allotment, Form CSS-595—Tobacco, a "zero percent" excess marketing card (ineligible for price support loans) shall be issued for each kind of tobacco subject to marketing quotas on the farm; or (ii) for any farm for which the tobacco acreage has been re-determined by the county committee pursuant to a request filed under subdivision (i) of this subparagraph, if the operator or any producer fails to file with the county ASC office a written request (with a deposit to cover the cost as estimated by the county committee) to dispose of excess tobacco within seven (7) days in the case of flue-cured tobacco and in the case of Burley tobacco grown in the State of Virginia and ten (10) days in the case of Burley tobacco grown in states other than Virginia from the date of mailing to the farm operator a Final Notice of Tobacco Acreage in Excess of Allotment, Form CSS-595-X—Tobacco, a "zero percent" excess marketing card (ineligible for price support loans) shall be issued for each kind of tobacco subject to marketing quotas on the farm, unless the county committee with the approval of a representative of the State committee determines that the failure to file such written request was due to circumstances beyond the control of the farm operator or producer and that he could not have been reasonably expected to comply with the provisions of subdivision (i) or (ii) of this subparagraph, whichever is applicable.

(3) If the tobacco was grown for experimental purposes only on land owned or leased by a publicly owned agricultural experiment station and is produced at public expense by employees of the experiment station, or if the tobacco was produced by farmers pursuant to an agreement with a publicly owned experiment station whereby the experiment station bears the costs and risks incident to the production of the tobacco and the proceeds from the crop inure to the benefit of the experiment station: *Provided*, That such agreement is approved by the State committee prior to the issuance of a marketing card for the farm. Prior to the approval of any agreement between farmers and publicly owned experiment station for the production of tobacco for experimental purposes, the State committee shall cause to be made such investigation as may be necessary to determine that each of the following conditions has been met:

(i) The tobacco is grown for experimental purposes only.

(ii) The experiment could not be carried out satisfactorily with tobacco

grown on other lands owned or leased by the experiment station and produced at public expense by employees of the experiment station.

(iii) The size of the acreage (plot) covered by the agreement is necessary for carrying on the experiment.

(iv) The experiment station bears the costs and risks incident to the production of tobacco.

(v) Payment to the farmer is consistent with prevailing rates for labor, workstock, machinery, equipment, and land rentals.

(vi) The proceeds from the tobacco inure to the experiment station.

(c) *Excess Marketing Card (MQ-77—Tobacco)*. An Excess Marketing Card (ineligible for price support loans) showing the extent to which marketings of tobacco from a farm are subject to penalty shall be issued unless a within quota marketing card is required to be issued for the farm under paragraph (b) of this section, or a "zero percent" excess marketing card is required to be issued for the estimated amount of tobacco produced on a farm less the excess amount of representative tobacco placed in storage under bond in accordance with § 725.645 (a), except that if the farm operator prevents the county committee or its representative from obtaining information necessary to the issuance of the correct marketing card, an excess marketing card shall be issued showing that all tobacco from the farm is subject to the rate of penalty set forth in § 725.647.

§ 725.639 *Persons authorized to issue marketing cards*. (a) The State administrative officer shall be the issuing officer of all marketing cards issued for the purpose of identifying tobacco grown for experimental purposes pursuant to the provision of § 725.638 (b) (3).

(b) Except as provided in paragraph (a) of this section the county office manager shall be the issuing officer of marketing cards for farms in the county.

(c) The issuing officer shall sign marketing cards for farms in the county, but he may designate not more than three persons to sign his name in issuing marketing cards: *Provided*, That each such person shall place his initials immediately beneath the name of the issuing officer as written by him on the card.

§ 725.640 *Rights of producers in marketing cards*. Each producer having a share in the tobacco available for marketing from a farm shall be entitled to the use of the marketing card issued for the farm for marketing his proportionate share.

§ 725.641 *Successors in interest*. Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from a farm shall, to the extent of such succession, have the same rights as the producer to the use of the marketing card for the farm.

§ 725.642 *Invalid cards*. (a) A marketing card shall be invalid if:

- (1) It is not issued or delivered in the form and manner prescribed;
- (2) Entries are omitted or incorrect;

(3) It is lost, destroyed, stolen, or becomes illegible; or

(4) Any erasure or alteration has been made, and not properly initialed.

(b) In the event any marketing card becomes invalid (other than by loss, destruction, or theft, or by omission, alteration or incorrect entry which cannot be corrected by a field assistant), the farm operator, or the person having the card in his possession, shall return it to the ASC office at which it was issued.

(c) If any entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by a field assistant, then such card shall become valid.

§ 725.643 *Report of misuse of marketing card*. Any information which causes a field assistant, a member of a State, county, or community committee, or an employee of an ASC State or county office, to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm shall be reported immediately by such person to the ASC county or State office.

MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES

§ 725.644 *Extent to which marketings from a farm are subject to penalty*. (a) Marketings of tobacco from a farm having no carry-over tobacco available for marketing shall be subject to penalty by the percent excess determined as follows: Divide the acreage of tobacco harvested in excess of the farm acreage allotment and not disposed of under § 725.645 by the total acreage of tobacco harvested from the farm.

(b) Marketings of tobacco from a farm having carry-over tobacco available for marketing shall be subject to penalty by the percent excess determined as follows:

(1) Determine the number of "carry-over" acres by dividing the number of pounds of carry-over tobacco from the prior years by the normal yield for the farm for that year.

(2) Determine the number of "within quota carry-over acres" by multiplying the "carry-over acres" (subparagraph (1) of this paragraph) by the "percent within quota" (i. e. 100 percent minus the percent excess) for the year in which the carry-over tobacco was produced, except that if the excess portion of the carry-over tobacco is disposed of under § 725.645, the "percent within quota" shall be 100.

(3) Determine the "total acres" of tobacco by adding the "carry-over acres" (subparagraph (1) of this paragraph) and the acreage of tobacco harvested in the current year.

(4) Determine the "excess acres" by subtracting from the "total acres" (subparagraph (3) of this paragraph) the sum of the 1955 allotment and the "within quota carry-over acres" (subparagraph (2) of this paragraph).

(5) Determine the percent excess by dividing the "total acres" into the "excess acres" (subparagraph (4) of this paragraph).

(6) Those persons having an interest in the carry-over tobacco for a farm shall be liable for the payment of any penalty due thereon.

(c) For the purpose of determining the penalty due on each marketing by a producer of tobacco subject to penalty, the converted rate of penalty per pound shall be determined by multiplying the applicable rate of penalty by the percent excess obtained under paragraph (a) or (b) of this section. The memorandum of sale issued to identify each such marketing shall show the amount of penalty due.

§ 725.645 *Disposition of excess tobacco*. The farm operator may elect to give satisfactory proof of disposition of excess tobacco prior to the marketing of any tobacco from the farm by either of the following methods:

(a) (1) By storage of the excess tobacco, the tobacco so stored to be representative of the entire 1955 crop produced on the farm and posting of a bond approved by the county committee and the State committee in the penal sum of twice the rate of penalty per pound set forth in § 725.647, times the quantity of excess tobacco stored. Penalty at the applicable full rate per pound on marketings of excess tobacco shall become due upon the removal from storage of the excess tobacco, except that an amount of such tobacco in storage equal to the normal production of the acreage by which the 1956 harvested acreage plus any acreage added with respect to any excess carry-over tobacco for the farm pursuant to § 725.644 (b) is less than the 1956 allotment may be removed from storage and marketed penalty free.

(2) If the 1955 harvested acreage is less than the 1955 allotment an amount of any tobacco from the farm which was placed under storage for a prior marketing year equal to the normal production of the acreage by which the 1955 harvested acreage plus any acreage added with respect to any excess carry-over tobacco for the farm pursuant to § 725.644 (b) is less than the 1955 allotment may be marketed penalty free.

(b) By furnishing to the county committee satisfactory proof that excess tobacco representative of the entire crop will not be marketed.

§ 725.646 *Identification of marketings*. Each marketing of tobacco from a farm shall be identified by an executed memorandum of sale from the 1955 marketing card (MQ-76—Tobacco or MQ-77—Tobacco) issued for the farm on which the tobacco was produced. In addition, in the case of nonwarehouse sales each marketing shall also be identified by an executed bill of nonwarehouse sale (reverse side of memorandum of sale).

(a) *Memorandum of sale*. (1) If a memorandum of sale is not executed to identify a warehouse sale of producer's tobacco by the end of the sale day on which the tobacco was marketed, the marketing shall be a suspended sale, and, unless a memorandum identifying the tobacco so marketed is executed on or before the last warehouse sale day of the marketing season, or within four

weeks after the date of marketing, whichever comes first, the marketing shall be identified by MQ-82—Tobacco, Sale Without Marketing Card, as a marketing of excess tobacco. The memorandum of sale or MQ-82—Tobacco shall be executed only by a field assistant or other representative of the State administrative officer with the following exceptions:

(i) A warehouseman, or his representative, who has been authorized on MQ-78—Tobacco, may issue a memorandum of sale to identify a warehouse sale if a field assistant is not available at the warehouse when the marketing card is presented. Each memorandum of sale issued by a warehouseman to cover a warehouse sale shall be presented promptly by him to the field assistant for verification with the warehouse records.

(ii) In the case of flue-cured tobacco only, a dealer, or his authorized representative, operating a receiving point for scrap tobacco at a redrying plant (and other regular receiving points operated by such dealer or his agent or employees) or at an auction warehouse, who keeps records showing the information specified in § 725.654, and who has been authorized on MQ-78—Tobacco, may issue a memorandum of sale covering a purchase of scrap tobacco only if the bill of nonwarehouse sale has been executed.

(2) The authorization on MQ-78—Tobacco to issue memoranda of sale may be withdrawn by the State administrative officer from any warehouseman or dealer if such action is determined to be necessary in order to properly enforce the provisions of §§ 725.630 to 725.662. The authorization shall terminate upon receipt of written notice setting forth the reason therefor.

(3) Each excess memorandum of sale issued by a field assistant shall be verified by a warehouseman or dealer (or his representative) to determine whether the amount of penalty shown to be due has been correctly computed and such warehouseman or dealer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in executing the memorandum of sale.

(b) *Bill of nonwarehouse sale.* (1) Each nonwarehouse sale shall be identified by a bill of nonwarehouse sale completely executed by the buyer and the farm operator.

(2) The word "scrap" shall be plainly written on any bill of nonwarehouse sale or memorandum of sale executed to cover scrap tobacco, and all such bills of nonwarehouse sale shall be delivered to a person at a scrap receiving point who is authorized to issue memoranda of sale.

(3) Each bill of nonwarehouse sale covering any marketing except scrap tobacco shall be presented to a field assistant for the issuance of a memorandum of sale and for recording in MQ-79—Tobacco.

§ 725.647 *Rate of penalty.* Marketings of each kind of excess tobacco from a farm shall be subject to a penalty per pound equal to seventy-five (75) percent of the average market price for the kind

of tobacco for the 1954-55 marketing year as determined by the Crop Reporting Board, Agricultural Marketing Service, United States Department of Agriculture. The rate of penalty per pound shall be calculated to the nearest whole cent.

(a) *Average market price.* The average market price as determined by the Crop Reporting Board, Agricultural Marketing Service, United States Department of Agriculture, for the 1954-55 marketing year was 49.8 cents per pound in the case of Burley tobacco, and 52.7 cents per pound in the case of flue-cured tobacco.

(b) *Rate of penalty per pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas during the 1955-56 marketing year shall be thirty-seven (37) cents per pound in the case of Burley tobacco, and forty (40) cents per pounds in the case of flue-cured tobacco.

(c) *Proportional rate of penalty.* With respect to tobacco marketed from farms having excess tobacco available for marketing, the penalty shall be paid upon that percentage of each lot of tobacco marketed which the tobacco available for marketing in excess of the farm quota is of the total amount of tobacco available for marketing from the farm, as determined under § 725.644.

§ 725.648 *Persons to pay penalty.* The persons to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) *Warehouse sale.* The penalty due on marketings by a producer through a warehouse shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Nonwarehouse sale.* The penalty due on tobacco purchased directly from a producer other than at public auction through a warehouse shall be paid by the purchaser of the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Marketings through an agent.* The penalty due on marketings by a producer through an agent who is not a warehouseman shall be paid by the agent who may deduct an amount equivalent to the penalty from the price paid to the producer.

(d) *Marketings outside the United States.* The penalty due on marketings by a producer directly to any person outside the United States shall be paid by the producer.

§ 725.649 *Marketings deemed to be excess tobacco.* Any marketing of tobacco under any one of the following conditions shall be deemed to be a marketing of excess tobacco:

(a) *Warehouse sale.* Any warehouse sale of tobacco by a producer which is not identified by a valid memorandum of sale on or before the last warehouse sale day of the marketing season or within four weeks following the date of marketing whichever comes first, shall be identified by a MQ-82—Tobacco, and shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman,

(b) *Nonwarehouse sale.* Any nonwarehouse sale which (1) is not identified by a valid bill of nonwarehouse sale (reverse side of memorandum of sale) and (2) is not also identified by a valid memorandum of sale and recorded in MQ-79—Tobacco within one week following the date of purchase, or if purchased prior to the opening of the local auction markets, is not identified by a valid memorandum of sale and recorded in MQ-79—Tobacco within one week following the first sale day of the local auction markets, shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the purchaser of such tobacco.

(c) *Leaf account tobacco.* The part or all of any marketing by a warehouseman which such warehouseman represents to be a leaf account resale but which when added to prior leaf account resales, as reported under §§ 725.630 to 725.662, is in excess of prior leaf account purchases shall be deemed to be a marketing of excess tobacco unless and until such warehouseman furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(d) *Dealer's tobacco.* The part or all of any marketing of tobacco by a dealer which such dealer represents to be a resale but which when added to prior resales by such dealer is in excess of the total of his prior purchases as reported on MQ-79—Tobacco shall be deemed to be a marketing of excess tobacco unless and until such dealer furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the dealer.

(e) *Marketings not reported.* Any resale of tobacco which under §§ 725.630 to 725.662 is required to be reported by a warehouseman or dealer but which is not so reported within the time and in the manner required by §§ 725.630 to 725.662 shall be deemed to be a marketing of excess tobacco unless and until such warehouseman or dealer furnishes a report of such resale which is acceptable to the State administrative officer. The penalty thereon shall be paid by the warehouseman or dealer who fails to make the report as required.

(f) *Marketings falsely identified.* If any marketing of tobacco by a person other than the producer thereof is identified by a marketing card other than the marketing card issued for the farm on which such tobacco was produced, such marketing shall be deemed to be a marketing of excess tobacco and the penalty thereon shall be paid by such person.

(g) *Producer marketings.* (1) If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number of acres harvested in 1955 in excess of the farm acreage allotment shall be deemed to have been a marketing of excess tobacco from such farm. The penalty thereon shall be paid by the producer. The filing of a report by a producer under § 725.652 (c) which the State committee finds to be incomplete

or incorrect shall constitute a failure to account for the disposition of tobacco produced on the farm.

(2) If, after part or all of the tobacco produced on a farm has been marketed, the county committee determines that the harvested acreage for the farm was more than that shown by the prior determination any penalty due on the basis of the harvested acreage as redetermined by the county committee pursuant to § 725.635 shall be paid by the producer.

§ 725.650 *Payment of penalty.* (a) Penalties shall become due at the time the tobacco is marketed, except in the case of tobacco removed from storage as provided in § 725.645. (a). Penalty shall be paid by remitting the amount thereof to the ASC State office not later than the end of the calendar week following the week in which the tobacco became subject to penalty. A draft, money order, or check drawn payable to the Treasurer of the United States may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

(b) If the penalty due on any warehouse sale of tobacco by a producer as determined under §§ 725.630 to 725.662 is in excess of the net proceeds of such sale (gross amount for all lots included in the sale less usual warehouse charges), the amount of the net proceeds accompanied by a copy of the warehouse bill covering such sale may be remitted as the full penalty due. Usual warehouse charges shall not include (1) advances to producers, (2) charges for hauling, or (3) any other charges not usually incurred by producers in marketing tobacco through an auction warehouse.

(c) Nonwarehouse sales, including sales of scrap tobacco, shall be subject to the converted rate of penalty for the farm on which the tobacco was produced without regard to the net proceeds of the sale.

§ 725.651 *Request for return of penalty.* Any producer of tobacco after the marketing of all tobacco available for marketing from the farm and any other person who bore the burden of the payment of any penalty may request the return of the amount of such penalty which is in excess of the amount required under §§ 725.630 to 725.662 to be paid. Such request shall be filed with the ASC county office within two (2) years after the payment of the penalty.

RECORDS AND REPORTS

§ 725.652 *Producer's records and reports—(a) Report of tobacco acreage.* The farm operator or his representative shall file a report with the ASC County Office or a representative of the County Committee on Form CSS-578, Report of 1955 Acreage, showing all fields of tobacco on the farm in 1955. If any producer on a farm files or aids or acquiesces in the filing of any false report with respect to the acreage of tobacco grown on the farm, the allotment next established for such farm shall be reduced as provided in Burley and Flue-cured Tobacco Marketing Quota Regulations for Determining Acreage

Allotments and Normal Yields, 1956-57 Marketing Year.

(b) *Report on marketing card.* The operator of each farm on which tobacco is produced in 1955 shall return to the ASC county office each marketing card issued for the farm whenever marketings from the farm are completed and in no event later than 30 days after the close of the tobacco auction markets for the locality in which the farm is located. Failure to return the marketing card within fifteen (15) days after written notice by the county office manager shall constitute failure to account for disposition of tobacco marketed from the farm, and in the event that a satisfactory account of such disposition is not furnished otherwise, the allotment next established for such farm shall be reduced as provided in Burley and flue-cured tobacco marketing quota regulations for determining acreage allotments and normal yields, 1956-57 marketing year.

(c) *Report of disposition.* In addition to any other reports which may be required under §§ 725.630 to 725.662, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall upon written request by registered mail from the State administrative officer within fifteen (15) days after the deposit of such request in the United States mails, addressed to such person at his last known address, furnish the Secretary a written report of the disposition made of all tobacco produced on the farm by sending the same to the ASC State office showing, as to the farm at the time of filing said report, (1) the number of acres of tobacco harvested and the total production of tobacco, (2) the amount of tobacco on hand and its location, and (3) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of the marketing. Failure to file the report as requested or the filing of a report which is found by the State committee to be incomplete or incorrect shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm shall be reduced as provided in the Burley and flue-cured tobacco marketing quota regulations for determining acreage allotments and normal yields, 1956-57 marketing year.

§ 725.653 *Warehouseman's records and reports—(a) Record of marketing.*

(1) Each warehouseman shall keep such records as will enable him to furnish the ASC State office with respect to each warehouse sale of tobacco made at his warehouse the following information.

(i) The name of the operator of the farm on which the tobacco was produced and the name of the seller in the case of a sale by a producer, and in the case of a resale the name of the seller.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) Gross sale price.

(v) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s); and in addition with respect to each individual basket or lot of tobacco constituting the warehouse sale the following information:

(vi) Name of purchaser.

(vii) Number of pounds sold.

(viii) Gross sale price.

Records of all purchases and resales of tobacco by the warehouseman shall be maintained to show a separate account for:

(a) Nonwarehouse sales by farmers of tobacco purchased by or on behalf of the warehouseman.

(b) Purchases and resales for the warehouse leaf account.

(c) Resales of floor sweepings.

(d) Resales of pick-ups, with respect to both subparagraphs (1) and (2) of this paragraph as defined in § 725.631 (p).

(2) Any warehouseman or any other person who grades tobacco for farmers shall maintain records which will enable him to furnish the ASC State office the name of the farm operator and the approximate amount of scrap tobacco obtained from the grading of tobacco from each farm.

(3) In the case of resales for dealers the name of the dealer making each resale shall be shown on the warehouse records to that the individual lots of tobacco sold by the dealer can be identified.

(b) *Identification of sale on check register.* The serial number of the memorandum of sale issued to identify each warehouse sale by a producer or the number of the warehouse bill(s) covering each such sale shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco.

(c) *Memorandum of sale and bill of nonwarehouse sale.* A record in the form of a valid memorandum of sale or a MQ-82—Tobacco, Sale Without Marketing Card, shall be obtained by a warehouseman to cover each marketing of tobacco from a farm through the warehouse and each nonwarehouse sale of tobacco purchased by or for the warehouseman. For a nonwarehouse sale of tobacco purchased by or for a warehouseman, no memorandum of sale shall be issued unless the bill of nonwarehouse sale on the reverse side of the memorandum is executed. Any warehouseman who obtains possession of any scrap tobacco in the course of grading tobacco from any farm shall obtain a memorandum of sale to cover the amount of such scrap.

(d) *Suspended sale record.* Any warehouse bills covering farm tobacco for which memoranda of sale have not been issued at the end of the sale day shall be presented to a field assistant who shall stamp such bills "Suspended," write thereon the serial number of the suspended sale, and record the bills on MQ-83—Tobacco, Field Assistant's Report: *Provided*, That if a field assistant is not available, the warehouseman may stamp such bills "Suspended," and de-

liver them to a field assistant when one is available.

(e) *Warehouse entries on dealer's record.* Each warehouseman shall record on MQ-79—Tobacco the total purchases and resales made by each dealer or other warehouseman during each sale day at the warehouse and enter his initials in the space provided. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to 1955 the entry on MQ-79—Tobacco shall clearly show such fact.

(f) *Record and report of purchases and resales.* Each warehouseman shall keep a record and make reports on MQ-79—Tobacco, Dealer's Record, showing:

(1) All purchases of tobacco directly from producers other than at public auction through a warehouse (nonwarehouse sales).

(2) All purchases and resales of tobacco at public auction through warehouses other than his own.

(3) All purchases of tobacco from dealers other than warehousemen and resales of tobacco to dealers other than warehousemen.

(g) *Season report of warehouse business.* Each warehouseman shall furnish the ASC State office not later than thirty

(30) days following the last sale day of the marketing season a report on MQ-80—Tobacco, Auction Warehouse Report showing (1) for each dealer or buyer, as originally billed, the total pounds and gross amount of tobacco purchased and resold on the warehouse floor; (2) the total pounds and gross amount of "loan tobacco" billed to any association; (3) the total pounds and gross amount of all leaf account tobacco purchased and resold and of all pick-ups (§ 725.631 (p) (1) or (2)), or floor sweepings sold by the warehouseman at public auction over his own warehouse floor; (4) the pounds and estimated value of all tobacco on hand at the time of filing the report and whether such tobacco represents leaf account tobacco, pick-ups (§ 725.631 (p) (1) or (2)), or floor sweepings; (5) the total pounds and gross amount of all tobacco purchased directly from farmers other than at public auction through a warehouse; and (6) the total pounds and gross amount of all purchases over other warehouse floors or from dealers other than warehousemen and all resales over other warehouse floors or to dealers other than warehousemen.

(h) *Report of penalties.* Each warehouseman shall make reports on MQ-81—Tobacco, Report of Penalties, showing for each sale of tobacco subject to penalty (1) the name of the farm operator; (2) the memorandum number; (3) the name of the county in which the farm is located; (4) the farm serial number; (5) the number of pounds sold; (6) the applicable converted rate of penalty; and (7) the amount of penalty due on each such sale. MQ-81—Tobacco shall be prepared for each week and forwarded together with remittance of the penalty due as shown thereon to the ASC State office not later than the end of the calendar week following the week in which the tobacco became subject to penalty.

(i) *Report of resales.* Each warehouseman shall make reports on MQ-

86—Tobacco, Report of Resales, showing for each resale of tobacco at auction on the warehouse floor (1) the warehouse bill number; (2) the name on the warehouse bill; (3) the name of the seller, or in the case of a resale for the warehouse, whether such resale represents leaf account tobacco, pickups, or floor sweepings; (4) the registration number and State of the person making the resale; (5) the number of pounds sold; and (6) the gross amount for the sale. MQ-86—Tobacco shall be prepared for each sale day and forwarded to the ASC State office not later than the end of the calendar week following the week in which the tobacco was resold.

(j) *Additional records and reports by warehousemen.* Each warehouseman shall keep such records and furnish such reports to the ASC State office, in addition to the foregoing, as the State Administrative Officer may find necessary to insure the proper identification of the marketings of tobacco and the collection of penalties due thereon as provided in §§ 725.630 to 725.662.

§ 725.654 *Dealer's records and reports.* Each dealer, except as provided in § 725.655, shall keep the records and make the reports as provided by this section.

(a) *Report of dealer's name, address and registration number.* Each dealer shall properly execute and the field assistant shall detach and forward to the ASC State office "Receipt for Dealer's Record" contained in MQ-79—Tobacco which is issued to the dealer.

(b) *Record and report of purchases and resales.* Each dealer shall keep a record and make reports on MQ-79—Tobacco, Dealer's Record, showing all purchases and resales of tobacco made by or for the dealer and, in the event of resale of tobacco bought from a crop produced prior to 1955, the fact that such tobacco was bought by him and carried over from a crop produced prior to 1955.

(c) *Report of penalties.* Each dealer shall make a report on MQ-81—Tobacco, Report of Penalties, showing for each purchase, other than by warehouse sale, of tobacco subject to penalty (1) the name of the farm operator; (2) the memorandum number; (3) the name of the county in which the farm is located; (4) the farm serial number; (5) the number of pounds purchased; (6) the applicable converted rate of penalty; and (7) the amount of penalty due on each such purchase. MQ-81—Tobacco shall be prepared for each week and forwarded together with remittance of the penalty due as shown thereon to the ASC State office not later than the end of the calendar week following the week in which the tobacco became subject to penalty.

(d) *Memorandum of sale and bill of nonwarehouse sale.* A bill of nonwarehouse sale and a memorandum of sale from the 1955 marketing card issued for the farm on which the tobacco was produced shall be obtained by a dealer to cover each purchase of tobacco directly from a producer other than at auction through a warehouse. No memorandum of sale shall be issued identifying such purchase unless the bill of nonwarehouse sale on

the reverse side of the memorandum of sale has been executed.

(e) *Record and report of scrap tobacco.* Each dealer operating a receiving point for scrap tobacco who has been authorized on MQ-78—Tobacco to issue memoranda of sale shall keep a record and make reports on MQ-79—Tobacco showing all tobacco received. Such reports shall be accompanied by memoranda of sale and bills of nonwarehouse sale with respect to all tobacco covered by the reports.

(f) *Additional records.* (1) Each dealer shall keep such records in addition to the foregoing as will enable him to furnish the ASC State office with respect to each lot of tobacco purchased by him the following information:

(i) The name of the warehouse through which the tobacco was purchased in the case of a warehouse sale; the name of the operator of the farm on which the tobacco was produced and the name of the seller in the case of a nonwarehouse sale; and the name of the seller in the case of purchases directly from warehousemen or other dealers.

(ii) Date of purchase.

(iii) Number of pounds purchased.

(iv) Gross purchase price.

(v) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s); and with respect to each lot of tobacco sold by him the following information:

(vi) Name of the warehouse through which the tobacco was sold in the case of a warehouse sale, and the name of the purchaser if other than a warehouse sale.

(vii) Date of sale.

(viii) Number of pounds sold.

(ix) Gross sale price.

(x) In the event of a resale of tobacco bought by him and carried over from a crop produced prior to 1955 the fact that such tobacco was so bought and carried over.

(2) All reports shall be forwarded to the ASC State office not later than the end of the week following the calendar week covered by the reports.

§ 725.655 *Dealers exempt from regular records and reports.* Any dealer or buyer who does not purchase or otherwise acquire tobacco except at warehouse sales, or directly from dealers other than warehousemen, and who does not resell in the form in which tobacco ordinarily is sold by farmers more than 10 percent of such tobacco so purchased by him shall not be subject to the provisions of § 725.654: *Provided, however,* That any such dealer or buyer who purchases tobacco at nonwarehouse sale, or from a warehouseman other than at warehouse sale shall be subject to the provisions of § 725.654 with respect to such purchases. Each such dealer or buyer shall make such reports to the State Administrative Officer, in addition to the foregoing, as he may find necessary to enforce § 725.630 to 725.662.

§ 725.656 *Records and reports of truckers and persons redrying, prizing or stemming tobacco.* (a) Each person engaged to any extent in the business of trucking or hauling tobacco for pro-

ducers to a point where it may be marketed or otherwise disposed of in the form and in the condition in which it is usually marketed by producers shall keep such records as will enable him to furnish the ASC State office a report with respect to each lot of tobacco received by him showing (1) the name and address of the producer, (2) the date of receipt of the tobacco, (3) the number of pounds received and (4) the name and address of the person to whom it was delivered.

(b) Each person engaged to any extent in the business of redrying, (prizing or stemming tobacco for producers shall keep such records as will enable him to furnish the Director a report showing (1) the information required above for truckers, and in addition, (2) the purpose for which the tobacco was received, (3) the amount of advance made by him on the tobacco, and (4) the disposition of the tobacco.

§ 725.657 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a warehouseman, dealer, trucker, or as a person engaged in the business of redrying, prizing or stemming tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged to the same extent for each such business as if he were engaged to the same extent for each such business as if he were engaged in no other business.

§ 725.658 *Failure to keep records or make reports.* Any warehouseman, dealer, trucker, or person engaged in the business of redrying, prizing, or stemming tobacco for producers, who fails to make any report or keep any record as required under §§ 725.630 to 725.662, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under §§ 725.630 to 725.662 within fifteen days after notice to him of such violation shall be subject to an additional fine of \$100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided*, That such fine shall not exceed \$5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by posting the same at an established place of business operated by him, or both. Notice of any violation by a warehouseman, dealer or trucker shall be given by the State Administrative Officer and notice of violation by a person engaged in the business of redrying, prizing or stemming tobacco for producers shall be given by the Director.

§ 725.659 *Additional records and reports to Director.* Any warehouseman, dealer, trucker, or person engaged in the business of redrying, prizing or stemming tobacco for producers shall, in addition

to any records required to be kept or any reports required to be made, under §§ 725.630 to 725.662, keep such records and make such reports to the Director as he may find necessary to enforce §§ 725.630 to 725.662.

§ 725.660 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report but not so furnished, any warehouseman, dealer, trucker, or person engaged in the business of redrying, prizing or stemming tobacco for producers shall make available for examination upon written request by the State administrative officer or Director, such books, papers, records, accounts, cancelled checks, correspondence, contracts, documents, and memoranda as the State administrative officer or Director has reason to believe are relevant and are within the control of such person.

§ 725.661 *Length of time records and reports are to be kept.* Records required to be kept and copies of the reports required to be made by any person under §§ 725.630 to 725.662 for the 1955-56 marketing year shall be kept by him until June 30, 1958, in the case of flue-cured tobacco and September 30, 1958, in the case of Burley tobacco. Records shall be kept for such longer period of time as may be requested in writing by the State administrative officer or the Director.

§ 725.662 *Information confidential.* All data reported to or acquired by the Secretary pursuant to the provisions of §§ 725.630 to 725.662 shall be kept confidential by all officers and employees of the United States Department of Agriculture and by all members of county and community committees and all ASC county office employees and only such data so reported or acquired as the Deputy Administrator deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the act.

Note: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 7th day of June 1955. Witness my hand and the seal of the Department of Agriculture.

[SEAL] J. A. McCONNELL,
Acting Secretary of Agriculture.

[F. R. Doc. 55-4692; Filed, June 10, 1955;
8:52 a. m.]

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

Subchapter I—Determination of Prices [Sugar Determination 871.8]

PART 871—SUGAR BEETS

FAIR AND REASONABLE PRICES; 1955 CROP
Pursuant to the provisions of section 301 (c) (2) of the Sugar Act of 1948, as

amended (herein referred to as "act"), after investigation, and due consideration of evidence presented at the several public hearings held in October 1954 (for Southern Oregon, California, Southwestern Arizona, and Western Nevada), and during November and December 1954 (for States other than those regions), the following determination is hereby issued:

§ 871.8 *Fair and reasonable prices for the 1955 crop of sugar beets.* A producer of sugar beets who is also a processor of sugar beets (referred to in this part as "processor") shall have paid, or contracted to pay, for sugar beets of the 1955 crop grown by other producers and processed by him in accordance with the following requirements:

(a) *Purchase agreements.* (1) The price for sugar beets in regions other than Imperial Valley, California shall be not less than that provided in the 1955-crop sugar beet purchase contract between the processor and producers; (2) the price for sugar beets in Imperial Valley, California, shall be not less than that provided in the 1955-crop sugar beet purchase contract which may be negotiated between the processor and producers, unless the Secretary gives public notice prior to December 31, 1955, that such price is found not to be fair and reasonable or the price for sugar beets in Imperial Valley, California is otherwise determined by an amendment to this determination.

(b) *Subterfuge.* The processor shall not reduce returns to producers below those determined herein through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination establishes fair and reasonable prices to be paid for sugar beets of the 1955 crop by a producer who processes sugar beets grown by other producers. It establishes the minimum requirements with respect to prices for sugar beets which must be met as one of the conditions for payment under the act.

(b) *Requirements of the act.* Section 301 (c) (2) of the act provides that the producer on the farm who is also, directly or indirectly, a processor of sugar beets or sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets or sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

(c) *1955 fair price determination.* The 1955 price determination provides that in regions other than Imperial Valley, California, a processor shall be deemed to have complied with the fair price provisions of the act if he has paid or contracted to pay prices for sugar beets not less than those provided in his 1955 crop purchase contract with producers. The price for 1955 crop sugar beets in Imperial Valley, California, shall be that provided in purchase contracts which may be negotiated by the processor and producers unless such prices are

deemed to be inequitable or a contract is not negotiated.

At the public hearings neither producers nor processors made recommendations specifically with respect to fair and reasonable prices for sugar beets because contract negotiations between the parties either had not started or were not completed. One producer stated that the group of growers he represented questioned whether the methods used by the processor for determining top tare and sucrose content were equitable under present mechanical harvesting conditions. He asked the Department to investigate those matters inasmuch as they affected the prices received by producers for sugar beets.

Consideration has been given to the terms of purchase contracts recently negotiated by producers and processors, to production, price, and cost conditions likely to prevail for the 1955 crop and to other pertinent economic factors. The scales of payment for sugar beets under the 1955 crop purchase contracts are the same as those provided for the 1954 crop contracts. Changes have been made in some contracts which increase the price of seed and reduce freight allowances to producers of sugar beets. The effect of such changes in contracts, all of which have been negotiated by producers and processors, is to reduce to a nominal extent the average total returns to producers. Nevertheless, analysis of the contracts indicates that the prices payable thereunder for sugar beets of the 1955 crop are fair and reasonable at sugar prices around the current level of 8.55 cents per pound, seaboard basis, refined cane sugar. Purchase contracts for the Imperial Valley (California) for the 1955 crop (to be planted in the fall of 1955 and harvested in 1956) have not been negotiated and therefore were not available for examination. Customarily, contracts covering the purchase of sugar beets in this region are negotiated annually and submitted to the Department about September. Upon receipt of these contracts they will also be analyzed to determine whether the terms and conditions provide for an equitable sharing relationship. If the contracts are found to be fair and reasonable, no amendment to this determination will be required. However, if any of the contracts do not provide for an equitable sharing of returns, or no contract is negotiated, an amendment to this determination will be issued.

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

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

Issued this 7th day of June 1955.

[SEAL] J. A. McCONNELL,
Acting Secretary of Agriculture.

[F. R. Doc. 55-4691; Filed, June 10, 1955; 8:52 a. m.]

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

[Valencia Orange Reg. 39]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

§ 922.339 *Valencia Orange Regulation 39*—(a) *Findings*. (1) Pursuant to Order No. 22 (19 F. R. 1741), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective March 31, 1954, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Valencia Orange Administrative Committee held an open meeting on June 9, 1955, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order*. (1) The quantity of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. s. t., June 12, 1955, and

ending at 12:01 a. m., P. s. t., June 19, 1955, is hereby fixed as follows:

- (i) District 1: 127,050 boxes;
- (ii) District 2: 358,050 boxes;
- (iii) District 3: Unlimited movement.

(2) Valencia oranges handled pursuant to the provisions of this section shall be subject to any size restrictions applicable thereto which have heretofore been issued on the handling of such oranges and which are effective during the period specified herein.

(3) As used in this section, "handled," "handler," "boxes," "District 1," "District 2," and "District 3," shall have the same meaning as when used in said order.

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

Dated: June 10, 1955.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Marketing
Service.

[F. R. Doc. 55-4751; Filed, June 10, 1955; 11:37 a. m.]

[Elberta Peach Order 1]

PART 936—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

REGULATIONS OF SHIPMENTS

§ 936.503 *Elberta Peach Order 1*—(a) *Findings*. (1) Pursuant to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR Part 936), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendations of the Elberta Peach Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of Elberta peaches, pursuant to the provisions of § 936.41 of the amended marketing agreement and order, in accordance with the minimum standards of quality and maturity set forth in paragraph (b) (1) of this section, will tend to effectuate such orderly marketing of Elberta peaches as will be in the public interest, and the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for

making the provisions hereof effective not later than June 12, 1955. A reasonable determination as to the supply of, and the demand for, such peaches must await the development of the crop and adequate information thereon was not available to the Elberta Peach Commodity Committee until May 19, 1955; recommendation as to the need for, and the extent of, regulation of shipments of such peaches was made at the meeting of said committee on May 19, 1955, after consideration of all available information relative to the supply and demand conditions for such peaches, at which time the recommendation and supporting information was submitted to the Department; necessary supplemental data for consideration in connection with the specification of the provisions of this section were not available until June 2, 1955; shipments of the current crop of such peaches are expected to begin on or about June 25, 1955, and this section should be applicable to all shipments of such peaches in order to effectuate the declared policy of the act; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

(b) *Order.* (1) During the period beginning at 12:01 a. m., P. s. t., June 12, 1955, and ending at 12:01 a. m., P. s. t., November 1, 1955, no shipper shall ship:

(i) Any package or container of Elberta peaches unless such peaches meet the requirements of the U. S. No. 1 Grade: *Provided*, That (a) with respect to ripe Elberta peaches, the requirements of the U. S. No. 1 Grade regarding freedom from damage, other than serious damage, caused by bruises need not be met; and (b) with respect to peaches which are of a size not smaller than the size known commercially as size 55 (as size 55 is defined more specifically in subparagraph (4) of this paragraph), a tolerance of 5 percent for defects not causing serious damage is allowed in addition to the tolerances provided for such U. S. No. 1 Grade;

(ii) Any package or container of Elberta peaches unless at least 85 percent, by count, of such peaches are well matured (as such term is defined in subparagraph (2) of this paragraph);

(iii) Any package or container of Elberta peaches containing more than one peach which is immature: *Provided*, That no lot of packages or containers of Elberta peaches may be shipped if more than one-half of one percent, by count, of the peaches in the lot are immature; or

(iv) Any package or container of Elberta peaches containing peaches which are of a size smaller than a size that will pack 78 peaches of the size known commercially as size 75 (as size 75 is defined more specifically in subparagraph (3) of this paragraph) in a No. 12B California peach box in accordance with the requirements prescribed for a standard pack: *Provided*, That, for the purpose of determining whether ripe Elberta peaches meet the said minimum size, such peaches may be fairly tightly packed rather than tightly packed, as prescribed for such standard pack.

(2) Peaches which are "well matured" means peaches which, at the time of picking; (i) are not hard; (ii) have shoulders and sutures well filled out; (iii) when ring cut, have flesh that separates from the pit readily and cleanly, and is red colored next to the pit; and (iv) have skin and flesh yellowish green to yellow in color. "Peaches which are not hard" yield to moderate pressure at least slightly at the suture and tip and at least very slightly elsewhere.

(3) As used in this section, the size of Elberta peaches known commercially as size 75 is defined more specifically as being the size that will pack the aforesaid California peach box in accordance with the aforesaid standard pack specifications with two tiers each having three rows of six peaches and three rows of seven peaches with not more than 10 percent, by count, of such peaches small enough to pass through, without using pressure, a rigid ring of inside diameter of 2¼ inches.

(4) As used in this section, the size of Elberta peaches known commercially as size 55 is defined more specifically as being the size that will pack the aforesaid California peach box in accordance with the aforesaid standard pack specifications with two tiers, one tier having two rows of five peaches each and three rows of six peaches each and the other tier having two rows of six peaches each and three rows of five peaches each with not more than 10 percent, by count, of such peaches small enough to pass through, without using pressure, a rigid ring of inside diameter of 2¾ inches.

(5) Section 936.143 of the rules and regulations, as amended (§ 936.100 et seq.) sets forth the requirements with respect to the inspection and certification of shipments of Elberta peaches. Such section also prescribes the conditions which must be met if any shipment is to be made without prior inspection and certification. Notwithstanding that shipments may be made without inspection and certification, each shipper shall comply with all grade and size regulations applicable to the respective shipment.

(6) Terms used in the amended marketing agreement and order shall, when used in this section, have the same meaning as given to the respective term in said amended marketing agreement and order; the terms "U. S. No. 1 Grade," "bruises," "defects," "damage," "serious damage," "standard pack," "tightly packed," "fairly tightly packed" shall have the same meaning as when used in the United States Standards for peaches (§§ 51.1210 to 51.1223 of this title); the term "No. 12B California peach box" shall have the same meaning as set forth in section 828.25 of the Agricultural Code of California.

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

Dated: June 8, 1955.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Market-
ing Service.

[F. R. Doc. 55-4690; Filed, June 10, 1955; 8:51 a. m.]

[Lemon Reg. 593]

PART 953—LEMONS GROWN IN CALIFORNIA
AND ARIZONA

LIMITATIONS OF SHIPMENTS

§ 953.700 *Lemon Regulation 593*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 19 F. R. 7175; 20 F. R. 2913), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on June 8, 1955, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., June 12, 1955,

and ending at 12:01 a. m., P. s. t., June 19, 1955, is hereby fixed as follows:

- (i) District 1: Unlimited movement;
 - (ii) District 2: 625 carloads;
 - (iii) District 3: Unlimited movement.
- (2) As used in this section, "handled," "carloads," "District 1," "District 2," and "District 3" shall have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: June 9, 1955.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 55-4732; Filed, June 10, 1955;
8:54 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Regs. No. SR-406A]

PART 4b—AIRPLANE AIRWORTHINESS; TRANSPORT CATEGORIES

PART 40—SCHEDULED INTERSTATE AIR CAR- RIER CERTIFICATION AND OPERATION RULES

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

SPECIAL CIVIL AIR REGULATION; APPLICATION OF TRANSPORT CATEGORY PERFORMANCE REQUIREMENTS TO C-46 TYPE AIRPLANES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 7th day of June 1955.

On June 30, 1954, the Civil Aeronautics Board adopted Special Civil Air Regulation SR-406, effective July 1, 1954, (19 F. R. 4106) which provides the basis for the modification and operation of C-46 type airplanes in passenger service. Since the adoption of SR-406, the Board has found that certain amendments to that regulation, of a substantive and clarifying nature, are necessary.

By October 1, 1955, the C-46 is required to be so modified as to comply with all of the requirements of Part 4b, effective July 20, 1950, except the flight requirements of §§ 4b.100 through 4b.190 and the birdproof windshield requirements of § 4b.352. However, in order to assure a sufficiency high minimum level of safety of C-46 airplanes in passenger service, this regulation amends the provisions of SR-406 to require compliance by October 1, 1955, with more modern powerplant fire protection requirements which, subsequent to July 20, 1950, were incorporated into Part 4b of the Civil Air Regulations by amendment.

On and after April 1, 1956, the C-46 is required to meet the performance operating limitations applicable to transport category airplanes. Although SR-406 contained an alternative which permitted the use of a drift-down procedure in lieu of literal compliance with the transport category one-engine-inoperative en route performance operating limitation,

this has been deleted from this regulation since the Board has adopted amendments to Parts 40, 41, and 42 of the Civil Air Regulations which make substantially the same drift-down provisions available for all transport category airplanes.

Pending the coming into force on April 1, 1956, of the transport category performance operating limitations with respect to C-46 airplanes, this regulation permits the C-46 to be used in passenger service under the same provisions which were originally contained in Special Civil Air Regulation SR-391 and later incorporated in SR-406. These provisions are the current basis for the establishment of C-46 weights and are continued in this regulation to permit sufficient time for full compliance with all other provisions contained herein. They may be used, however, only by operators who have made a showing to the Administrator that genuine arrangements for such modifications have been initiated.

In SR-406, the Administrator was given certain discretionary authority in applying the requirements of Subparts C, D, and E of Part 4b where strict compliance with these provisions was extremely difficult of accomplishment and would not contribute materially to the objective sought. This provision has been extended to include, along with the aforementioned subparts, §§ 4b.130 through 4b.190 of Subpart B and Subpart F of Part 4b. In exercising this discretion, it is intended that the Administrator will examine the service history of the C-46 and authorize deviation from these rules in instances in which a satisfactory level of safety has in fact been demonstrated.

In addition, certain changes to provisions of SR-406 are included in this regulation which are of a clarifying nature. Among the clarifications is the addition of § 4b.116 which identifies one of the conditions in which the propeller of the inoperative engine may be assumed to be in the feathered position if the airplane is equipped with either an approved automatic indication or an automatic feathering system. It is intended that performance credit for an automatic indication system be determined on the same basis as it is for an automatic feathering system, assuming that the manual feathering button is actuated immediately upon indication of the engine failure.

Since the adoption of SR-406, a number of inquiries have been received concerning future regulatory action by the Board which would affect the C-46 airplane in cargo operations. The Board is currently conducting a study of the overall problem of rules for airplanes in cargo operations. This study primarily concerns airplane operating weights and it is expected to include the C-46 as well as other cargo airplanes. Until this study is completed, the Board considers that no increases in the presently approved maximum weights for C-46 airplanes in cargo service should be authorized unless such increases are approved by showing compliance with all of the provisions of this Special Civil Air Regulation.

Interested persons have been afforded an opportunity to participate in the making of this regulation and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby makes and promulgates the following Special Civil Air Regulation, effective June 7, 1955:

1. Contrary provisions of the Civil Air Regulations notwithstanding (in particular the provisions of § 42.15 (b), C-46 airplanes may be used in passenger operations conducted under Part 42 of the Civil Air Regulations. Such airplanes shall be operated in accordance with § 42.15 (a) and the provisions of this special regulation.

2. C-46 type airplanes when used for the carriage of passengers for remuneration or hire in accordance with paragraph 4 of this regulation shall not be operated at weights exceeding those which it is demonstrated to the Administrator will allow compliance with the performance requirements of Part 4b, except that in determining the maximum take-off weight, such weight shall be limited only to a value at which the airplane has a rate of climb equal to $0.035 V_{st}^2$ in the take-off configuration at sea level with the landing gear retracted but with the propeller of the inoperative engine feathered rather than windmilling.

3. Provisionally, pending a determination by the Administrator of the weights at which C-46 airplanes will meet the standards prescribed by paragraph 2 of this regulation, the maximum take-off weight of such airplanes, when used in the manner herein referred to, shall not exceed 44,300 pounds: *Provided*, That in the case of C-46 airplanes equipped with Hamilton Standard propellers with blades Model Number 6491A-9 or approved equivalent which have been clipped in accordance with specifications approved by the Administrator, such provisional maximum weight shall be increased by 1,000 pounds until such time as the Administrator shall have determined by suitable tests another value to correspond to the additional efficiency obtainable by the use of such propellers, and thereafter by such other value.

4. The Administrator of Civil Aeronautics shall authorize continued operation of C-46 airplanes in passenger service in accordance with paragraphs 2 and 3 of this regulation until April 1, 1956, if he finds that the applicant for such authorization has made and continues to make genuine efforts to arrange for and accomplish compliance with paragraph 5 of this regulation.

5. On and after October 1, 1955, C-46 airplanes in passenger service shall comply with the provisions of Part 4b as in effect on July 20, 1950, except as otherwise provided hereinafter:

a. Upon application by an air carrier filed prior to October 1, 1955, the Administrator may further authorize such air carrier to operate without full compliance with the requirements of paragraph 5 where the Administrator finds that the air carrier has made a diligent effort to meet these requirements by October 1, 1955, and that the air carrier has shown that it will comply with such requirements at the earliest possible time.

b. The provisions of §§ 4b.0 through 4b.19 of Part 4b, effective May 18, 1954, shall be complied with.

c. The provisions of §§ 4b.100 through 4b.190 need not be complied with.

d. The birdproof windshield requirements of § 4b.352 need not be complied with.

e. The provisions of §§ 4b.480 through 4b.490 effective May 16, 1953, shall be complied with in lieu of §§ 4b.480 through 4b.489 effective July 20, 1950, with the exception of

§ 4b.484 (a) (1) which shall be applicable as effective July 20, 1950, and § 4b.487 (e) which has no counterpart in the 1950 regulations.

6. On and after April 1, 1956, C-46 airplanes in passenger service shall be recertificated in the transport category in accordance with paragraph 5 of this regulation, and shall comply with the provisions of §§ 4b.100 through 4b.190 with the following exception: In determining the takeoff path in accordance with § 4b.116 and the one-engine-inoperative climb in accordance with § 4b.120 (a) and (b), the propeller of the inoperative engine may be assumed to be feathered if there is installed either an approved means for automatically indicating when the particular engine has failed or an approved means for automatically feathering the propeller of the inoperative engine.

7. In applying the provisions of paragraphs 5 and 6 of this regulation, where literal compliance with the requirements of §§ 4b.130 through 4b.190 of Subpart B and Subparts C, D, E, and F of Part 4b is extremely difficult to accomplish, and where the Administrator finds that service experience with the C-46 type airplane so justifies, the Administrator may authorize deviations from specific details of these requirements, taking into account the effect of design changes.

8. On or after April 1, 1956, C-46 airplanes in passenger service shall be operated in accordance with the performance operating limitations applicable to transport category airplanes.

9. C-46 airplanes which comply with the provisions of paragraphs 5 and 6 of this regulation may be used in passenger operations conducted under the provisions of Parts 40 and 41 provided they are operated in accordance with paragraph 8.

10. This Special Civil Air Regulation supercedes Special Civil Air Regulation SR-406.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 603, 604, 52 Stat. 1007, 1009, 1010, as amended; 49 U. S. C. 551, 553, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 55-4688; Filed, June 10, 1955; 8:51 a. m.]

[Policy Statement 1]

PART 399—STATEMENTS OF GENERAL POLICY

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 25th day of May 1955.

Section 3 (a) of the Administrative Procedure Act requires every agency to state separately and publish currently in the FEDERAL REGISTER its statements of general policy. The purpose of this regulation is to provide a standardized form and procedure for carrying out this requirement and for codifying any future statements of policy which may be issued.

In a certain sense every decision of the Board in its quasi-judicial capacity represents a statement of policy. Similarly, the promulgation of a regulation under its quasi-legislative authority may be the only express manifestation of a policy. It would be impractical to restate each of the policies so enunciated and print them separately in this part, and indeed such a procedure would be contrary to the intent of Congress as expressed in the Administrative Procedure Act, since in the one case that act specifically

excludes from this requirement rules addressed to and served upon named persons in accordance with law, and in the other, the policy is embedded in and inseparable from a general substantive rule. Thus, policies which have been expressed wholly in connection with the taking of a decision or through the enactment of a substantive or procedural rule will not be restated as statements of policy in this part.

In addition to the foregoing, the Board's basic policies have already been laid down for it by the Congress in the Civil Aeronautics Act. Not only have the Board's authority, powers and duties been set forth at length in that act, but the general policies which it must follow have been prescribed in section 2. A repetition or restatement of these policies is therefore unnecessary. Moreover, the Board's power to prescribe policy is limited by the necessity for complete compatibility between its general policies and the policies laid down in the Civil Aeronautics Act of 1938. In this connection it should be noted that a statement of policy issued by the Board is merely an agency rule under the Administrative Procedure Act, and as such cannot contravene or override statute, including the statement of policy contained in the Civil Aeronautics Act. Consequently, if as a result of its consideration in any given case, the Board finds that the statement of policy set down in the Civil Aeronautics Act runs counter to any statement of policy published in this part, the latter must obviously give way to the former.

Part 399 has been divided into two subparts, Subpart A dealing with the applicability, arrangement, and effect of the policy statements, which are included in Subpart B. It should be noted that no attempt has been made to arrange the policy statements in any order other than chronological. Each new policy statement issued hereunder by the Board will receive the next consecutive number in sequence. Except for deletions of policy statements no longer in effect, no attempt will be made as a general rule to amend any policy statement, but a new policy statement will be issued bearing a new number, and the old one which it supersedes will be repealed.

Since this rule relates only to statements of policy, notice and public procedure hereon are unnecessary, and the regulation may be made effective upon less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby enacts Part 399 of its regulations, effective May 25, 1955, to read as follows:

Subpart A—Applicability, Arrangement, and Effect of Policy Statements

- Sec. 399.0 Applicability of part.
- 399.1 Exclusions.
- 399.2 Statements in other Board documents.
- 399.3 Arrangement.
- 399.4 Nature and effect of policy statements.

Subpart B—Statements of Policy

- 399.10 Airworthiness revisions to be on annual basis.
- 399.11 Promulgation of airworthiness requirements.

- Sec. 399.12 Transatlantic charter policy.
- 399.13 Temporary mail rates involving subsidy.
- 399.14 Rate policy applicable to nonsubsidized carriers.
- 399.15 Rate policy applicable to subsidized carriers.
- 399.16 Local-service carrier certificates to indicate nature of operations specifically.
- 399.17 Issuance of foreign air carrier permits for Canadian transborder operations in small aircraft.
- 399.18 Unfair and deceptive practices of ticket agents.
- 399.19 Domestic coach policy.
- 399.20 Negotiation by air carriers for landing rights in foreign countries.
- 399.21 Standard provisions in foreign air carrier permits.
- 399.22 Air carrier reporting delinquencies.
- 399.23 Post-capitalization and amortization of expenses.
- 399.24 Exceptions for rate-making purposes.
- 399.25 Confidential treatment of preliminary year-end reports.
- 399.26 Investigation of accidents involving foreign aircraft.
- 399.27 Procedures for permanent certification of local service carriers (added June 1, 1955).

AUTHORITY: §§ 399.1 to 399.27 issued under sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425.

SUBPART A—APPLICABILITY, ARRANGEMENT, AND EFFECT OF POLICY STATEMENTS

§ 399.0 *Applicability of part.* Except as provided in § 399.1, all general statements of policy of the Board, both substantive and administrative in nature will, to the extent such policies affect the public, be published in this part and will be followed by the Board until rescinded or their stated expiration date, whichever shall first occur.

§ 399.1 *Exclusions.* The following types of policies will not be included in this part:

- (a) Policies relating solely to the internal management of the Board;
- (b) Policies requiring secrecy in the public interest, or the interest of national defense;
- (c) Policies which are repetitive or duplicative of § 2 of the Civil Aeronautics Act of 1938, as amended;
- (d) Policies the complete expression of which is found in a procedural or substantive rule of the Board, or in any opinion, decision, order, certificate, permit, exemption, rule, regulation or waiver of the Board;
- (e) Expressions of hope, admonition, or encouragement to industry to follow a certain course of action.
- (f) Positions on legislative items and other matters which are outside the scope of the Board's current statutory powers and duties.

§ 399.2 *Statements in other Board documents.* No statement contained in any Board opinion, decision, order, certificate, permit, exemption, or waiver, shall be considered a statement of policy within the meaning of this part, even though such statements may constitute a precedent in future cases or declare future policy to be followed in like cases. Similarly, a denial by the Board of relief sought, and statements of the Board's reasons for failure to issue a rule upon which rule-making proceedings have

been commenced shall not be considered to be statements of policy except to the extent that it is specifically stated that such denial or failure is based upon a policy thereafter to be followed.

§ 399.3 *Arrangement.* All policies which are subject to inclusion in this part, and in effect on the effective date of this part, are included in Subpart B of this part, chronologically arranged in the order of their adoption. Future policies will be issued as statements of policies, and will be assigned the next consecutive number in sequence. Except in the case of policies which cease to be applicable by reason of the expiration of the period of effectiveness specifically stated therein, policies will be rescinded by a subsequent statement of policy when the earlier policy is amended or ceases to apply.

§ 399.4 *Nature and effect of policy statements.* Policy statements published in this part will remain in effect and be observed by the Board until rescinded or repealed, or in the case of a policy of specified duration, until the expiration date, if not sooner rescinded or repealed. Changes in policy may be made without advance notice to the public and will become effective upon publication in the FEDERAL REGISTER. Moreover, should it appear to the Board in its consideration of any matter before it that the application of a published policy as set forth in this part would run counter to an express provision of law or policy enunciated by Congress in the Civil Aeronautics Act of 1938, as amended, such published policy shall not be applicable to such matter.

SUBPART B—STATEMENTS OF POLICY

§ 399.10 *Airworthiness revisions to be on annual basis.* It is the policy of the Board that, except for rules of an emergency nature the immediate adoption of which is necessary in the interest of safety, airworthiness rules and revisions to the airworthiness parts will be on an annual basis. The cycle will commence on or about the first of January in each year through the issuance of a general release by the Board's Bureau of Safety Regulation, requesting comments and specific proposals for deletions, additions, or amendments to any of the airworthiness parts. In the spring of each year the Board's staff will conduct a study of all the comments and proposals received, together with its own proposals and those received from the Administrator of Civil Aeronautics. All proposals will be assembled in the form of a tentative agenda for an annual airworthiness meeting of all concerned. A second release will be circulated to the public, announcing the annual meeting and presenting the agenda. Thereafter, the meeting with all interested persons will be held usually during the month of September, and will cover, in most cases, a period of several days. Thereafter, all items which are considered necessary and sufficiently developed for regulatory action will be published in the form of a notice of proposed rule-making, setting forth specific proposed amendments to the Civil Air Regulations.

Comments thereafter received as a result of the publication of the proposed annual revision will be given careful consideration and will be adopted and made generally effective by January 1.

§ 399.11 *Promulgation of airworthiness requirements.* It is the policy of the Board, in promulgating Civil Air Regulations dealing with airworthiness requirements for aircraft and components, to follow the principles set forth hereafter in this section.

(a) The technical rules in the airworthiness regulations should confine themselves to material which has been substantiated as being essential to safety.

(b) The administrative rules in the airworthiness regulations should be minimized in scope to the extent commensurate with their effect on safety.

(c) The individual provisions in the airworthiness regulations should not impede new design development, should reflect the latest state of the art, and should require only such techniques and equipment as are available and proven reliable.

(d) The airworthiness regulations should not include rules to attain safety objectives which can be attained more effectively by means other than regulations.

(e) If an accident or other service experience with a certain aircraft, or component type suggests a change in the airworthiness regulations, caution should be exercised in making the new rule applicable to all aircraft or component types, lest it be inappropriate for general application.

(f) Detail design practices which have been generally adopted by the industry should not for that reason alone be included in the airworthiness regulations.

(g) Changes in the airworthiness regulations should be promulgated only periodically through a procedure such as the annual review, except in those instances where safety considerations dictate urgency of implementation.

§ 399.12 *Transatlantic charter policy.* It is the policy of the Board, applicable to the 1955 summer season, not to grant broad or general exemptions for transatlantic charter operations, but to consider only exemption applications filed by air carriers covering specific proposed charter movements. The basis on which such charter applications will be granted has been liberalized over past practice, and all such applications which conform to the conditions set forth in the Board's Opinion dated May 20, 1955, in Docket No. 7099 will be processed and decided in accordance with the standards set forth in such opinion. All exemption orders issued will be made subject to the terms, conditions and limitations therein expressed.

§ 399.13 *Temporary mail rates involving subsidy.* It is the policy of the Board to fix temporary mail rates involving subsidy at a level designed to provide only such amounts as are deemed necessary for operations prior to the establishment of a final rate but in no case less than the service mail rate. In most cases, this objective may be attained by providing an amount of mail pay equivalent

to the breakeven need—i. e., the excess of operating expenses over non-mail revenues.

§ 399.14 *Rate policy applicable to non-subsidized carriers.* It is the policy of the Board that rate levels should reflect cyclical needs, rather than the needs of any particular year. In examining mail or commercial rate proposals, the Board will consider not only the conditions prevailing at the time the proposals are advanced, but also the future prospects and the abnormal earnings of prior years. Accordingly, if earnings should fall markedly after a period during which they have been at high levels, the carriers will be expected to absorb such losses without resort to mail or commercial rate adjustments, unless it can be demonstrated that such earnings are below the level necessary to provide a fair return over a reasonably extended period which includes the good years as well as the bad.

§ 399.15 *Rate policy applicable to subsidized carriers.* It is the policy of the Board to permit subsidized carriers maximum freedom to experiment, in interstate and overseas air transportation, with commercial rate changes for the purpose of maximizing revenues and thereby minimizing subsidy requirements, provided that resulting rates are not otherwise unreasonable.

§ 399.16 *Local-service carrier certificates to indicate nature of operations specifically.* It is the policy of the Board to include a provision in the certificates of all local air service carriers to make it clear that their operations are definitely local air transportation, as distinguished from the service rendered by scheduled trunkline air carriers. The language which will be so included is as follows:

This certificate is issued pursuant to a determination of policy by the Civil Aeronautics Board that in the discharge of its obligation to encourage and develop air transportation under the Civil Aeronautics Act, as amended, it is in the public interest to establish certain air carriers who will be primarily engaged in short-haul air transportation as distinguished from the service rendered by trunkline air carriers. In accepting the certificate the holder acknowledges and agrees that the primary purpose of the certificate is to authorize it and require it to offer short-haul air transportation service of the character described above.

§ 399.17 *Issuance of foreign air carrier permits for Canadian transborder operations in small aircraft.* It is the policy of the Board, in accordance with a reciprocal understanding with the Air Transport Board of Canada, published March 13, 1952, to facilitate so far as possible under existing law the issuance of foreign air carrier permits to Canadian operators of small aircraft for irregular transborder operations in common carriage. Authorizations granted under this procedure will be only for service of a casual, occasional, and infrequent nature and will be limited to three years' duration. Where requested, permission will customarily be granted, if statutory standards are met, to serve more than one point in the United States

on the same flight, provided that no cabotage traffic is carried.

§ 399.18 *Unfair and deceptive practices of ticket agents.* It is the policy of the Board to regard any of the following enumerated practices (among others) by a ticket agent as an unfair or deceptive practice or unfair method of competition:

(a) Misrepresentations¹ which may induce members of the public to believe that the ticket agent is an air carrier.

(b) Using or displaying or permitting or suffering to be used or displayed the name, trade name, slogan or any abbreviation thereof, of the ticket agent, in advertisements, on or in places of business, or on aircraft in connection with the name of an air carrier with whom it does business, in such manner that it may mislead or confuse the traveling public with respect to the agency status of the ticket agent.

(c) Misrepresentations as to the quality or kind of service, type or size of aircraft, time of departure or arrival, points served, route to be flown, stops to be made, or total trip-time from point of departure to destination.

(d) Misrepresentation as to qualifications of pilots or safety record or certification of pilots, aircraft, or air carriers.

(e) Misrepresentations that passengers are directly insured when they are not so insured; for example, where the only insurance in force is that protecting the air carrier in event of liability.

(f) Misrepresentations as to fares and charges for air transportation or services in connection therewith.

(g) Misrepresentation that special discounts or reductions are available, when such discounts or reductions are not specified in the lawful tariffs of the air carrier which is to perform the transportation.

(h) Advertising or otherwise offering for sale or selling air transportation or services in connection therewith at less than the rates, fares and charges specified in the currently effective tariffs of the air carrier or air carriers who are engaged to perform such air transportation or services, or offering or giving rebates or other concessions thereon, or assisting, suffering or permitting persons to obtain such air transportation or services at less than such lawful rates, fares and charges.

(i) Misrepresentations that special priorities for reservations are available when such special considerations are not in fact granted to members of the public generally.

(j) Selling air transportation to persons on a reservation or charter basis for a specified space, flight or time, or representing that such definite reservation or charter is or will be available or has been arranged, without a binding commitment with an air carrier for the

furnishing of such definite reservation or charter as represented or sold.

(k) Selling or issuing tickets or other documents to passengers to be exchanged or used for air transportation knowing or having reason to know or believe that such tickets or other documents will not be or cannot be legally honored by air carriers for air transportation.

(l) Failing or refusing to make proper refunds promptly when service cannot be performed as contracted or representing that such refunds are obtainable only at some other point thus depriving persons of the immediate use of the money to arrange other transportation, or forcing them to suffer unnecessary inconveniences and delays or requiring them to accept transportation at higher cost, or under less desirable circumstances, or on less desirable aircraft than that represented at the time of sale.

(m) Misrepresentations regarding the handling, forwarding or routing of baggage or other property, or the loss or tracing thereof, or failing or refusing to honor proper claims for loss or damage to baggage or other property.

§ 399.19 *Domestic coach policy.* It is the policy of the Board to encourage regular coach service by the certificated air carriers as one means of achieving the maximum development of civil aviation in the United States through placing air travel within the economic reach of the great majority of the traveling public. For the purpose of this policy, coach operations will be divided into two main classes: Off-peak services and high density services.

(a) Off-peak services are reduced fare services which have as their primary objective the additional utilization of available equipment and facilities with flights departing at such times—particularly during the night hours—as would make their operation in first class service uneconomic because of the inconvenience of the departure time.

(b) High density services are reduced fare services which are conducted, without restriction as to flight departure time, in aircraft specifically equipped for and assigned to such service and having the applicable minimum seating capacity set forth below:

DC-4	64
DC-6	72
DC-6B	76
Constellation 049 to 749	79
Constellation 1049	88

NOTE: Maximum seating density is governed by the Civil Air Regulations.

(c) Food service. No free food service except for coffee or similar beverages will be permitted on either off-peak or high density service.

(d) Fare differentials: Both high density and off-peak services will be subject to a fare ceiling of 75 percent of the corresponding first class fare.

§ 399.20 *Negotiation by air carriers for landing rights in foreign countries.* (a) It is the policy of the Board (jointly with the Department of State) that, as a general rule, landing rights abroad for American air carriers will be acquired through U. S. Government negotiation with foreign governments rather than

by direct negotiation between a carrier and a foreign government.

(b) It is corollary to the foregoing policy that no United States air carrier may avail itself of representations by one foreign government to further its interest with another foreign government, especially with respect to landing rights, except insofar as such representations have been specifically authorized by the United States Government.

§ 399.21 *Standard provisions in foreign air carrier permits.* It is the policy of the Board to include provisions in the permits issued to foreign air carriers to provide:

(a) That the permit shall be subject to all applicable provisions of any agreement affecting international air transportation now in effect or which may become effective during the period of the agreement entered into by the U. S. and the foreign government concerned;

(b) That in accepting the permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in an action based on claims arising out of its operation.

§ 399.22 *Air carrier reporting delinquencies.* It is the policy of the Board to permit, under the Uniform System of Accounts prescribed by the Board, extensions of time for filing reports upon receipt of a written request setting forth good and sufficient reason to justify granting the requested extension, provided such request is submitted sufficiently in advance of the due date to permit proper consideration and communication to the carrier of the action taken. It is the policy of the Board that, in the absence of extensions in report filing dates, petitions for increased mail rates filed by carriers whose periodic reports are in arrears will not be processed until all overdue reports are filed.

§ 399.23 *Post-capitalization and amortization of expenses.* It is the policy of the Board for accounting and reporting purposes to adhere strictly to the principle that costs once charged to expense within one fiscal year shall not be reversed and capitalized in a subsequent fiscal year for amortization against operations of future periods.

§ 399.24 *Exceptions for rate-making purposes.* It is the policy of the Board to permit retroactive accounting adjustments where necessary to conform books with adjustments required by the Board for rate-making purposes.

§ 399.25 *Confidential treatment of preliminary year-end reports.* It is the policy of the Board to accord confidential treatment to preliminary year-end carrier reports upon request of individual carriers, with the proviso that such confidential treatment will be accorded the preliminary reports only until final reports are filed or until the date such reports are due, whichever occurs first.

§ 399.26 *Investigation of accidents involving foreign aircraft.* It is the policy of the Board, in the case of accidents to aircraft of foreign air carriers that occur in this country, to investigate to the extent necessary to furnish the foreign government a full report of all

¹The word "misrepresentation" used in this section includes any statement or representation made in advertising or made orally to members of the public which is false, fraudulent, deceptive or misleading, or which has the tendency or capacity to deceive or mislead.

facts, conditions, and circumstances, as well as the probable cause. This may or may not require a public hearing.

§ 399.27 *Procedures for permanent certification of local service carriers (added June 1, 1955)*. It is the policy of the Board, in implementing legislation relative to the permanent certification of the local service carriers (Public Law 38, 84th Congress) to apply the following procedures:

(a) These proceedings will be limited to the issues inherent in the grant of permanent certificates to the carriers and the determination of those intermediate points to be certificated on a temporary basis. Each local service air carrier must file an application under the new statute. Following the filing of such an application, the Board proposes to issue show cause orders indicating those stations which, on the basis of its preliminary judgment, warrant permanent certification, and those other stations which, because of their more marginal traffic record are tentatively believed to warrant temporary rather than permanent certification.

(b) The Board intends to rely largely on an industry-wide traffic standard, which will tend to assure equitable treatment among the cities involved. After analysis of the latest available data, the Board has concluded that an average of five or more passengers enplaned per day (approximately 300 per month on and off per station) should provide a reasonable basis for initial selection of the group of intermediate stations for permanent certification. In the absence of further evidence, those stations enplaning fewer than five per day would receive temporary designation. While the Board does not intend to restrict the right of any party to submit relevant evidentiary material, the Board believes that the record in the proceedings covering those points identified for permanent certification could be limited, largely, if not entirely, to stipulated data. Additional evidence, therefore, might be necessary only as to those points tentatively identified for temporary certification, thus speeding the issuance of the permanent certificates. In regard to the latter group of stations the Board wishes to emphasize that no station which is eligible for either permanent or temporary certification will lose service as a result of these proceedings. Further, although any city listed in the show cause order as warranting temporary certification may, of course, submit evidence in support of permanent authorization, such a presentation is not essential at this time. Such cities will be afforded an opportunity to demonstrate their ability to generate a sufficient volume of traffic to warrant a continuation of scheduled service and to make a further presentation in a later proceeding.

(c) The permanent certificate proceedings will be scheduled for processing in the order in which the carriers' existing temporary certificates expire. They will be given priority over other local service cases.

(d) Under this schedule the permanent certificate proceedings covering Southwest Airways and Trans-Texas

Airways will be among the first to be handled. It is not contemplated that show cause orders will be necessary for these two carriers, since there are formal proceedings now near completion concerned with the temporary or permanent renewal of these carriers' routes as well as certain route amendment proposals. It is presently hoped that the decisions in these two cases will be issued concurrently with decisions on permanent certification for Southwest and Trans-Texas.

(e) Because of the restriction of the issues to those largely non-controversial in nature, and in order to assure the most efficient use of available staff essential to the most rapid processing of these cases, public hearings in the permanent certificate proceedings will be held in Washington.

(f) Although consideration of proposed route extensions and modifications of local service routes must necessarily be delayed somewhat in order to give priority to the permanent certificate applications, the Board plans to consider such proposals as soon as possible in appropriate individual or consolidated proceedings.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 55-4689; Filed, June 10, 1955;
8:52 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 5722]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

WHITAKER CABLE CORP.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended—Price discrimination under 2 (a): § 13.725 Cumulative quantity discounts and schedules; § 13.755 Pooling orders of chain stores and buying groups*. In connection with the sale for replacement purposes of automotive cable products and related items in commerce, as "commerce" is defined in the Clayton Act, discriminating in the price of such products of like grade and quality: (1) By selling to any one purchaser at net prices higher than the net prices charged to any other purchaser who, in fact, competes with the purchaser paying the higher price in the resale and distribution of respondent's products; and (2) by selling to any indirect purchaser at net prices higher than the net prices charged any other direct or indirect purchaser who, in fact, competes with the purchaser paying the higher price in the resale and distribution of respondent's products; prohibited.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 2, 49 Stat. 1526; 15 U. S. C. 13) [Cease and desist order, Whitaker Cable Corporation, North Kansas City, Mo., Docket 5722, April 29, 1955.]

This proceeding was heard by Earl J. Kolb, hearing examiner, upon the com-

plaint of the Commission which charged respondent with discriminating in price between different purchasers of its products in violation of subsection (a) of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, upon respondent's answer thereto, hearings at which testimony and other evidence, duly recorded and filed in the office of the Commission, in support of and in opposition to, the allegations of the complaint were introduced before said hearing examiner, theretofore duly designated by the Commission.

Thereafter the proceeding regularly came on for final consideration by said hearing examiner on the complaint, answer thereto, testimony and other evidence, and proposed findings as to the facts and conclusions presented by counsel, and said hearing examiner, having duly considered the record in the matter, made his initial decision, comprising certain findings as to the facts,¹ conclusions drawn therefrom,¹ and order to cease and desist.

Thereafter, following appeals from said initial decision of the hearing examiner by counsel supporting the complaint and by respondent, in which respondent excepted to numerous specific findings and conclusions of fact and law in the initial decision, as well as to certain conduct and rulings of the hearing examiner and to the hearing examiner's failure to make certain findings, and in which the appeal of counsel supporting the complaint related only to a certain finding of the hearing examiner with regard to the effect of a contractual relationship between respondent and Willard Storage Battery Company and its customers, as not such as to constitute Willard's customers as purchasers from respondent within the meaning of the act, the matter was disposed of by the Commission's "Final Order," dated April 29, 1955, following the opinion and decision of the Commission in the matter, as follows:

Counsel supporting the complaint and respondent Whitaker Cable Corporation having respectively filed on March 19, 1954, and April 30, 1954, their cross-appeals from the initial decision of the hearing examiner in this proceeding; and the matter having been heard by the Commission on briefs and oral argument; and the Commission having rendered its decision denying the appeals and affirming the initial decision:

It is ordered, That respondent Whitaker Cable Corporation shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order contained in said initial decision.

The order to cease and desist in said initial decision, thus made the decision of the Commission, is as follows:

It is ordered, That the respondent Whitaker Cable Corporation, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device,

¹ Filed as part of the original document.

in connection with the sale for replacement purposes of automotive cable products and related items in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from discriminating in the price of such products of like grade and quality—

1. By selling to any one purchaser at net prices higher than the net prices charged to any other purchaser who, in fact, competes with the purchaser paying the higher price in the resale and distribution of respondent's products.

2. By selling to any indirect purchaser at net prices higher than the net prices charged any other direct or indirect purchaser who, in fact, competes with the purchaser paying the higher price in the resale and distribution of respondent's products.

Issued: April 29, 1955.

By the Commission.²

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 55-4694; Filed, June 10, 1955;
8:53 a. m.]

[Docket 5723]

PART 13—DIGEST OF CEASE AND DESIST
ORDERS

MOOG INDUSTRIES, INC.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended—Price discrimination* under 2 (a): § 13.725 *Cumulative quantity discounts and schedules*; § 13.755 *Pooling orders of chain stores and buying groups*. In connection with the sale for replacement purposes of automotive replacement parts, consisting of coil action parts, leaf spring, coil spring, chassis parts, piston rings and other related items in commerce, as "commerce" is defined in the Clayton Act, discriminating in the price of such products of like grade and quality: (1) By selling to any one purchaser at net prices higher than the net prices charged to any other purchaser who, in fact, competes with the purchaser paying the higher price in the resale and distribution of respondent's products; prohibited.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 2, 49 Stat. 1526; 15 U. S. C. 13) [Cease and desist order, Moog Industries, Inc., St. Louis, Mo., Docket 5723, April 29, 1955]

This proceeding was heard by Earl J. Kolb, hearing examiner, upon the complaint of the Commission which charged respondent with discriminating in price between different purchasers of its products in violation of subsection (a) of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, upon respondent's answer thereto, testimony and other evidence, and proposed findings as to the facts and conclusions presented by counsel; and thereafter, following respondent's appeal from said hearing examiner's initial decision, in

² Commissioner Mason dissenting, the rationale therefore being set forth in his dissenting opinion in Docket 5723, Moog Industries, Inc., *infra*.

which respondent took exception to certain specific findings and conclusions therein, to certain procedural matters, including rulings of the hearing examiner, and to the substance and form of the hearing examiner's order to cease and desist, was disposed of by the Commission's "Final Order", dated April 29, 1955, following the opinion and decision of the Commission in the matter, as follows:

Respondent Moog Industries, Inc., having filed on July 13, 1954, its appeal from the initial decision of the hearing examiner in this proceeding; and the matter having been heard by the Commission on briefs and oral argument; and the Commission having rendered its decision denying the appeal and affirming the initial decision:

It is ordered, That respondent Moog Industries, Inc., shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order contained in said initial decision.

The order to cease and desist in said initial decision, thus made the decision of the Commission, is as follows:

It is ordered, That the respondent Moog Industries, Inc., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the sale for replacement purposes of automotive replacement parts, consisting of coil action parts, leaf spring, coil spring, chassis parts, piston rings and other related items in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from discriminating in the price of such products of like grade and quality:

1. By selling to any one purchaser at net prices higher than the net prices charged to any other purchaser who, in fact, competes with the purchaser paying the higher price in the resale and distribution of respondent's products.

Issued: April 29, 1955.

By the Commission.¹

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 55-4693; Filed, June 10, 1955;
8:52 a. m.]

[Docket 5770]

PART 13—DIGEST OF CEASE AND DESIST
ORDERS

E. EDELMANN & CO.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended—Price discrimination* under 2 (a): § 13.700 *Arbitrary functional discounts*; § 13.755 *Pooling orders of chain stores and buying groups*; § 13.770 *Quantity rebates or discounts*. In or in connection with the sale of automotive products in commerce, and on the part

¹ Commissioner Mason's dissenting opinion filed as part of the original document.

of respondent corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, discriminating, directly or indirectly, in the price of said automotive products of like grade and quality, by selling to any direct or indirect purchaser at net prices higher than the net prices charged any other purchaser, direct or indirect, competing in fact in the resale and distribution of said products; prohibited.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 2, 49 Stat. 1526; 15 U. S. C. 13) [Cease and desist order, E. Edelmann & Company, Chicago, Ill., Docket 5770, April 29, 1955.]

This proceeding was heard by Frank Hier, hearing examiner, upon the complaint of the Commission which charged respondent with discriminating in price between its customers competitively engaged in the resale of respondent's automotive products, with the result that the effect might be substantially to lessen competition and tend to create a monopoly in the line of commerce in which respondent and its competitors were engaged and in the line of commerce in which respondent's customers and its competitors' customers were engaged, and also to injure, destroy, or prevent competition with respondent, with the favored customers, or with the customers of either of them; in violation of section 2 of the Clayton Act; and upon respondent's amended answer which admitted that it sold its products in interstate commerce, that it had competitors, that its customers competed in the resale of such products with purchasers from its competitors, and that it sold its products to different purchasers at different prices, but denied the effects alleged of such sales and affirmatively alleged that any price differences at which it sold were made in good faith to meet an equally low price of a competitor.

Thereafter, following various proceedings, including the reception of testimony and other evidence, and the making by said hearing examiner of his initial decision, comprising certain findings as to the facts¹ and conclusions,¹ and order to cease and desist; appeal from said initial decision by counsel supporting the complaint, in which counsel urged that the decision below should have ruled differently with respect to certain evidence presented by respondent in the course of its defense; appeal by counsel for respondent in which it was contended that the rulings that respondent's pricing practices had been in violation of law, were erroneous in their entirety; and the rendering by the Commission of its opinion and decision, the matter was disposed of by the Commission's "Final Order", dated April 29, 1955, as follows:

Counsel supporting the complaint and respondent E. Edelmann & Company, having respectively filed on May 28, 1954, and June 1, 1954, their cross appeals from the initial decision of the hearing examiner in this proceeding; and the

¹ Filed as part of the original document.

matter having been heard by the Commission on briefs and oral argument; and the Commission having rendered its decision denying the appeal of counsel supporting the complaint and granting in part and denying in part the appeal of respondent and affirming the initial decision as modified:

It is ordered, That the order contained in the initial decision be, and it hereby is, modified (1) by adding the words "and its officers, representatives, agents and employees" immediately following the words "E. Edelmann & Company, a corporation," and (2) by striking from such order the words "for replacement purposes."

It is further ordered, That the respondent E. Edelmann & Company shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order contained in the initial decision as modified.

The order to cease and desist in said initial decision, thus made the decision of the Commission subject to the aforementioned modifications, is as follows:

It is ordered, That respondent E. Edelmann & Company, a corporation,² directly or through any corporate or other device, in or in connection with the sale, for replacement purposes, of automotive products in commerce, as "commerce" is defined in the Clayton Act as amended, do forthwith cease and desist from discriminating, directly or indirectly, in the price of said automotive products of like grade and quality, by selling to any direct or indirect purchaser at net prices higher than the net prices charged any other purchaser, direct or indirect, competing in fact in the resale and distribution of said products.

Issued: April 29, 1955.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 55-4695; Filed, June 10, 1955;
8:53 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53816]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

CUTTER AND DOCK PASSES

To permit term cutter and dock passes to be issued for a period of one year, § 4.1 of the Customs Regulations is hereby amended as follows:

- Paragraph (d) is amended by deleting the last two sentences thereof.
- The parenthetical matter at the end of paragraph (f) is deleted, and a

²The phrase "officers, representatives, agents and employees" is omitted on the authority of R. J. Reynolds Tobacco Co. vs. F. T. C., 192 F. 2d 535, 540-4, which case the Hearing Examiner regards as apposite and binding on himself and the Commission.

new paragraph (g) is added to read as follows:

(g) Term cutter and dock passes, for a period of not to exceed one year, may be issued in the discretion of the collector, to persons on official business and to duly accredited news reporters and newspaper photographers. Passes are not transferable and shall be forfeited upon presentation by others than those to whom issued.

(R. S. 161, 251, secs. 2, 3, 23 Stat. 118, as amended, 119, as amended, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624, 46 U. S. C. 2, 3)

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

Approved: June 3, 1955.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.
[F. R. Doc. 55-4685; Filed, June 10, 1955;
8:50 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income Tax

[T. D. 6134]

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

REGULATIONS PRESCRIBED UNDER SECTIONS 452 AND 462 OF THE INTERNAL REVENUE CODE OF 1954

On January 22, 1955, a notice of proposed rule making with respect to sections 452 and 462 of the Internal Revenue Code of 1954 was published in the FEDERAL REGISTER (20 F. R. 515). After consideration of such relevant suggestions as were presented by interested persons regarding the proposals, it was determined that no change should be made in the proposed regulations. Accordingly, the proposed regulations so published are hereby adopted as set forth below.

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: June 8, 1955.

G. M. HUMPHREY,
Secretary of the Treasury.

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

The following regulations are hereby promulgated under sections 452 and 462 of the Internal Revenue Code of 1954:

§ 1.452 Statutory provisions; prepaid income.

Sec. 452. *Prepaid income*—(a) *Prepaid income to be earned over short or indefinite period*—(1) *Short period*. In the case of any prepaid income to which this section applies, if the liability described in subsection (e) (2) is (at the time the income is received) to end before the first day of the sixth taxable year after the taxable year in which such income is received, then such income shall be included in gross income for the taxable year in which received, and for each of the 5 succeeding taxable years, to the extent proper under the method of accounting used under

section 446 in computing taxable income for such year. If the liability does not in fact end before the first day of such sixth taxable year, such income shall be included in gross income for the taxable years specified in the preceding sentence except that with the consent of the Secretary or his delegate it shall be included in gross income in such proportions, and for such taxable years, as are specified in such consent.

(2) *Indefinite period*. In the case of any prepaid income to which this section applies, if the liability described in subsection (e) (2) is (at the time the income is received) of indefinite duration, then such income shall be included in gross income for the taxable year in which received and for each of the 5 succeeding taxable years, consistently with the principles prescribed in paragraph (1) and subsection (b), under regulations prescribed by the Secretary or his delegate. With the consent of the Secretary or his delegate the prepaid income shall be included in gross income in such proportions, and for such taxable years, as are specified in such consent.

(b) *Prepaid income to be earned over long period*. In the case of any prepaid income to which this section applies, if the liability described in subsection (e) (2) is (at the time the income is received) to end after the close of the fifth taxable year after the taxable year in which such income is received, then—

(1) One-sixth of the prepaid income shall be included in gross income for the taxable year in which received, and one-sixth shall be included in gross income for each of the 5 succeeding taxable years; except that

(2) With the consent of the Secretary or his delegate, the prepaid income shall be included in gross income in such proportions, and for such taxable years, as are specified in such consent.

(c) *Where taxpayer's liability ceases*. In the case of any prepaid income to which this section applies—

(1) If the liability described in subsection (e) (2) ends, then so much of such income as was not includible in gross income under subsections (a) and (b) for preceding taxable years shall be included in gross income for the taxable year in which the liability ends.

(2) If the taxpayer dies or ceases to exist, then so much of such income as was not includible in gross income under subsections (a) and (b) for preceding taxable years shall be included in gross income for the taxable year in which such death, or such cessation of existence, occurs.

(d) *Prepaid income to which this section applies*—(1) *Election of benefits*. This section shall apply to prepaid income if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such income is received. The election shall be made in such manner as the Secretary or his delegate may by regulations prescribe. No election may be made with respect to a trade or business if in computing taxable income the cash receipts and disbursements method of accounting is used with respect to such trade or business.

(2) *Scope of election*. An election made under this section shall apply to all prepaid income received in connection with the trade or business with respect to which the taxpayer has made the election; except that the taxpayer may, to the extent permitted under regulations prescribed by the Secretary or his delegate, include in gross income for the taxable year of receipt the entire amount of any prepaid income if the liability from which it arose is to end within 12 months after the date of receipt. An election made under this section shall not apply to any prepaid income received before the first taxable year for which the election is made.

(3) *When election may be made—(A) Without consent.* A taxpayer may, without the consent of the Secretary or his delegate, make an election under this section for his first taxable year (i) which begins after December 31, 1953, and ends after the date on which this title is enacted, and (ii) in which he receives prepaid income in the trade or business. Such an election shall be made not later than the time prescribed by this subtitle for filing the return for such year (including extensions thereof).

(B) *With consent.* A taxpayer may, with the consent of the Secretary or his delegate, make an election under this section at any time.

(e) *Definitions.* For purposes of this section—

(1) *Prepaid income.* The term "prepaid income" means any amount (includible in gross income) which is received in connection with, and is directly attributable to, a liability which extends beyond the close of the taxable year in which such amount is received. Such term does not include any income treated as gain from the sale or other disposition of a capital asset.

(2) *Liability to render services, etc.* The term "liability" means a liability to render services, furnish goods or other property, or allow the use of property.

(3) *Receipt of prepaid income.* Prepaid income shall be treated as received during the taxable year for which it is includible in gross income under section 451 (without regard to this section).

§ 1.452-1 Prepaid income in general.

(a) Prepaid income, regardless of the method of accounting used by the taxpayer, is generally includible in gross income by the taxpayer at the time of receipt if it is subject to his free and unrestricted use. However, in the case of a taxpayer who uses a method of accounting other than the cash receipts and disbursements method in computing taxable income, section 452 permits the taxpayer to elect a method of accounting for prepaid income under which portions of prepaid income received in the taxable year shall be deferred to subsequent taxable years. The general purpose of section 452 is to bring tax accounting more closely into harmony with generally accepted accounting principles; it is not intended to permit, for tax purposes, deferrals of income not properly deferred under the taxpayer's method of accounting.

(b) Section 446 provides that taxable income shall be computed under the method of accounting on the basis of which the taxpayer regularly computes his income in keeping his books. Section 452 provides a specific method of accounting and, accordingly, the books of the taxpayer must be kept in accordance with such method if taxable income is to be computed under the method so elected. No election under section 452 may be made unless the prepaid income is deferred on the regular books of account which are used in computing the taxpayer's income and on the basis of which the taxpayer prepares his financial statements (such as reports to creditors, stockholders, etc.). If a taxpayer closes such books for the taxable year without making the necessary entries thereon to record such deferral, and issues his financial statements on the basis of the books as so closed, any such entries made thereafter will not be deemed to meet the requirements of the preceding sentence with respect to such

taxable year; however, this rule is not applicable in the case of a taxpayer who has closed his books and issued financial statements for the taxable year before January 24, 1955, if he makes the necessary entries before making the election under section 452 (d) (3) (A) and § 1.452-7 (b). In the case of a taxpayer (such as a regulated public utility defined in section 1503 (c)) which is required by the rules of a governmental agency to maintain its books in accordance with a method of accounting different from that permitted by section 452, the method of accounting permitted by section 452 may be reflected in auxiliary records which shall be kept with, and reconciled with, the taxpayer's regular books. The deferral of prepaid income must be reflected on the books for a period not shorter than that prescribed for tax purposes. This is not to be construed as preventing the taxpayer from deferring prepaid income on his books, where proper, over a period longer than the period prescribed by section 452.

(c) For applicable definitions, see section 452 (e) and § 1.452-8.

§ 1.452-2 *Prepaid income to be earned over short period.* (a) If prepaid income is attributable to a liability which will end before the first day of the sixth taxable year after the taxable year in which it is received, the income is deemed for purposes of section 452 to be "short-period prepaid income". Such income shall be included in gross income, to the extent properly allocable under the taxpayer's method of accounting, in the taxable year in which received and in each of the succeeding taxable years (not exceeding five) over which the liability may extend. The amount properly allocable to each of such taxable years shall be determined in the light of all the facts and circumstances involved, including the taxpayer's experience with such liabilities.

(b) Short-period prepaid income need not be allocated equally over the period, nor must any portion necessarily be included in the taxable year of receipt. A proper allocation under this section requires that such income be included in gross income as the liability to which the income relates is discharged or as it is deemed to be discharged on the basis of the taxpayer's experience. (Where experience is the basis for allocation, the taxpayer must follow the rules provided in § 1.452-3 (b).) For example, if the rent for the fifth year under a five-year lease is paid at the beginning of the lease and the taxpayer-lessee has elected the benefits of section 452, and if the fifth year of the lease falls within two taxable years of the taxpayer, such rent shall be allocated to each of such two taxable years to the extent that the fifth year of the lease falls within each such taxable year. On the other hand, if the rent for the entire five years is received in advance, such rent shall be allocated to the taxable years covered by the lease. The preceding sentence may be illustrated by the following example:

Example. Taxpayer A, using the accrual method, whose taxable year is a calendar year, leases a building to B for a period of 48 months commencing on February 1, 1955, for a total rent of \$48,000 paid on December

1, 1954. Assuming that A has elected the benefits of section 452, rent from the lease shall be included in gross income as follows:

Taxable year:	Amount included in gross income
1954.....	0
1955.....	\$11,000
1956.....	12,000
1957.....	12,000
1958.....	12,000
1959.....	1,000
Total.....	48,000

No part of the short-period prepaid rent is includible in gross income for the year 1954 since no part of the liability was discharged in that year.

(c) The determination of the period over which the liability extends is to be made on the basis of the facts known at the time the income is received. In order to treat prepaid income as short-period prepaid income, the taxpayer must be able to ascertain at the time of receipt of such income that the liability will end before the first day of the sixth taxable year after the taxable year in which the income is received.

(d) If subsequent events extend the period of liability, but it is not extended beyond the last day of the fifth taxable year following the taxable year of receipt of the prepaid income, the portion of the prepaid income not previously includible in gross income shall be allocated, in accordance with paragraphs (a) and (b) of this section, over the period remaining between the time the subsequent events become known and the expiration of the liability as changed.

(e) If subsequent events extend the period of liability beyond the close of the fifth taxable year following the taxable year of receipt of the prepaid income, the portion of the prepaid income not previously includible in gross income shall be allocated ratably over the period between the time the extended liability becomes known and the close of such fifth taxable year.

(f) If subsequent events shorten the period of liability, the portion of the prepaid income not previously includible in gross income shall be included in gross income for the taxable year in which the subsequent events occur if the liability does not extend beyond that taxable year. If the liability does extend beyond that taxable year, such portion shall be included in gross income over the period remaining between the time the subsequent events become known and the expiration of the liability as changed, in accordance with paragraphs (a) and (b) of this section.

(g) In the case of a change in the period of the liability described in paragraph (e) of this section, a taxpayer may request permission from the Commissioner to allocate the amount of prepaid income not previously includible in gross income in some manner other than that provided in such paragraph. The consent of the Commissioner shall be requested in accordance with § 1.452-5. Ordinarily, permission will not be granted to reallocate amounts properly includible in gross income for taxable years prior to the taxable year in which

the change in the period of the liability occurs.

(h) For the purposes of the allocation under this section, the taxpayer may consider each transaction separately or may aggregate similar transactions during the taxable year in any reasonable manner provided the method of aggregation is consistently followed.

§ 1.452-3 *Prepaid income to be earned over indefinite period.* (a) Prepaid income attributable to a liability, which on the basis of the facts known at the time such income is received extends over an indefinite period, shall be included in gross income in accordance with the provisions of this section. An example of prepaid income of this type is an amount received by a retail store for gift certificates which may be redeemed for merchandise at any time. There is to be included in gross income for the taxable year of receipt of an item of prepaid income described in this section and in gross income for each succeeding taxable year (not more than 5 years and not necessarily ratably) that portion of such prepaid income with respect to which the experience of the taxpayer indicates the liability will be discharged during each such taxable year. The remainder of the prepaid income must be accounted for one-sixth in the taxable year of receipt and one-sixth in each of the five succeeding taxable years.

(b) The allocation of income to be earned over an indefinite period shall be based upon the taxpayer's own experience, if adequate for a reasonable allocation. Ordinarily, the most recent six years of experience with this kind of prepaid income will be considered adequate for the purposes of this paragraph. However, if the taxpayer's experience is not adequate, he may use the experience of other taxpayers engaged in a similar trade or business if he establishes to the satisfaction of the Commissioner that such experience is representative of the taxpayer's business. In such case, if the taxpayer attaches to his return a complete statement of the experience relied upon, he may use such experience in computing taxable income on his return, subject to approval by the Commissioner upon subsequent examination of the return.

(c) The following example illustrates the provisions of this section:

Example:

Sale of service coupons.....	\$1,000
Experience indicates that the coupons will be presented in payment for services as follows:	
50 percent in the year of sale.....	\$500
9 percent in the 1st succeeding year.....	90
5 percent in the 2nd succeeding year.....	50
3 percent in the 3rd succeeding year.....	30
2 percent in the 4th succeeding year.....	20
1 percent in the 5th succeeding year.....	10
Total.....	700
Amount to be accounted for during the first six years on the basis of experience.....	\$700

Amount subject to pro rata allocation over the six year period.....	300
Allocated to each year, one-sixth of \$300.....	50

Thus, the amount of income from the sale of service coupons to be included in gross income for the taxable year of sale is \$500 plus \$50, or \$550, and for the first succeeding year is \$90 plus \$50, or \$140, etc. However, if any portion of the amount received represents payment for coupons which the experience of the taxpayer indicates will never be presented for redemption, such portion may not be deferred beyond the taxable year in which the amount was received and shall be included in gross income for such taxable year. For example, if sales of coupons had been \$1,100 instead of \$1,000 and experience indicated that \$100 of such amount would never be presented for redemption, the income from the sale of service coupons to be included in gross income for the taxable year of sale would be \$500 plus \$50 plus \$100, or \$650.

(d) For the purposes of the allocation under this section, the taxpayer may consider each transaction separately or may aggregate similar transactions during the taxable year in any reasonable manner provided the method of aggregation is consistently followed. It will be necessary for the taxpayer to evaluate annually his past experience in arriving at the proper allocation of prepaid income received during that taxable year.

(e) A taxpayer may not defer prepaid income relating to a liability of indefinite duration beyond the fifth taxable year after the taxable year of receipt unless he secures the consent of the Commissioner. A request for such consent shall be submitted in accordance with the provisions of § 1.452-5.

§ 1.452-4 *Prepaid income to be earned over long period.* (a) Prepaid income attributable to a liability which, based upon the facts known at the time the income is received, will end after the close of the fifth taxable year following the taxable year in which such income is received shall be regarded as "long-period prepaid income". One-sixth of such income shall be included in gross income for the taxable year of receipt and one-sixth for each of the five succeeding taxable years unless the Commissioner consents to a different treatment. (See § 1.452-5.) For example, assume that the taxpayer, reporting taxable income on a calendar year basis, receives in the first year of a 10-year lease commencing on January 1, the first and the last year's rent. The annual rental is \$6,000; the amount received in the first year is \$12,000, of which only the \$6,000 allocable to the 10th year's rent is prepaid income. The 10th year's rent shall be allocated \$1,000 to each of the first six years of the lease, and taking into account the \$6,000 rent for each such year, there will be a total of \$7,000 included in income for each of the first six years. In each of the seventh, eighth, and ninth years only the \$6,000 rent for such year shall be taken into income. Since the tenth year's rent was included in income for the first six years, it is not to be included in income for the tenth year.

(b) One-sixth of the amount of long-period prepaid income shall be included in gross income for the taxable year of

receipt. For example, if a taxpayer on the accrual method, on a calendar year basis receives a rental payment of \$60,000 on December 1, 1954, covering full payment on a six-year lease commencing on January 1, 1955, \$10,000 of such income is allocable to 1954, the taxable year of receipt, and a like amount to each of the five succeeding taxable years.

(c) Whether amounts received are short-period prepaid income or long-period prepaid income shall be determined by reference to the periods to which such amounts relate. For example, if, in connection with a ten-year lease beginning January 1, 1955, the rent for the fourth and sixth years is received in 1954, the amount of the rent for the fourth year is short-period prepaid income and the amount of the rent for the sixth year is long-period prepaid income. However, if in such example the lease were to begin on January 1, 1957, the rent for the fourth year would also be long period prepaid income since the fourth year would fall more than five years after 1954, the year of receipt.

§ 1.452-5 *Manner of obtaining consent for different treatment of prepaid income.* A taxpayer may, with the consent of the Commissioner, include prepaid income in gross income in such proportions, and for such taxable years, as are specified in the consent. The request for consent, in the case of prepaid income to which section 452 (a) (2) or 452 (b) applies, shall be made to the Commissioner not later than 30 days after the close of the taxable year in which such prepaid income is received. In the case of a request for consent described in section 452 (a) (1), the request shall be made to the Commissioner not later than 30 days after the close of the taxable year in which the change in the period of the liability became known. However, if the period prescribed above for the filing of the request expires less than 90 days after the promulgation of these regulations under section 452, the taxpayer may file the request for consent not later than 90 days after the promulgation of such regulations. The request shall contain both a detailed recital of the circumstances upon which the taxpayer bases his request for a method of allocation different from that provided in these regulations under section 452 and all the information necessary for the Commissioner to determine whether the proposed method of allocation would be proper and, if so, to what taxable years and in what amounts such allocations should be made. The request for consent should be directed to the Commissioner of Internal Revenue, Washington 25, D. C. Such permission will be granted by the Commissioner only in cases where it is shown to his satisfaction that a different method of treating prepaid income is proper.

§ 1.452-6 *Treatment of prepaid income where taxpayer's liability ceases.* If the liability of the taxpayer ends, then so much of the prepaid income as was not includible in gross income for preceding taxable years shall be included in the gross income of the taxpayer for the taxable year in which the liability ends. See section 381 (c) (7) for rules

applicable to the treatment of prepaid income in the case of certain corporate acquisitions. If an individual taxpayer dies or a taxpayer other than an individual goes out of existence, the amount deferred under section 452 and not previously includible in his gross income shall, notwithstanding the provisions of section 451 (b), be included in his gross income for the taxable year in which such event occurs. Similarly, when a partnership terminates such amount shall be included in gross income for the year of termination of the partnership.

§ 1.452-7 Election of benefits—(a) In general. (1) An election under section 452 shall be applicable to all prepaid income (of the trade or business for which the election is made) which is received in the taxable year of the election and all subsequent taxable years. Such election shall not apply to any prepaid income received before the taxable year for which the election is made, even though the amounts will not be earned until after such year. The taxpayer may elect to include in his gross income for the taxable year of receipt all prepaid income with respect to which the liability is to end within 12 months of its receipt, if he files a statement to that effect at the time he makes his election under section 452. In such a case this treatment shall be consistently followed.

(2) An election under section 452 shall be binding for the taxable year for which made and all subsequent taxable years unless the consent of the Commissioner is obtained to change such method of treating prepaid income. See section 446 and the regulations thereunder.

(3) No election shall be permitted with respect to a trade or business if the cash receipts and disbursements method of accounting is used in computing taxable income or if such method is used, under a combination of methods, in reporting items of gross income for such trade or business for income tax purposes.

(4) If the taxpayer clearly evidences a bona fide intent to comply with the provisions of section 452 and the regulations thereunder, his election under that section will not be invalidated by:

(i) His failure to take certain items of prepaid income into account in accordance with the provisions of section 452 and these regulations;

(ii) His failure correctly to allocate prepaid income in accordance with such provisions; or

(iii) His improper deferral of items to which section 452 does not apply.

(b) Manner of making election not requiring consent. The election under section 452 may be made without the consent of the Commissioner if made for the first taxable year beginning after December 31, 1953 and ending after August 16, 1954 in which there is received prepaid income of the particular trade or business for which the election is made. The election must be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). The election shall be made in a statement attached to the taxpayer's return for the first taxable year to which the election

is applicable. The statement shall contain the information required by paragraph (d) of this section.

(c) Election requiring consent. (1) If a taxpayer does not elect under paragraph (b) of this section he may elect the benefits of section 452 for his second taxable year beginning after December 31, 1953, and ending after August 16, 1954, provided that on or before June 30, 1955, he notifies the Commissioner of Internal Revenue, Washington 25, D. C., of his intention to make such election. The notification shall state that the taxpayer has not elected the benefits of section 452 for his first taxable year beginning after December 31, 1953, and ending after August 16, 1954, but desires to elect the benefits of such section for the next succeeding taxable year. The notification shall be in triplicate, shall identify the trade or business to which the election is to apply, shall show the name and address of the taxpayer and the district in which the return of the taxpayer is to be filed. In such a case the taxpayer's notification will be treated as an election to have the benefits of section 452 apply to such taxable year and to all subsequent taxable years. A copy of the notification will be stamped with the approval of the Commissioner and returned to the taxpayer. Such copy, together with a statement containing the information required by paragraph (d) of this section shall be attached to the return for the first taxable year to which the election applies.

(2) In the event that a taxpayer does not make an election under paragraph (b) of this section or subparagraph (1) of this paragraph, he may, at a later date, elect the benefits of the provisions of section 452 only if he obtains the consent of the Commissioner. In such a case, a written request for consent shall be made to the Commissioner not later than 90 days after the beginning of the first taxable year for which the election is applicable or 90 days after the date of promulgation of the regulations under section 452, whichever is later. Such request shall contain the information required by paragraph (d) of this section.

(d) Information required. The statement or request filed under paragraph (b) or (c) of this section shall set forth the following:

(1) The name and description of each trade or business for which the election is to apply;

(2) A declaration that the election is intended to apply to all prepaid income of the trade or business;

(3) The method of accounting used by the taxpayer in such trade or business;

(4) A description of each type of prepaid income of such trade or business, the proposed method of allocation, and the basis therefor;

(5) Whether a previous election under the provisions of section 452 has been made for such trade or business and, if so, for what taxable years such election was in effect; and

(6) The name and description of each trade or business, if any, for which the election does not apply.

§ 1.452-8 Definitions—(a) Prepaid income. The term "prepaid income"

means any amount (includible in gross income) which is received in connection with, and is directly attributable to, a liability which extends beyond the close of the taxable year in which such amount is received. However, amounts which represent receipts for goods or services or for the use of property to have been provided or furnished during or prior to the taxable year of receipt are not prepaid income. The term may include, for example, amounts received in advance for rents and warehouse fees and amounts received from the sale of tickets, car tokens, subscriptions, club dues, and service coupons and contracts. Such term does not include any income treated as a gain from the sale or other disposition of a capital asset.

(b) Liability. The term "liability" means a liability to render services, furnish goods or other property, or allow the use of property. For example, an appliance service contract is a liability to render services for the purposes of section 452 if the contract is a separate transaction for which a charge is made and which is entered into at the option of the purchaser. The term does not include a liability under a warranty the consideration for which is, in effect, included in the selling price of a product.

(c) Receipt of prepaid income. For the purposes of section 452, prepaid income shall be treated as received during the taxable year for which it would be includible in gross income under section 451 and the regulations thereunder (determined without regard to section 452).

§ 1.462 Statutory provisions; reserves for estimated expenses.

SEC. 462. Reserves for estimated expenses, etc.—(a) General rule. In computing taxable income for the taxable year, there shall be taken into account (in the discretion of the Secretary or his delegate) a reasonable addition to each reserve for estimated expenses to which this section applies.

(b) Adjustments where reserve becomes excessive. If it is determined that the amount of any reserve for estimated expenses to which this section applies is (as of the close of the taxable year) excessive, then (under regulations prescribed by the Secretary or his delegate) such excess shall be taken into account in computing taxable income for the taxable year.

(c) Estimated expenses to which this section applies—(1) Election of benefits. This section shall apply to estimated expenses if and only if the taxpayer makes an election under this section with respect to the trade or business to which such expenses are attributable. The election shall be made in such manner as the Secretary or his delegate may by regulations prescribe. No election may be made with respect to a trade or business if in computing taxable income the cash receipts and disbursements method of accounting is used with respect to such trade or business.

(2) Scope of election. An election made under this section shall apply to all estimated expenses attributable to the trade or business.

(3) When election may be made—(A) Without consent. A taxpayer may, without the consent of the Secretary or his delegate, make an election under this section for his first taxable year (i) which begins after December 31, 1953, and ends after the date on which this title is enacted, and (ii) for which there are estimated expenses attributable to the trade or business. Such an election shall be made not later than the time

prescribed by law for filing the return for such year (including extensions thereof).

(B) *With consent.* A taxpayer may, with the consent of the Secretary or his delegate, make an election under this section at any time.

(d) *Estimated expense defined.*—(1) *General rule.* For purposes of this section, the term "estimated expense" means a deduction allowable by this subtitle—

(A) Part or all of which would (but for this section) be required to be taken into account for a subsequent taxable year;

(B) Which is attributable to the income of the taxable year or prior taxable years for which an election under this section is in effect; and

(C) Which the Secretary or his delegate is satisfied can be estimated with reasonable accuracy.

(2) *Exceptions.* The term "estimated expense" does not include—

(A) Any deduction attributable to income taken into account in computing taxable income for taxable years preceding the first taxable year for which the election is made;

(B) Any deduction attributable to prepaid income to which section 452 applies by reason of an election made under such section by the taxpayer; or

(C) Any deduction allowable under section 166 (relating to bad debts).

(e) *Special rule for deductions attributable to period before election.* Any deduction attributable to income taken into account in computing taxable income for taxable years preceding the first taxable year for which the election is made shall be allowable in the same manner and to the same extent as if this section had not been enacted.

§ 1.462-1 *Reserves for estimated expenses.*—(a) *In general.* (1) Ordinarily, in computing taxable income expenses are not deductible for a taxable year prior to the taxable year in which paid or incurred, or paid or accrued, depending upon the taxpayer's method of accounting. However, section 462 permits a taxpayer, in the discretion of the Commissioner, to deduct a reasonable addition to a reserve for certain expenses (designated as estimated expenses), which, in the opinion of the Commissioner, can be estimated with reasonable accuracy. The general purpose of section 462 is to bring tax accounting more closely into harmony with generally accepted accounting principles; it is not intended to permit taxpayers to deduct an addition to a reserve for estimated expenses in any taxable year unless such treatment would be proper for such year under the taxpayer's method of accounting. The election under section 462 may be made with respect to any trade or business of the taxpayer provided that the cash receipts and disbursements method of accounting is not used in computing the taxable income of such trade or business, and the election shall apply to all estimated expenses of such trade or business.

(2) Section 446 provides that taxable income shall be computed under the method of accounting on the basis of which the taxpayer regularly computes his income in keeping his books. Section 462 provides a specific method of accounting and, accordingly, the books of the taxpayer must be kept in accordance with such method if taxable income is to be computed under the method so elected. In computing taxable income, no amount shall be taken into account

with respect to estimated expenses under section 462 unless a reserve therefor has been established and is properly recorded on the regular books of account which are used in computing the taxpayer's income and on the basis of which the taxpayer prepares his financial statements (such as reports to creditors, stockholders, etc.). If a taxpayer closes such books for the taxable year without making the necessary entries thereon to establish and record the reserve, and issues his financial statements on the basis of the books as so closed, any such entries made thereafter will not be deemed to meet the requirements of the preceding sentence with respect to such taxable year; however, this rule is not applicable in the case of a taxpayer who has closed his books and issued financial statements for the taxable year before January 24, 1955, if he makes the necessary entries before making the election under section 462 (c) (3) (A) and § 1.462-4 (a). In the case of a taxpayer (such as a regulated public utility defined in section 1503 (c)) which is required by the rules of a governmental agency to maintain its books in accordance with a method of accounting different from that permitted by section 462, the method of accounting permitted by section 462 may be reflected in auxiliary records which shall be kept with, and reconciled with, the taxpayer's regular books.

(3) For applicable definitions, see section 462 (d) and § 1.462-5.

(b) *Reasonable additions.* (1) Whether an addition to a reserve for estimated expenses is reasonable shall be determined in each particular case in the light of the pertinent facts known at the close of the taxable year. Among such pertinent facts to be considered is the experience of the taxpayer. However, in cases where the taxpayer has no such experience or his experience is inadequate, the experience of a taxpayer or group of taxpayers in a similar trade or business operating under similar conditions may be used if the taxpayer establishes to the satisfaction of the Commissioner that such experience is representative of the taxpayer's business. In case actual expenses prove to be more or less than those estimated in arriving at an addition to the reserve for prior years, the amount of the excess or inadequacy in the existing reserve shall be reflected in the determination of a reasonable addition for the current taxable year.

(2) A taxpayer claiming deductions on account of additions to reserves for estimated expenses shall, with respect to each reserve for estimated expenses, attach to his tax return for the taxable year a statement disclosing a summary of his experience with respect to such expenses for the taxable year and the four preceding taxable years. Ordinarily, the taxpayer's experience for such a period will be an acceptable basis for computing the addition to the reserve. If, however, the taxpayer's experience does not extend over such period, the statement should disclose that fact and give a summary of the taxpayer's experience with respect to such expenses. This statement shall include

the following information for the taxable year and each of such preceding taxable years: (i) A description of each expense, (ii) taxable income (loss), (iii) the amount added to the reserve, (iv) the amount charged against the reserve, (v) the balance in the reserve as of the end of the taxable year, (vi) the amount deducted from income for such expenses in taxable years in which a reserve was not maintained, and (vii) the name and amount of the item to which the experience ratio is applied in determining the amount of the reasonable addition, such as credit sales, net sales, gross income, etc.

(3) The following example will serve to illustrate the provisions of this paragraph:

Example. A taxpayer, using an accrual method of accounting, who sells appliances subject to a warranty, elects to deduct additions to a reserve for expenses which he estimates will be necessary to fulfill his obligation under the warranty on appliances sold during 1954. The taxpayer has not, prior to the election, maintained such a reserve on his books. The statement attached to his return shows:

APPLIANCE WARRANTY EXPENSES

Taxable year	Net sales	Taxable income	Addition to reserve	Charges to reserve	Balance in the reserve	Actual expenses
1950.....	\$100,000	\$15,000	-----	-----	-----	\$900
1951.....	110,000	16,000	-----	-----	-----	1,100
1952.....	125,000	18,000	-----	-----	-----	1,450
1953.....	150,000	17,000	-----	-----	-----	1,550
1954.....	165,000	20,000	\$1,650	\$700	\$950	2,700 1,800
Totals:	650,000	-----	-----	-----	-----	6,500

¹ Since the total of actual expenses for the most recent five years' experience amounts to 1 percent of the most recent five years' net sales, a reasonable addition to the reserve for 1954 would be 1 percent of \$165,000 or \$1,650. The amount deductible in 1954 is \$2,450, composed of the addition to the reserve of \$1,650 plus \$800 actual expense attributable to sales of years prior to 1954 (allowable without regard to this section).

² Actual expense applicable to 1954 sales.

³ Applicable to sales of years prior to 1954.

While in this example net sales have been used as a basis upon which the addition to the reserve is calculated, it should be understood that other items may be applicable under other circumstances and therefore such items should be substituted where appropriate.

(4) If the taxpayer has no experience with this type of expense, the statement shall include a complete description of the basis used in computing the addition to the reserve. In any event, the addition to the reserve is subject to the approval of the Commissioner upon subsequent examination of the return.

(5) In any case, the statement and accompanying data shall set forth for the taxable year such information as is necessary in order to establish clearly that (i) the reserve is one for which an addition is allowable under section 462 in computing taxable income, (ii) the amount of the addition is reasonable, and (iii) the amount of the reserve at the end of the taxable year is not excessive. The reserves to which section 462 applies shall be segregated from any reserves which may have been established by the taxpayer for taxable years prior to the taxable year for which the election under that section is exercised.

§ 1.462-2 *Adjustments where reserve becomes excessive.* In any case in which a reserve for estimated expenses as of the close of any taxable year is determined to be excessive, such excess shall be taken into account in computing the taxable income for the taxable year for which such determination is made. For example, if for the taxable year ending December 31, 1956, it is determined by the Commissioner that a reserve (including a claimed addition for the year 1956) is excessive, such excess shall be taken into account in computing taxable income for the year 1956. In any case in which it is determined that a particular reserve for estimated expenses is no longer necessary, the amount of the reserve as of the close of the taxable year for which such determination is made shall be taken into account in computing the taxable income for such year. Similarly, in any case in which the use of reserves for estimated expenses is discontinued, the balance of each such reserve shall be included in taxable income for the year of change.

§ 1.462-3 *Election of benefits.* (a) The election referred to in § 1.462-1 shall apply to all estimated expenses attributable to the trade or business to which the election is applicable both for the taxable year for which the election is made and for all subsequent taxable years unless a change to a different method is authorized by the Commissioner under the provisions of section 446. However, the election does not apply to any estimated expenses which are attributable to prepaid income deferred at the close of the taxable year under the provisions of section 452. If the taxpayer is engaged in more than one trade or business, he may make a separate election with respect to each such trade or business.

(b) In no event shall an election under section 462 be applicable in the computation of taxable income for any taxable year preceding the taxable year for which such election is made. Such an election cannot be made for any taxable year beginning before January 1, 1954, or ending before August 17, 1954.

(c) No election shall be permitted with respect to a trade or business if the cash receipts and disbursements method of accounting is used in computing taxable income or if, under a combination of methods, the cash receipts and disbursements method is used in reporting items other than items of gross income for income tax purposes for such trade or business.

(d) If the taxpayer clearly evidences a bona fide intent to comply with the provisions of section 462 and the regulations thereunder, his election under that section will not be invalidated by:

- (i) His failure to take into account certain estimated expenses in establishing his reserve;
- (ii) His failure correctly to determine the amount of any such reserve or additions thereto; or
- (iii) His establishment of a reserve for an expense to which section 462 does not apply.

§ 1.462-4 *Time and manner of making election—(a) Without consent.* The

election under section 462 may be made without the consent of the Commissioner if made for the first taxable year beginning after December 31, 1953, and ending after August 16, 1954, in which there are estimated expenses of the particular trade or business for which the election is made. The election must be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). The election shall be made in a statement attached to the taxpayer's return for the first taxable year to which the election is applicable. Such statement shall contain the information required by paragraph (c) of this section.

(b) *With consent.* (1) If a taxpayer does not make the election under paragraph (a) he may elect the benefits of section 462 for his second taxable year beginning after December 31, 1953, and ending after August 16, 1954, provided that on or before June 30, 1955, he notifies the Commissioner of Internal Revenue, Washington 25, D. C., of his intention to make such election. The notification shall state that the taxpayer has not elected the benefits of section 462 for his first taxable year beginning after December 31, 1953, and ending after August 16, 1954, but desires to elect the benefits of such section for the next succeeding taxable year. The notification shall be in triplicate, shall identify the trade or business to which the election is to apply, shall show the name and address of the taxpayer and the district in which the return of the taxpayer is to be filed. In such a case the taxpayer's notification will be treated as an election to have the benefits of section 462 apply to such taxable year and to all subsequent taxable years. A copy of the notification will be stamped with the approval of the Commissioner and returned to the taxpayer. Such copy, together with a statement containing the information required by paragraph (c) of this section, shall be attached to the return for the first taxable year to which the election applies.

(2) In the event that a taxpayer does not make an election under paragraph (a) of this section or subparagraph (1) of this paragraph, he may, at a later date, elect the benefits of the provisions of section 462 only if he obtains the consent of the Commissioner. In such a case, a written request for consent shall be made to the Commissioner not later than 90 days after the beginning of the first taxable year for which the election is applicable or 90 days after the date of promulgation of the regulations under section 462, whichever is later. Such request shall contain the information set forth in paragraph (c) of this section.

(c) *Information required.* The statement or request filed under paragraph (a) or (b) of this section shall set forth the following:

- (1) The name and description of each trade or business to which the election is to apply;
- (2) A declaration that the election is intended to apply to all estimated expenses of the trade or business;
- (3) The method of accounting used by the taxpayer in such trade or business;
- (4) A description of each type of esti-

mated expenses of such trade or business;

(5) Whether a previous election under the provisions of section 462 has been made for such trade or business and, if so, for what taxable years such election was in effect; and

(6) The name and description of each trade or business, if any, to which the election does not apply.

§ 1.462-5 *Estimated expense defined—(a) General rule.* For purposes of section 462 (a) (which provides that there shall be taken into account in the discretion of the Secretary or his delegate a reasonable addition to each reserve for estimated expenses to which section 462 applies), the term "estimated expense" means a deduction which:

(1) Is allowable in computing taxable income;

(2) Is attributable to income of the taxable year or of prior taxable years for which an election under section 462 is in effect;

(3) In the opinion of the Commissioner can be estimated with reasonable accuracy; and

(4) Is a deduction, a part or all of which would be required, except for section 462, to be taken into account for a subsequent taxable year.

(b) *Exceptions.* The term "estimated expense" does not include any deduction which is:

(1) Attributable to income taken into account in computing taxable income for taxable years preceding the first taxable year for which the election is made;

(2) Attributable to income deferred as of the close of the taxable year under section 452; or

(3) Allowable under section 166 relating to bad debts.

(c) *Rules for application of paragraphs (a) and (b) of this section.* (1) Estimated expenses are those which are attributable to a transaction or undertaking in the taxable year or a prior taxable year under which:

(i) Income is realized which is includible in income for the taxable year or a prior taxable year; and

(ii) The taxpayer is under a liability to perform service, furnish goods, supply property, or assume obligations, which necessitate the making of expenditures by the taxpayer during a subsequent taxable year.

(2) Expenses attributable to income of future years are not expenses for which an addition to a reserve under section 462 is allowable. An expenditure to be made in a year subsequent to the taxable year is not attributable to the income of the taxable year or prior taxable years merely because it is incurred in order to restore operating or productive capacity which has been diminished by the operations of the taxable year or prior taxable years.

(3) The following examples illustrate the application of paragraphs (a) and (b) of this section: If the taxpayer, as an incentive or inducement to employment, offers vacations for faithful service, amounts to be expended for such purpose may be estimated expenses within the meaning of section 462. Likewise, if the taxpayer, in order to pro-

mote sales or to encourage prompt payment for articles sold, agrees to keep the product sold in repair for subsequent years or offers cash discounts, amounts set aside for these purposes may constitute estimated expenses. However, that term does not include expenses for maintenance and repairs unless the taxpayer is under a liability to make repairs or incur maintenance expenses in a subsequent taxable year as a condition to the realization of income in the taxable year. For example, if, as a condition to obtaining machinery under a rental contract, the taxpayer is required to make certain periodic repairs in subsequent taxable years, an addition to a reserve to meet the costs thereof may be estimated expenses within the meaning of section 462. Further, the cost of repairs to delivery equipment used to fulfill an obligation under the taxpayer's warranty agreement to keep a product in repair or in service may be treated as an estimated expense. On the other hand, estimated costs of repairs and maintenance to the taxpayer's property may not be considered estimated expenses to which the provisions of section 462 apply unless such costs are undertaken pursuant to a liability to another person as a condition to the realization of income.

(4) Reserves created for general undetermined contingencies, for indefinite possible future losses, for expenses and losses not reasonably related to the income of the taxable year or prior taxable years, or for expenses and losses that are being contested or are in litigation, cannot ordinarily be estimated with reasonable accuracy and may not be the basis for additions to reserves for estimated expenses. With respect to items involving related reserves, only one deduction against taxable income will be allowed. Section 462 does not have the effect of converting into deductible expenses amounts which would not otherwise be deductible in computing taxable income for subsequent taxable years. The provisions of section 462 have no application with respect to the renegotiation or price redetermination of contracts.

(5) Section 462 is not applicable to any item of deduction for which the Code provides a specific method of reporting such as deductions referred to in—

(i) Section 404, relating to contributions of an employer to an employee's trust or annuity plan and compensation under a deferred payment plan,

(ii) Section 461 (c), relating to accrual of real property taxes,

(iii) Section 174, relating to research and experimental expenditures,

(iv) Section 175, relating to soil and water conservation expenditures,

(v) Section 615, relating to exploration expenditures, and

(vi) Section 616, relating to development expenditures.

(6) Examples of expenses which ordinarily meet the requirements of this section are cash discounts, product warranties, sales returns and allowances, freight allowances, quantity discounts, vacation pay, and self-insurance by common carriers for liability for cargo damages. Examples of expenses which ordinarily do not meet the requirements of

this section are inventory adjustments, self-insurance for losses of the taxpayer's own property, franchise and other taxes levied for a period subsequent to the taxable year, and fees for professional services not yet rendered.

§ 1.462-6 *Special rule for deductions attributable to period before election.* Any deduction attributable to income taken into account in computing taxable income for taxable years preceding the first taxable year for which the election is made shall be allowable in the same manner, and to the same extent, as if section 462 had not been enacted. For example, merchandise returned in 1954, attributable to sales made in 1953 (the year prior to the election), will be taken into account in 1954 as returned sales, even though for 1954 the taxpayer has elected to deduct a reasonable addition to reserves for estimated expenses. See example in § 1.462-1 (b) (3).

§ 1.462-7 *Examples.* The following examples illustrate the provisions of the regulations under section 462:

Example (1). A taxpayer who has elected the benefits of section 462 sells air-conditioning units which he guarantees for one year. Taxpayer's experience indicates that the average cost per unit of fulfilling the guarantee is as follows:

Material and parts.....	\$8
Labor.....	12
Operating overhead.....	4
Total.....	24

For each unit sold \$24.00 shall be credited to the reserve account. As expenses are actually incurred, the reserve shall be charged with the amount of these expenses. In no event will a double deduction be permitted. At the close of each taxable year the reserve shall be adjusted to reflect changes in the actual cost experience of the taxpayer.

Example (2). A calendar year taxpayer who has elected the benefits of section 462 estimates from past experience that 1 percent of all sales will be returned for credit and that one-half of the returns applicable to any month's sales will be returned during that month and one-half during the following month. Gross sales for the month of December 1954 totaled \$1,000,000. Cost of December's sales amount to \$700,000. A reasonable addition to a reserve for sales returns as of December 31, 1954, is calculated as follows:

Gross sales for December.....	\$1,000,000
Cost of sales for December.....	700,000
Gross profit for December.....	300,000

Reasonable addition (1 percent of ½ of \$300,000).....

1,500

Example (3). A taxpayer, engaged in the business of transporting property for hire, has elected the benefits of section 462 for the taxable year 1954, and has established a proper reserve for claims for property damaged while in transit. The reserve for property damage claims at the beginning of the taxable year 1955 carries a credit balance of \$15,000. His experience shows that 1 percent of his gross revenues will be paid out to meet claims for property damaged while in transit. For the taxable year 1955 he has gross revenue of \$2,000,000. A reasonable addition to this reserve for the taxable year 1955 is 1 percent of \$2,000,000 or \$20,000. An analysis of the reserve for the year 1955 is as follows:

Balance in reserve at beginning of year.....	\$15,000
Claims paid during the year.....	17,000
Excess of charges over credits.....	(2,000)
Current year's addition allowed as deduction.....	20,000

Balance at end of year..... 18,000

(Sec. 7805, 68A Stat. 917; 26 U. S. C. 7805. Interpret or apply secs. 446, 452, 462, 68A Stat. 151, 152, 158; 26 U. S. C. 446, 452, 462)

[F. R. Doc. 55-4696; Filed, June 9, 1955; 12:30 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

PART 207—NAVIGATION REGULATIONS

ARKANSAS, BLACK, CURRENT, RED, AND WHITE RIVER, ARK., AND SAN FRANCISCO BAY, CALIF.

1. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U. S. C. 499), § 203.560 governing the operation of drawbridges where constant attendance of draw tenders is not required is hereby amended to include the Arkansas Highway Department bridge across the Red River at Index, Arkansas, and with respect to certain bridges across the Arkansas, Black, Current, Red, and White Rivers, Arkansas, as follows:

§ 203.560 *Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.* * * *

(f) *Lower Mississippi River.* * * * (5-a) Red River, Ark.; Arkansas Highway Department bridge at Index. The draw need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(17-a) Arkansas River, Ark.; Arkansas Highway Department bridge near Pine Bluff. At least 4 hours' advance notice required to be given to the District Engineer, Pine Bluff District, Arkansas Highway Department, Pine Bluff, Arkansas.

(18-a) Arkansas River, Ark.; Arkansas Highway Department bridges near Morrilton and at Dardanelle. At least 72 hours' advance notice required to be given to the District Engineer, Russellville District, Arkansas Highway Department, Russellville, Arkansas.

(18-b) Arkansas River, Ark.; Arkansas Highway Department bridge at Van Buren. The draw need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(22) White River, Ark.; Arkansas Highway Department bridge at Batesville. The draw need not be opened for

the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(23) Black River, Ark.; Arkansas Highway Department bridge at Pochontas. At least 72 hours' advance notice required to be given to the District Engineer, Paragould District, Arkansas Highway Department, Paragould, Arkansas.

(24) Black River, Ark.; Arkansas Highway Department bridge at Corning. The draw need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(25) Current River, Ark.; Arkansas Highway Department bridge at Biggers. At least 72 hours' advance notice required to be given to the District Engineer, Paragould District, Arkansas Highway Department, Paragould, Arkansas.

[Regs., 20, May 24, 1955, 823.01-ENGWO] (Sec. 5, 28 Stat. 362; 33 U. S. C. 499)

2. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), § 207.640 is hereby amended by the addition of paragraph (g-2), prescribing a naval restricted area in the waters of San Francisco Bay adjacent to the northeast corner of Treasure Island, comprising a Naval Schools training area, as follows:

§ 207.640 *San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, San Joaquin River, and connecting waters, Calif.* * * *

(g-2) *San Francisco Bay adjacent to northeast corner of Treasure Island; naval restricted area—*(1) *The area.* Beginning at the intersection of Pier 21 and the bulkhead line, thence northwesterly along the bulkhead to the northernmost point of Treasure Island; thence 288° true, 290 yards; thence 26° true, 475 yards; thence 115° 30' true, 520 yards; thence 152° true, 500 yards to Pier 21; thence along the pier to the point of beginning.

(2) *The regulations.* No vessels, except those engaged in naval operations, shall lie, anchor, moor or unnecessarily delay in the area. Vessels may pass through the area in the process of ordinary navigation except as directed by patrol boats. The regulations in this paragraph shall be enforced by the Commandant, Twelfth Naval District, and such agencies as he may designate.

[Regs., May 20, 1955, 800.212 (San Francisco Bay, Calif.) ENGWO] (Sec. 7, 40 Stat. 266; 33 U. S. C. 1)

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

[F. R. Doc. 55-4666; Filed, June 10, 1955; 8:46 a. m.]

PART 204—DANGER ZONE REGULATIONS
HAWAIIAN ISLANDS

Pursuant to the provisions of section 7 of the River and Harbor Act of August

8, 1917 (40 Stat. 266; 33 U. S. C. 1) and Chapter XIX of the Army Appropriations Act of July 9, 1918 (40 Stat. 892; 33 U. S. C. 3), § 204.223 is hereby prescribed establishing and governing the use and navigation of danger zones in waters of the Pacific Ocean surrounding Kula Rock and Kahoolawe Island, and adjacent to Oahu and Molokai Islands, Territory of Hawaii, as follows:

§ 204.223 *Pacific Ocean, Hawaiian Islands; danger zones—*(a) *Danger zones—*(1) *Low level aerial radar target off Kahuku Point, Island of Oahu, T. H.* The waters within a circular area with radius of three (3) miles having its center at latitude 21°43'00", longitude 157°56'30".

(2) *Low level aerial bombing target north of Laau Point Island of Molokai, T. H.* Beginning at the shore at approximately latitude 21°8'37", longitude 157°17'35"; thence to latitude 21°09'34", longitude 157°20'29"; thence to latitude 21°10'40", longitude 157°20'04"; thence to latitude 21°09'35", longitude 157°16'48"; thence along the shore to the point of beginning.

(3) *High and low level aerial bombing target surrounding Mokuhooniki Rock, Island of Molokai, T. H.* The waters within a circular area with a radius of one and one-half (1½) miles having its center on Mokuhooniki Rock at latitude 21°08'10", longitude 156°42'20".

(4) *Aerial bombing and strafing target surrounding Kaula Rock, T. H.* The waters within a circular area with a radius of three (3) miles having its center on Kaula Rock at latitude 21°39'30", longitude 160°32'30".

(5) *Aerial bombing target and naval shore bombardment area, Kahoolawe Island, T. H.* The waters adjacent to Kahoolawe Island within the area encompassed by the following coordinates beginning at latitude 20°37'30", longitude 156°32'48"; thence to latitude 20°34'48", longitude 156°30'24"; thence to latitude 20°28'54", longitude 156°30'30"; thence to latitude 20°28'06", longitude 156°41'48"; thence to latitude 20°30'30", longitude 156°44'12"; thence to latitude 20°33'12", longitude 156°44'30"; thence to latitude 20°37'30", longitude 156°36'24"; thence to the beginning coordinates.

(b) *The regulations.* (1) No vessel or other craft shall enter or remain in any of the areas at any time except as authorized by the enforcing agency or as provided in subparagraph (2) of this paragraph.

(2) The low level aerial bombing target north of Laau Point, Island of Molokai, T. H. is released for the use of surface craft during the periods beginning at midnight before Saturday and ending at midnight after Sunday, and similarly from midnight before to midnight after, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, New Year's Day, Washington's Birthday, and Memorial Day.

(c) *Enforcing agency.* The regulations in this section shall be enforced by the Commandant, Fourteenth Naval District, and such agencies as he may designate.

[Regs., May 20, 1955, 800.212 (Hawaiian Island)—ENGWO] (40 Stat. 266 892; 33 U. S. C. 1, 3)

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

[F. R. Doc. 55-4667; Filed, June 10, 1955; 8:46 a. m.]

PART 210—PROCUREMENT ACTIVITIES OF
THE CORPS OF ENGINEERS
CLAIMS AND APPEALS BOARD

Section 210.4 is rescinded and the following substituted therefor:

§ 210.4 *Rules of the Corps of Engineers Claims and Appeals Board.* The following rules are promulgated by the Corps of Engineers Claim and Appeals Board, Office of the Chief of Engineers, for the guidance of contractors having contracts with the Corps of Engineers, and others concerned.

(a) *Rule 1, Appeals, how taken.* An appeal by a contractor, from a decision of a contracting officer, may be effected by any writing which (1) expresses a present desire to appeal, (2) is signed by—or authoritatively on behalf of—the contractor and (3) is delivered to the contracting officer or his representative, or to the appellate authority, within the time prescribed by the contract. If the contracting officer's decision is transmitted to the contractor by mail and an appeal is taken by mail, a "delivery" of the appeal will be considered as having been made on the date the same is mailed as evidenced by the postmark on the envelope. It is the desire of the Board, although not required, that the appeal identify the contract, the decision from which the appeal is taken, the contractual provisions or the drawings concerned in the dispute, the nature of the dispute and the relief so requested by the appellant. Specific facts and argument in support of the appeal, complete in reasonable detail, should be either included in the appeal or otherwise promptly submitted to the Board.

(b) *Rule 2, Transmittal of record.* Upon receipt of an appeal the contracting officer will compile and transmit to the Board, as promptly as good administration will permit, a copy of all documents pertinent to the appeal.

(c) *Rule 3, Appellant may supplement record.* Prior to action by the Board to dispose of the case the appellant may file (in quadruplicate) directly with the Board or with the contracting officer for transmittal to the Board any documents pertinent to the appeal.

(d) *Rule 4, Inspection of records.* The appeal file will be available for inspection by the appellant at the office of the Board or at the office of the contracting officer. Prior to arrangements for inspection of the file should be made with the Recorder of the Board or the contracting officer as the case may be.

(e) *Rule 5, Clearance of appellant's legal counsel or other representative.* The appellant may be represented by legal counsel or by any other duly authorized person. Each and every representative of the appellant will be required to conform with SR 600-785-1

(§ 583.1 of this title) dealing with conflicts in interests and representative activities before an agency of the Department of the Army.

(f) *Rule 6, Hearings and nature thereof.* (1) The appellant, if he so desires, will be accorded a full and complete hearing at which he may offer the testimony of witnesses and confront and cross examine the witnesses for the Government. Hearings will be as informal as may be reasonably allowable and appropriate under all the circumstances. The contractor and contracting officer or their representatives may offer at a hearing such evidence or argument as they deem appropriate, subject however to the exercise of reasonable discretion by the presiding member, in supervising the extent and manner of presentation of such evidence and argument. Letters or copies thereof, affidavits, or other evidence, not ordinarily admissible under the generally accepted rules of evidence, may be received in evidence in the discretion of the presiding member. The weight to be attached to evidence presented in any particular form will be determined by the Board in the exercise of reasonable discretion under all the circumstances of the particular case. The parties may, by stipulation in writing filed with the Board, agree upon the facts or any portion thereof involved in the appeal, and the stipulation may be regarded and used in evidence at the hearing; the parties may also stipulate the testimony that would be given by a witness if the witness were present. The Board may, however, in such cases, require additional evidence.

(2) Also, in the discretion of the Board, if the appellant does not desire a hearing, he will be accorded a conference with one or more members of the Board. Such a conference is not for the purpose of introducing any new matter into the record but may be utilized by an appellant to explain or argue matters of record. If any new matter is introduced at such a conference, consideration of the appeal will be deferred until the contracting officer has been apprised thereof and has had an opportunity to reply. The contracting officer or his representative will be afforded the right to be present at such conference.

(g) *Rule 7, Submission without a hearing.* At the option of appellant the case may be submitted to and decided by the Board on the basis of the record supplemented as desired by either party by briefs or memoranda. Unless advised to the contrary within 15 days after notification of docketing, the Board will proceed with the case as submitted.

(h) *Rule 8, Hearing, where held.* Hearings will be held at the office of the Board unless it is otherwise ordered by the Board. The Board will consider a request for a hearing at another location if compelling reasons are timely presented.

(i) *Rule 9, Notice of hearing.* The appellant and the contracting officer will be given at least 15 days' notice of the time and place of hearing. Continuances will not be granted except upon written request and for good cause.

(j) *Rule 10, Absence of parties or counsel.* The unexcused absence of a party or his authorized representative at the time and place set for the hearing will not be the occasion for delay. In such event the hearing will proceed and the case will be regarded as submitted by the absent party.

(k) *Rule 11, Depositions, procedure for taking—(1) Reason for taking.* A deposition may be taken and read, whenever in the discretion of the Board or the presiding member it appears that the ends of justice will be served thereby.

(2) (i) *Before whom taken.* Depositions to be read in evidence before the Board or any Division thereof may be taken before and authenticated by any officer, military or civil, authorized by the laws of the United States or by the laws of the place where the deposition is taken, to administer oaths.

(ii) *Form and return of deposition to Board.* Each deposition should show the docket number and the caption of the proceeding, the place and date of taking, the name of the witness, and the party by whom called. The officer taking a deposition should enclose the original deposition and exhibits, in a sealed packet, with postage or other transportation prepaid, and forward the same to the Corps of Engineers Claims and Appeals Board.

(3) *Notice to take.* When either party desires to take a deposition, unless the parties shall stipulate as to the time when and place where the deposition is to be taken and the name of the officer before whom it is to be taken and the name and address of the witness, such party should give to the opposite party at least 15 days' notice of the time when and the place where such deposition will be taken and the name and address and official title of the officer before whom it is proposed to take the deposition, as well as the name of the witness. A deposition may be taken either upon written interrogatories or upon oral examination, as may be specified in the notice. If the deposition is to be taken upon written interrogatories, copies thereof should accompany the notice to take depositions. If the opposite party desires to submit cross interrogatories, the cross-interrogatories should be served upon the party giving the notice within 10 days from the receipt of the notice to take the deposition.

(4) (i) *Deposition not considered until offered.* Testimony taken by deposition will not be considered until offered and received in evidence.

(ii) *Introduction of deposition by opposite party.* A deposition taken by one party may be introduced by the opposite party, but the whole deposition must be offered unless otherwise stipulated by the parties or directed by the Board.

(l) *Rule 12, Examination of witnesses.* Witnesses before the Board or a designated member thereof will be examined orally, unless the facts are stipulated or the Board or designated member thereof shall otherwise order. The testimony of a witness is subject to the provisions of Title 18 U. S. C., secs. 287, 1001; and any other provisions of law imposing penalties for knowingly making false representations in connection with claims

against the United States or in any matter within the jurisdiction of any department or agency thereof.

(m) *Rule 13, Copies of papers.* When books, records, papers, or documents have been received in evidence, a copy thereof or of such part thereof as may be material or relevant may be substituted therefor.

(n) *Rule 14, Withdrawal of exhibits.* After a decision has become final, the Board may, upon request, permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto.

(o) *Rule 15, Briefs.* All briefs will be filed within 20 days after conclusion of the hearing, or within such other period of time as may be allowed by the Board.

(p) *Rule 16, Transcript of proceedings.* Testimony and argument at hearings will be reported verbatim, unless the Board otherwise orders. Transcripts of the proceedings will be supplied to the parties at such rates as may be fixed by contract between the Board and the reporter. If the proceedings are reported by an employee of the Government, the contractor may receive transcripts upon payment to the Government at the same rates as those set by the independent reporter under contract to the Board.

(q) *Rule 17, Findings and decisions.* Findings and decisions of the Board will be made in writing, and authenticated copies thereof will be forwarded simultaneously to both parties. The rules of the Board and all final opinions and orders issued by the Board in the determination of cases shall be available to public inspection at the offices of the Board in Washington, D. C.

(r) *Rule 18, Motions for rehearing.* A motion for rehearing or reconsideration, if filed by either party, will set forth specifically the ground or grounds relied upon to sustain the motion, and will be filed within 20 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

[Regs., May 26, 1955, ENGAC-12] (R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. 151-161)

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

[F. R. Doc. 55-4665; Filed, June 10, 1955; 8:46 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix C—Public Land Orders

[Public Land Order 1158]

ALASKA

PARTIALLY REVOKING EXECUTIVE ORDER NO. 792 OF MAY 4, 1908

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Executive Order No. 792 of May 4, 1908, reserving certain lands in Alaska,

for use of the Signal Corps, U. S. Army, which was modified by Executive Order No. 7127 of August 6, 1935, is hereby revoked so far as it refers to lands in the U. S. Survey No. 1457 and No. 2285 at Salcha, Alaska. The area described contains 202,938 acres.

The lands shall not become subject to the initiation of any rights or to any disposition under the public land laws until it is so provided by an order of classification to be issued by an authorized officer of the Bureau of Land Management opening the lands to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. sec. 682a), as amended, with a ninety-one day preference-right period for filing such applications by veterans of World War II and the Korean conflict and other qualified persons entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended.

FRED G. AANDAHL,
Assistant Secretary of the Interior.

JUNE 1, 1955.

[F. R. Doc. 55-4668; Filed, June 10, 1955;
8:47 a. m.]

[Public Land Order 1162]

WYOMING

AMENDING PUBLIC LAND ORDER NO. 1077 OF
FEBRUARY 25, 1955, WHICH REVOKED
CERTAIN EXECUTIVE ORDERS

Public Land Order No. 1077 of February 25, 1955, appearing as Federal Register Document 55-1809 (20 F. R. 1311) of the issue of March 3, 1955, is hereby amended:

(1) By adding the following lands to the list of lands in paragraph three of Public Land Order No. 1077 which were included in the revocation made by that order:

SIXTH PRINCIPAL MERIDIAN

T. 41 N., R. 116 W.,
Sec. 30, E $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 33, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 42 N., R. 116 W.,
Sec. 32, lot 8;
Sec. 34, lot 7.

The tracts described contain 183.70 acres.

(2) And by deleting the E $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 30, T. 41 N., R. 116 W., from paragraph three of the order.

The lands in sec. 33, T. 41 N., R. 116 W., are included in Phosphate Reserve No. 18 by Executive order of July 9, 1913, and in the Teton National Forest by the act of August 16, 1916.

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

This order shall not otherwise become effective to change the status of the released lands until 10:00 a. m. on the 35th day after the date of this order. At that time the said lands shall become subject to application, petition, and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws, and the 91-day preference-right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended.

Veterans preference-right applications under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended, may be filed on or before 10:00 a. m., on the 35th day after the date of this order, and those covering the same lands shall be treated as though simultaneously filed at that time. Applications filed under the act after that time and during the succeeding 91 days shall be considered in the order of filing. Applications by the general public under the public-land laws, filed on or before 10:00 a. m., on the 126th day after the date of this order shall be treated as though simultaneously filed at that time, where the applications are for the same lands; otherwise, priority of filing shall govern.

Inquiries, regarding the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Cheyenne, Wyoming.

FRED G. AANDAHL,
Acting Secretary of the Interior.

JUNE 6, 1955.

[F. R. Doc. 55-4669; Filed, June 10, 1955;
8:47 a. m.]

TITLE 46—SHIPPING

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

Subchapter B—Regulations Affecting Maritime Carriers and Related Activities

[Gen. Order 61, 2d Rev., Supp. 1]

PART 221—DOCUMENTATION, TRANSFER OR CHARTER OF VESSELS

CITIZENSHIP DECLARATIONS BY OWNERS OR MORTGAGEES OF VESSELS OF THE UNITED STATES

General Order 61, 2d Revision (§ 221.11 *Citizenship declarations by owners or mortgagees of vessels of the United States as required by section 40, Shipping Act, 1916, as amended*) published in the FEDERAL REGISTER issue of March 9, 1955, 20 F. R. 1399, is hereby amended by adding the following new paragraph (d):

(d) Form MA-4560 (5-4-55), and in connection therewith, when appropriate, Form MA-4560-A (5-5-55), for execution by a corporation (specifically applicable to mutual insurance companies) not authorized to issue capital stock but in which the voting power is exercised by its members, shall read as follows:

Form MA-4560
(5-4-55)

U. S. Department of Commerce
Maritime Administration

OWNER OR MORTGAGEE OF VESSEL

(Section 40, Shipping Act, 1916, as amended)

U. S. C., Title 46, Sec. 838, 40 Stat. 902,
82 Stat. 212

DECLARATION OF OFFICER OF MUTUAL INSURANCE COMPANY *

I _____, of _____ declare that I am _____ of the _____ a corporation organized under the laws of the State of _____ with offices at _____; that said corporation is the owner (or)⁴ mortgagee of the vessel, or part thereof, or interest therein,⁴ called _____ of _____, official number _____, gross _____ net _____⁵ built in 19____, at _____ as appears by _____ No. _____, issued at _____, 19____, surrendered⁶ _____ that _____ (Give cause of surrender)

I am a citizen of the United States of America by birth, having been born at _____ (City)

_____, on _____ (or)⁷ _____ (State) _____ (Date of birth)

by naturalization before the _____ (Name of court)

for _____ (District, county, or State), on _____ (Date naturalized)

_____, having been issued

Naturalization Certificate No. _____; that the president and managing directors of said corporation are citizens of the United States of America; that⁴ the controlling interest (or)⁴ seventy-five (75) per centum of the interest in said corporation is owned by citizens of the United States of America; said corporation is not authorized to issue stock, the ownership and control of said corporation being vested in the members of said corporation who have the exclusive voting power. The persons exercising the duties of managing directors of the corporation are called _____ and are the persons referred to herein as managing directors. The majority of the voting power (or)⁴ seventy-five (75) per centum of the voting power of said corporation is vested in citizens of the United States of America free from any trust or fiduciary obligations in favor of any person not a citizen of the United States of America; that through no contract or understanding is it so arranged that⁴ the majority of the voting power (or)⁴ more than twenty-five (25) per centum of the voting power of said corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States of America; that by no means whatsoever is⁴ the control of said corporation (or)⁴ the control of any

*This declaration is to be taken whenever any bill of sale, mortgage, hypothecation, or conveyance of any vessel, or part thereof, or interest therein, is presented by a corporation to any collector of customs for recording.

¹ Insert "President," "Secretary," or "Treasurer," or any other duly authorized official thereof, as the case may be.

² Insert full corporate name of company.

³ Insert business address of corporation.

⁴ Strike out word or expression not appropriate.

⁵ Insert other means whereby vessel became entitled to American registry, when appropriate.

⁶ I. e., document now surrendered, or document last surrendered heretofore (U. S. C., Title 46, Sec. 808).

⁷ Strike out reference to naturalization if party is native-born citizen.

interest in said corporation in excess of twenty-five (25) per centum conferred upon or permitted to be exercised by any person who is not a citizen of the United States of America.

(Signature)

If more than one vessel is involved, only one form of declaration need be filed if by a notation inserted in the clause immediately prior to the clause about the citizenship of declarant, appropriate reference is made to a schedule added to said declaration, in which schedule shall be inserted the name and data of each additional vessel as required for the first vessel, owned by or under mortgage to the party on behalf of whom said declaration is made.

Penalty for false statement: Section 40, Shipping Act, 1916, as amended, provides "Whoever knowingly makes any false statement of a material fact in any such declaration shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000, or to imprisonment for not more than five years, or both."

(Explanatory clause prescribed by Maritime Administration for execution and attachment as and when desired by party making declaration on behalf of Mutual Insurance Company or mortgagee of vessel on form (MA-4560) prescribed by Maritime Administration pursuant to section 40 of the Shipping Act, 1916, as amended.)

The basis for the statements of facts above recited with respect to the ownership and control of voting power of the company, is as follows:

(1) The books of the company show that on ^a ----- 19--, ^b ----- per centum of the voting power of the company was owned or record by persons whose addresses on the books of the company are in the United States; (2) I know of no substantial change in such percentage since that date; and (3) investigation has failed to disclose the existence of facts or relationships with respect to voting power and control contrary to those above recited.

^a This date must be within 30 days of date of declaration.

^b The exact figure as disclosed by the books of the company must be given and the per centum figure must be not less than 65 per centum, except for an owner operating the vessel in the coastwise trade the per centum figure must be not less than 90 per centum.

(Sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114)

Dated: June 3, 1955.

[SEAL] CLARENCE G. MORSE,
Maritime Administrator.

[F. R. Doc. 55-4664; Filed, June 10, 1955;
8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 11240]

PART 14—PUBLIC FIXED STATIONS AND STATIONS OF THE MARITIME SERVICES IN ALASKA

DOCUMENTS REQUIRED FOR COAST STATIONS; GEOGRAPHIC DEFINITIONS

In the matter of amendment of Part 14 of the rules to revise the provisions thereof with respect to the allocation and methods of use of radio frequencies by stations in the fixed and maritime services in the Territory of Alaska and with respect to station equipment and operating requirements; Docket No. 11240.

The Commission's Report and Order (#19071) adopted May 11, 1955, in the above-entitled matter is corrected as follows:

1. Delete the text of § 14.107 (c) and insert the following therefor:

(c) Each public coast station in the Alaska area using telephony shall be provided with this part and the documents prescribed in § 7.313 of this chapter: *Provided*, That in Class II public coast stations that do not provide communication with ocean-going vessels, the documents specified in paragraph (a) (1) and (2) of this section may be substituted in lieu of the international "Alphabetical List of Call Signs" and the

international "List of Coast Stations and Ship Stations."

2. a. Insert the following note at the end of § 14.3:

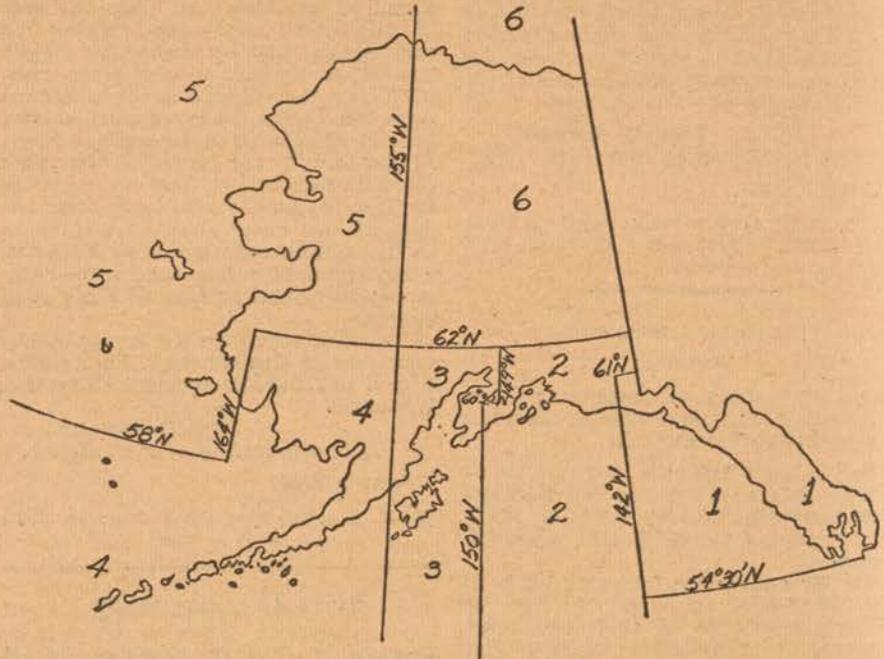
NOTE: See Figure 1 below.

b. Insert Figure 1 after Subpart G.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: May 31, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,
MARY JANE MORRIS,
Secretary.



TERRITORY OF ALASKA
Frequency Assignment Zones
FIGURE 1—(See § 14.3)

[F. R. Doc. 55-4562; Filed, June 10, 1955; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 545]

HEMWORKERS IN NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO

NOTICE OF PROPOSED AMENDMENT

Notice is hereby given, pursuant to the Administrative Procedure Act (60 Stat. 237), that the Office of the Administrator, Wage and Hour and Public Contracts Divisions, U. S. Department of Labor, proposes to amend the Regulations contained in this Part to read as hereinafter set forth. Prior to the final adoption of the regulations, as amended, consideration will be given to any data, views, or arguments pertaining thereto which are

submitted in writing to the Office of the Administrator, Wage and Hour and Public Contracts Divisions, U. S. Department of Labor, Washington 25, D. C., within thirty days from publication hereof in the FEDERAL REGISTER.

The regulations, as amended, are to be issued pursuant to authority under the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended 29 U. S. C. 201 et seq.), Reorganization Plan No. 6 of 1950 (U. S. C. 611), General Order No. 45-A (15 F. R. 3290), and the position of the Administrator being presently vacant, General Order No. 85 (20 F. R. 2066).

Signed at Washington, D. C., this 3d day of June 1955.

STUART ROTHMAN,
Solicitor of Labor.

Sec.	
545.1	Applicability.
545.2	Definitions.
545.3	Filing and notification requirements.
545.4	Preparation of goods for delivery.
545.5	Delivery and collection of goods.
545.6	Payment for work.
545.7	Records to be kept.
545.8	Reporting names of subcontractors, agents, or other homework distributors.
545.9	Minimum piece rates prescribed by the Administrator.
545.10	Piece rates adopted by employers.
545.11	Penalties.
545.12	Petition for amendment of regulations.
545.13	Piece rates established in accordance with § 545.9.

AUTHORITY: §§ 545.1 to 545.13 issued under sec. 3 (f), 54 Stat. 616, as amended; secs. 6 and 11, 52 Stat. 1062, 1066; 29 U. S. C. 206, 211.

§ 545.1 *Applicability.* The provisions of this part shall apply to persons engaged in commerce or in the production of goods for commerce in activities relating to homeworkers in the needlework and fabricated textile products industry in Puerto Rico as defined in Part 655 of this chapter.¹

§ 545.2 *Definitions.* (a) The meaning of the terms "person", "employer", "employee", "goods", and "production", as used in this part, is the same as in the Fair Labor Standards Act of 1938, as amended.

(b) "Homeworker", as used in this part, means any employee employed or suffered or permitted to perform homework for an employer.

(c) "Homework", as used in this part, means the production by any person in or about a home, apartment, tenement, or room in a residential establishment, of goods for an employer who suffers or permits such production, regardless of the source (whether obtained from an employer or elsewhere) of the materials used by the homeworker in such production; provided that such work is not performed under the constant and direct supervision of an employer or of a responsible supervisor and under such conditions that accurate records of hours worked are maintained or can readily be maintained.

(d) "Contractor" means any employer in Puerto Rico who contracts for the performance of work on goods to which a person other than the contractor holds title.

(e) "Prime contractor" means any contractor in Puerto Rico who contracts directly with the person holding title to the goods.

(f) "Subcontractor" means any contractor in Puerto Rico other than a prime contractor.

(g) "Manufacturer" means any employer in Puerto Rico other than a contractor, who is engaged in processing goods.

(h) "Operation" means any work or any process performed on or with goods other than the distribution of goods to or collection of goods from homeworkers.

¹ Persons engaged in activities relating to homeworkers in other industries in Puerto Rico are subject to Part 681 of this chapter.

§ 545.3 *Filing and notification requirements.* (a) Every prime contractor or manufacturer, prior to the distribution of work, directly or through a subcontractor or agent, to any homeworker, or prior to the commencement of work by a homeworker in cases where the homeworker purchases the raw materials, shall file with the Wage and Hour Division in Puerto Rico the following: A clear and legible stamped copy of each design, if any, and in the absence of such design, a finished sample, of the goods to be distributed, or to be produced by the homeworker; a description in writing of each operation to be performed by the homeworker, whether or not part of a design; the full piece rate schedule designation, if any,² and the corresponding piece rate to be paid for each such operation; the total piece rate for the finished unit or part of unit; and the style number or name, if any, of the goods upon which such operations are to be performed. In the absence of a style number or name, the prime contractor or manufacturer shall file any other identification number or name by which the goods are known.

(b) No change shall be made by a prime contractor or manufacturer in any style or identification number or name filed as required by this section, or in the operations to be performed thereunder, unless prior written notification of such change is given to the Wage and Hour Division in Puerto Rico.

(c) Any design, sample, piece rate, style or other identification number or name, or description of operation, filed under this section shall be valid, for the purposes of the regulations in this part, for a period of three years, commencing on the date it is received by the Wage and Hour Division in Puerto Rico. After the expiration of this period, no goods covered thereby shall be distributed to homeworkers unless a new notification and filing, as required by paragraph (a) of this section, has been previously made by the prime contractor or manufacturer.

(d) No prime contractor or manufacturer shall distribute work to homeworkers under a firm name other than the one under which such work has been filed with the Wage and Hour Division in Puerto Rico pursuant to the requirements of this section.

(e) Any design or sample filed under the provisions of this section may be retained by the Wage and Hour Division for the period deemed necessary for enforcement of the provisions of the Fair Labor Standards Act.

§ 545.4 *Preparation of goods for delivery.* Where homework is distributed through a subcontractor, each prime contractor or manufacturer for whom such distribution is made shall make up into lots any goods to be so distributed, each lot to comprise goods on which the same operations are to be performed.

² See § 545.13 for the schedule of piece rates prescribed in accordance with § 545.9. As an example of how to state the piece rate schedule designation, if "plain scallops" are to be made on articles in the "Infants' Wear Division", the full piece rate schedule designation would be "Operation 74, Col. 3".

§ 545.5 *Delivery and collection of goods.* Homework shall in each instance be distributed to and collected from the individual homeworker who is to perform or has performed the work on it, and no other person may act for or on behalf of any homeworker in this connection.

§ 545.6 *Payment for work.* When a prime contractor or manufacturer receives completed homework directly from an individual homeworker, payment shall be made to such homeworker immediately. When, however, such completed homework is received through a subcontractor, payment shall be made to the subcontractor immediately upon receipt, and the subcontractor shall pay the homeworker who performed the work within seven days from the date on which the subcontractor was paid. Payment shall be made to each homeworker at rates not less than those required under §§ 545.9 and 545.10, and in accordance with the requirements of sections 6 and 7 of the act. In addition, where costs are incurred by a homeworker for equipment, material, or other items, such as fuel and electricity, as a result of homework, the prime contractor or manufacturer for whom such homework was performed shall, either directly or through a subcontractor, reimburse the homeworker for such costs, to the extent necessary to provide compensation for the labor performed at least commensurate with the piece rates required by §§ 545.9 and 545.10.

§ 545.7 *Records to be kept.* (a) Every prime contractor or manufacturer shall make and have available at his principal Puerto Rican office for a period of not less than three years a record of the following information:³

(1) The name and address of each firm situated outside the Island of Puerto Rico, if any, from whom the goods upon which homework is to be performed were received.

(2) The name and address of each subcontractor, if any, to whom each lot of goods was delivered for delivery to homeworkers, together with the number of the permit issued to such subcontractor.

³ Although responsibility for making the record is placed upon the prime contractor or manufacturer, the actual work of doing so may be performed by supervisory or clerical employees, agents, subcontractors, or other persons acting in his behalf.

No particular order or form of records is prescribed by the regulations contained in this part. The prime contractor or manufacturer may keep his own record system, so long as he keeps all the required information available in understandable form.

The records must be kept in the principal Puerto Rican office of the prime contractor or manufacturer. Where it is not possible for a record of one or more of the items to be made in the first instance at the principal office of the prime contractor or manufacturer, at his direction the record of such items may be made away from that office by a subcontractor, agent, employee, or other person acting in his behalf. In such event, however, the records shall be delivered to the principal Puerto Rican office of the prime contractor or manufacturer as soon as practicable after the making of such entries, and shall there be preserved and be available for inspection.

tor by the Department of Labor of Puerto Rico.

(3) The date or dates upon which each lot of goods was delivered to and returned by a subcontractor, if any, together with a description of such goods, the net amount paid as commission and the rate of commission on such goods.

(4) The name and address of each homemaker, and the date of birth of each homemaker under 19, to whom the goods in each lot were delivered or from whom goods were purchased.

(5) The date or dates upon which the goods in each lot were delivered to and collected from each homemaker or upon which goods were purchased from each homemaker.

(6) The style number or name or, if none, the identification number or name used in lieu thereof, the description of, and amount of goods in each lot or the amount of goods purchased from each homemaker, the operations to be performed or performed thereon, the piece rates to be paid or paid, the gross amount due each homemaker for the operations performed upon the goods, social security deductions from that amount, the costs, if any, incurred by the homemaker for equipment, material or other items such as electricity or fuel, as a result of the homework, the amount actually paid the homemaker and the date of payment.

(b) At the time work is given out to or received or purchased from a homemaker, as the case may be, every prime contractor or manufacturer shall enter the following information in the handbook (to be obtained by the prime contractor or manufacturer from the Wage and Hour Division and supplied by him to each homemaker) which shall be kept by the homemaker until the handbook is completed (that is, no space remains for additional entries) or the homemaker's services are terminated, at which time it shall be returned to the prime contractor or manufacturer who shall retain it for a period of two years subsequent to the last entry therein:⁴

(1) The date or dates upon which the goods in each lot were delivered to and collected from the homemaker or upon which goods were purchased from the homemaker.

(2) The style number or name, or, if none, the identification number or name used in lieu thereof, the description of, and amount of goods in each lot or the amount of goods purchased from each homemaker, the operations to be performed or performed thereon, the piece rates to be paid or paid, the gross amount due each homemaker for the operations performed upon the goods, social security deductions from that

⁴ Although responsibility for supplying the handbook to the homemaker and recording information therein is placed upon the prime contractor or manufacturer, the actual work of doing so may be performed by supervisory or clerical employees, agents, subcontractors, or other persons acting in his behalf.

amount, the costs, if any, incurred by the homemaker for equipment, material, or other items such as electricity or fuel as a result of homework, the amount actually paid the homemaker, and the date of payment.

(3) The signature of the person acting in behalf of the prime contractor or manufacturer.

(c) No prime contractor or manufacturer shall employ any homemaker for more than 40 hours in any workweek unless, in addition to the records which he is required to keep pursuant to paragraphs (a) and (b) of this section, such prime contractor or manufacturer makes and keeps available at his principal Puerto Rican office and enters in the handbook of each such homemaker a record of the following information:⁴

(1) The hours worked by the homemaker on the goods in each lot.

(2) The total hours worked each week.

(3) The wages paid the homemaker each week at regular piece rates.

(4) The extra amount paid to the homemaker for hours worked in excess of 40 in each week.

(d) Every employer who makes retroactive payment of wages or compensation under the supervision of the Administrator pursuant to section 16 (c) of the act, shall:

(1) Record and preserve, as an entry on his payroll or other pay records, the amount of such payment to each employee, the period covered by such payment, and the date of payment.

(2) Prepare a report of each such payment on the receipt form provided or authorized by the Wage and Hour Division, and (i) preserve a copy as part of his records, (ii) deliver a copy to the employee, and (iii) file the original, which shall evidence payment by the employer and receipt by the employee, with the Administrator or his authorized representative within 10 days after payment is made.

§ 545.8 *Reporting names of subcontractors, agents, or other homework distributors.* Every prime contractor or manufacturer shall report to the office of the Wage and Hour Division, United States Department of Labor, Mayaguez, Puerto Rico, (a) the names and addresses of all persons engaged or used as subcontractors, as that term is defined in this part, or as agents or supervisors in charge of any branch office, and (b) the permit numbers issued to such persons by the Department of Labor of Puerto Rico.

§ 545.9 *Minimum piece rates prescribed by the Administrator.* Pursuant to the provisions of section 6 (a) (2) of the act, each homemaker shall be paid in lieu of the applicable hourly rate established by the wage order for the needlework and fabricated textile products industry, not less than the piece rates prescribed in § 545.13 for the operations described therein.

§ 545.10 *Piece rates adopted by employers.* (a) Pursuant to the provisions

of section 6 (a) (2) of the act, in the event that a homemaker performs an operation for which no minimum piece rate has been prescribed by regulation or order of the Administrator or his authorized representative, he shall be paid a piece rate adopted by the prime contractor or manufacturer which shall yield to homeworkers of ordinary skill, under prevalent operating conditions and with equipment ordinarily found in homes, an amount not less than the applicable minimum hourly wage rate established by wage order.⁵ This piece rate must be the result of production time studies conducted in Puerto Rico with a representative group of homeworkers. Such piece rate shall be lawful only if it actually satisfies the requirements of this section, and such a rate shall remain in effect only until such time as the Administrator or his authorized representative, by regulation or order, establishes a minimum piece rate for the operations.

(b) Piece rates adopted under this section shall be filed with the Wage and Hour Division in Puerto Rico, accompanied by a record of the time tests showing a full description of the operation tested, the date of the test, measures taken to insure a representative sample of homeworkers, the starting and stopping time of each worker tested together with the number of units produced in that time, the total number of workers tested, the total number of hours worked, and the total number of units produced.

§ 545.11 *Penalties.* Section 15 of the act makes it unlawful for any person to violate the provisions of this part and subjects any such person to the penalties provided in section 16 and section 17 of the act.

§ 545.12 *Petition for amendment of regulations.* Any person wishing a revision of any of the terms of this part may submit in writing to the Administrator or his authorized representative a petition setting forth the changes desired and the reasons for proposing them. If, upon inspection of the petition, the Administrator or his authorized representative believes that reasonable cause for amendment of this part is set forth, the Administrator or his authorized representative will, unless it is impracticable, unnecessary or contrary to the public interest to do so, either schedule a hearing with due notice to interested parties, or will make other provision for affording interested parties an opportunity to present their views, either in support of or in opposition to the proposed changes.

⁵ See Part 655 of this chapter for the minimum hourly wage rates currently applicable for the various divisions and classifications of the needlework and fabricated textile products industry in Puerto Rico. The minimum hourly rates applicable to the manufacture of hooked rugs are provided in the wage order for the hooked rug industry in Puerto Rico (Part 684 of this chapter). Homeworkers in the hooked rug industry are governed by Part 681 of this chapter.

§ 545.13 Piece rates established in accordance with § 545.9.

SCHEDULE A—PIECE RATE SCHEDULE FOR THE COTTON UNDERWEAR AND INFANTS' UNDERWEAR; INFANTS' WEAR SILK, RAYON AND NYLON (EXCEPT INFANTS') UNDERWEAR; BLOUSE, DRESS, AND NECKWEAR; AND THE CHILDREN'S AND DOLLS' WEAR DIVISIONS OF THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO

No.	Operation	Piece rate (cents) based on hourly rates of—						Unit of payment
		Cotton underwear and infants' underwear division (22½ cents)		Infants' wear division (25 cents)	Silk, rayon, and nylon (except infants') underwear division (21 cents)	Blouse, dress, and neckwear division (35 cents)	Children's and dolls' wear division (35 cents)	
		Infants' underwear, silk, rayon or other synthetic fiber (1)	Cotton underwear (2)					
HAND-SEWING OPERATIONS ¹								
1	Arenilla (seed stitch), close, ½" squares.	27.00	24.30	30.00	25.20	42.00	42.00	Per dozen squares.
2	Arenilla (seed stitch), scattered, ½" squares.	13.50	12.15	15.00	12.60	21.00	21.00	Do.
3	Arrows, filled in, ¼"	6.75	6.08	7.50	6.30	10.50	10.50	Per dozen.
4	Back stitch on yokes, armholes, etc.	15.00	13.50	16.67	14.00	23.33	23.33	Do.
5	Basting bias with cord.	7.43	6.69	8.25	6.93	11.55	11.55	Do.
6	Basting darts before sewing.	7.83	7.05	8.70	7.30	12.18	12.18	Do.
7	Basting for fagoting.	2.04	1.83	2.27	1.90	3.16	3.16	Do.
8	Basting hems, 1" to 6" wide.	4.50	4.05	5.00	4.20	7.00	7.00	Do.
9	Basting lace.	3.88	3.50	4.32	3.63	6.05	6.05	Do.
10	Basting waist lines, plackets and facings, 2 to 3 stitches per inch.	2.82	2.54	3.13	2.63	4.38	4.38	Do.
11	Bias piping, joined, double, over 10 stitches per inch.	9.00	8.10	10.00	8.40	14.00	14.00	Do.
12	Bias piping, joined, single, over 10 stitches per inch.	11.25	10.13	12.50	10.50	17.50	17.50	Do.
13	Bias piping, second seam, joined, double, set flat on garment with running stitch.	13.55	12.20	15.05	12.65	21.09	21.09	Do.
14	Blanket stitch, folding included, 18 stitches per inch.	25.50	22.95	28.33	23.80	39.67	39.67	Do.
15	Buttons sewed on with double thread, 2 to 3 stitches.	2.94	2.64	3.27	2.74	4.56	4.56	Per dozen.
16	Buttonholes, stamped, ¾" long.	9.71	8.73	10.78	9.05	15.08	15.08	Do.
17	Buttonholes, stamped, ½" long.	12.90	11.61	14.33	12.04	20.08	20.08	Do.
18	Buttonhole stitch, close.	20.25	18.23	22.50	18.90	31.50	31.50	Per yard.
19	Buttonhole stitch for joining seams.	20.25	18.23	22.50	18.90	31.50	31.50	Do.
20	Cord, twisted, over basting.	2.25	2.03	2.50	2.10	3.50	3.50	Per dozen inches.
21	Cutting material applied over lace with solid cord stitch.	3.08	2.78	3.42	2.87	4.80	4.80	Per yard.
22	Cutting material under lace or at seams, straight outline, following hand-sewing operations.	1.26	1.14	1.40	1.18	1.97	1.97	Do.
23	Dots, baby, not finished off, 2 to 3 stitches.	1.88	1.70	2.08	1.75	2.92	2.92	Per dozen.
24	Dots, medium, not filled in, finished off, 8 to 9 stitches.	2.97	2.69	3.30	2.78	4.62	4.62	Do.
25	Eyelets, up to ¼" diameter.	5.03	4.52	5.58	4.68	7.80	7.80	Do.
26	Eyelets, ¾" diameter.	9.00	8.10	10.00	8.40	14.00	14.00	Do.
27	Fagoting, straight lines.	31.23	28.20	34.82	29.25	48.75	48.75	Per yard.
28	Fagoting, twisted lines.	15.00	13.50	16.67	14.00	23.33	23.33	Do.
29	Feather stitch, 12 stitches per inch.	15.00	13.50	16.67	14.00	23.33	23.33	Do.
30	Feather stitch cord.	7.91	7.11	8.78	7.37	12.28	12.28	Do.
31	Flat fell seams, first seam by machine.	8.79	7.91	9.77	8.29	13.66	13.66	Do.
32	Flat roll.	6.83	6.14	7.58	6.37	10.60	10.60	Do.
33	French knots, not finished off.	.95	.84	1.05	.88	1.46	1.46	Per dozen.
34	French seams, over 12 stitches per inch.	5.62	5.07	6.25	5.25	8.75	8.75	Per yards.
35	French seams, first seam by machine, 9 to 12 stitches per inch.	3.70	3.33	4.12	3.45	5.78	5.78	Do.
36	Furuncos, with tape.	37.50	33.75	41.67	35.00	52.50	52.50	Do.
37	Furuncos, without tape.	27.00	24.30	30.00	25.20	42.00	42.00	Do.
38	Guarizuenas.	2.25	2.03	2.50	2.10	3.50	3.50	Per dozen.
39	Half roll.	7.38	6.65	8.20	6.88	11.48	11.48	Per yard.
40	Hemming stitch for felling, 2 to 3 stitches per inch.	3.93	3.54	4.37	3.68	6.12	6.12	Do.
41	Hemming stitch for felling cuffs, collars, plackets and waist bands, 8 to 10 stitches per inch.	10.07	9.06	11.18	9.39	15.66	15.66	Do.
42	Hemstitching, double, (tru-tru), 4 threads in a bundle, thread drawing not included.	27.90	25.11	31.00	26.04	43.40	43.40	Do.
43	Hemstitching, single, 4 threads in a bundle, thread drawing not included.	14.66	13.20	16.28	13.67	22.78	22.78	Do.
44	Lace, joined with whipping stitch.	23.45	21.09	26.05	21.88	36.46	36.46	Do.
45	Lace, sewed on with hemming stitch or round roll.	11.25	10.13	12.50	10.50	17.50	17.50	Do.
46	Leaves, open ¼" long.	9.00	8.10	10.00	8.40	14.00	14.00	Per dozen.
47	Leaves, open ¾" to ½" long.	13.50	12.15	15.00	12.60	21.00	21.00	Do.
48	Leaves, simple.	.84	.77	.93	.79	1.31	1.31	Do.
49	Leaves, solid, not finished off, ½" long.	2.46	2.22	2.73	2.30	3.84	3.84	Do.
50	Leaves, solid, not finished off, ¼" long.	3.00	2.70	3.33	2.80	4.67	4.67	Do.
51	Leaves, solid, not finished off, ¾" to ½" long.	4.50	4.05	5.00	4.20	7.00	7.00	Do.
52	Leaves, solid, finished off, ¾" to ¼" long.	9.00	8.10	10.00	8.40	14.00	14.00	Do.
53	Loops, knitted, ¼"	2.82	2.54	3.13	2.63	4.38	4.38	Do.
54	Loops, knitted, 1" to 1½"	4.74	4.26	5.27	4.42	7.36	7.36	Do.

¹ For description of operations included under "hand-sewing," see definitions in applicable section of wage order.

PROPOSED RULE MAKING

SCHEDULE A—PIECE RATE SCHEDULE FOR THE COTTON UNDERWEAR AND INFANTS' UNDERWEAR; INFANTS' WEAR; SILK, RAYON AND NYLON (EXCEPT INFANTS') UNDERWEAR; BLOUSE, DRESS, AND NECKWEAR; AND THE CHILDREN'S AND DOLLS' WEAR DIVISIONS OF THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO—Continued

No.	Operation	Piece rate (cents) based on hourly rates of—						Unit of payment
		Cotton under- wear and infants' underwear division (22½ cents)		In- fants' wear division (25 cents)	Silk, rayon, and nylon (except infants') under- wear division (21 cents)	Blouse, dress, and neck- wear division (35 cents)	Child- ren's and doll's wear division (35 cents)	
		Infants' under- wear, silk, rayon, or other synthetic fiber (1)	Cotton under- wear (2)					
HAND-SEWING OPERATIONS ¹ —con.								
55	Loops, made with buttonhole stitch, ¼"	6.75	6.08	7.50	6.30	10.50	10.50	Per dozen.
56	Mounting fagoting appliques, including pinning and basting to garment, first seam with running stitch, felled seam with hemming stitch.	26.90	24.21	29.88	25.10	41.82	41.82	Per yard.
57	Overcasting seams	4.78	4.31	5.32	4.47	7.45	7.45	Do.
58	Pasadas, short, 1" to 8"		2.10					Per dozen pasadas.
59	Patches, sewed on with single point, de ture.	44.82	40.33	49.80	41.84	69.72	69.72	Per yard.
59.1	Patches, rectangular, sewed on with blind stitch, up to 1½"	2.02	2.50	3.13	2.62	4.40	4.40	Per dozen inches.
59.2	Patches, sewed on with solid cord, cutting and basting included.	44.10	40.10	49.00	41.20	68.60	68.60	Per yard.
60	Pin stitch, thread drawing not included, 1" squares.	54.00	48.60	60.00	50.40	84.00	84.00	Per dozen squares.
61	Point de ture, double, with embroidery thread.	22.40	20.16	24.88	20.91	34.82	34.82	Per yard.
62	Point de ture, plain, with embroidery thread.	13.13	11.80	14.58	12.25	20.42	20.42	Do.
63	Randa, bundles twisted but not tied, thread drawing not included.	5.63	5.07	6.25	5.25	8.75	8.75	Do.
64	Randa, Don Gonzales, thread drawing not included.	23.61	21.25	26.23	22.04	36.75	36.75	Do.
65	Randa, Mexican, tied at center only, thread drawing not included.	6.75	6.08	7.50	6.30	10.50	10.50	Do.
66	Ribbons, setting ends of	3.08	2.78	3.42	2.87	4.80	4.80	Per dozen.
67	Rolling armholes and reboques	11.51	10.35	12.78	10.73	17.88	17.88	Per yard.
68	Rose buds, worm stitch, 4 worms, 1 or 2 colors or tones.	6.68	6.02	7.42	6.23	10.40	10.40	Per dozen.
69	Running stitch on darts, 8 to 10 stitches per inch.	5.63	5.07	6.25	5.25	8.75	8.75	Per yard.
70	Running stitch for felling, very close stitch.	5.63	5.07	6.25	5.25	8.75	8.75	Do.
71	Running stitch on hems up to 1" wide, 12 stitches per inch.	6.05	5.43	6.72	5.65	9.42	9.42	Do.
72	Running stitch on lace	5.97	5.37	6.63	5.58	9.29	9.29	Do.
73	Running stitch for plain sewing	4.06	3.66	4.52	3.79	6.33	6.33	Do.
74	Scallops, plain, cutting included	22.65	20.37	25.17	21.14	35.23	35.23	Do.
75	Shadow stitch, up to ½" wide	43.50	39.15	48.33	40.60	67.67	67.67	Do.
76	Shell stitch, 4 to 5 stitches per inch	7.73	6.95	8.58	7.21	12.00	12.00	Do.
77	Shirring, material to be measured before shirring.	4.53	4.08	5.03	4.22	7.05	7.05	Do.
78	Shirring and basting lace edging, material to be measured after shirring.	5.45	4.91	6.05	5.09	8.47	8.47	Do.
79	Shirring and setting lace edging with hemming stitch on straight outline, material to be measured after shirring.	9.78	8.81	10.87	9.14	15.22	15.22	Do.
80	Shoulder straps, set with buttonhole stitch 1½" x ¼", measured after turning, sewing up to ½" at each end of strap.	26.60	23.93		24.82			Per dozen straps.
81	Size tickets set with hemming stitch, cutting tickets included.	4.50	4.05	5.00	4.20	7.00	7.00	Per dozen inches.
82	Smocking	.18	.17	.20	.18	.29	.29	Per dozen stitches.
83	Snaps, sewing on, both sides	4.50	4.05	5.00	4.20	7.00	7.00	Per dozen.
84	Solid cord stitch on gores and embroidery.	21.15	19.05	23.50	19.74	32.90	32.90	Per yard.
85	Solid cord stitch to sew on lace	19.14	17.20	21.27	17.85	29.75	29.75	Do.
86	Spiders, 4 legs	4.50	4.05	4.50	4.20	7.00	7.00	Per dozen.
87	Spiders, 8 legs	8.81	7.92	9.78	8.21	13.68	13.68	Do.
88	Tucks, set for fagoting	2.25	2.03	2.60	2.10	3.50	3.50	Do.
89	Tucks, stamped, ½" to ¼" wide, up to 6" long.	7.04	6.33	7.82	6.57	10.95	10.95	Do.
90	Tucks, pin, stamped, up to 7" long	7.41	6.67	8.23	6.92	11.54	11.54	Do.
91	Tucks, pin, unstamped, up to 6" long	9.00	8.10	10.00	8.40	14.00	14.00	Do.

¹ For description of operations included under "hand-sewing," see definitions in applicable section of wage order.

SCHEDULE A—PIECE RATE SCHEDULE FOR THE COTTON UNDERWEAR AND INFANTS' UNDERWEAR; INFANTS' WEAR; SILK, RAYON AND NYLON (EXCEPT INFANTS') UNDERWEAR; BLOUSE, DRESS, AND NECKWEAR; AND THE CHILDREN'S AND DOLLS' WEAR DIVISIONS OF THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO—Continued

No.	Operation	Piece rate (cents) based on hourly rates of—						Unit of payment
		Cotton under- wear and in- fants' under- wear division (40 cents)		Infants' wear division (40 cents)	Silk, rayon and nylon (except infants') underwear division (34 cents)	Blouse, dress, and neckwear division (46 cents)	Children's and dolls' wear division (40 cents)	
		Infants' under- wear, silk, rayon or other synthe- tic fiber	Cotton underwear					
(1)	(2)	(3)	(4)	(5)	(6)			
NON-HAND-SEWING OPERATIONS								
93	Cutting material under lace, or at seams, straight outline, following machine operations.	2.25	2.25	2.25	1.90	2.53	2.25	Per yard.
94	Turning belts, machine sewn, 29" x 1/2", measured after turning.	9.30	9.30	9.30	7.91	10.46	9.30	Per dozen belts.
95	Turning belts, machine sewn, 60" x 1/2", measured after turning.	11.82	11.82	11.82	10.05	13.29	11.82	Do.
96	Turning shoulder pads, 5 3/4" long, with an unsewn slit of 1" for turning.	6.04	6.04	6.04	5.13	6.79	6.04	Per dozen pads.
97	Turning shoulder straps, 14 1/2" x 1/4", measured after turning.	18.53	18.53	-----	15.75	-----	-----	Per dozen straps.

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF AND SQUARE SCARF DIVISION AND THE ART LINEN AND NEEDLEPOINT DIVISION OF THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO

No.	Operation	Piece rate (cents) based on hourly rate of 22 1/2 cents		Unit of payment
		Handkerchiefs and square scarves	Art linens	
HAND-SEWING OPERATIONS ¹				
99	Arenillas (seed stitch), close, 1/2" squares.....	27.00	27.00	Per dozen squares.
100	Arenillas (seed stitch), scattered, 1/2" squares.....	13.50	13.50	Do.
101	Arrows, filled in, 1/4" long.....	6.75	6.75	Per dozen
102	Basting lace.....	1.29	1.29	Per dozen inches.
103	Basting stitch for trimming, forming crosses, etc., 4 stitches per inch.....	-----	1.13	Do.
103.1	Basting and folding hem on edges, up to 1 1/2" hem.....	-----	.45	Do.
104	Blind hemstitch.....	4.50	4.50	Do.
105	Buttonhole stitch, 16 stitches per inch.....	4.50	4.50	Do.
106	Buttonhole stitch, 24 to 30 stitches per inch.....	6.75	6.75	Do.
107	Chain stitch, 4 stitches per inch.....	-----	1.13	Do.
108	Chain stitch, 8 stitches per inch.....	-----	2.25	Do.
109	Cord, solid, on stem.....	7.05	7.05	Do.
110	Cord, twisted, over basting.....	2.25	2.25	Do.
111	Cord or embroidery, solid, without filling, up to 1/2" thick. ²	-----	6.75	Do.
112	Couching or flat cord, 4 stitches per inch.....	-----	1.13	Do.
113	Cross stitch, 6 crosses per inch.....	-----	4.80	Do.
114	Cut work with buttonhole stitch, 24 to 30 stitches per inch.....	-----	9.00	Do.
114.1	Daisies, 12 to 15 stitches, with double embroidery thread.....	-----	6.75	Per dozen.
115	Diamonds, filled in, 1/4" to 3/8" wide.....	6.75	6.75	Do.
116	Dots, baby, not finished off, 2 to 3 stitches.....	1.88	1.88	Do.
117	Dots, large, not filled in, finished off, 12 stitches.....	3.38	3.38	Do.
118	Dots, large, filled in, finished off, over 12 stitches.....	-----	6.75	Do.
119	Dots, large, not filled in, finished off, over 12 stitches.....	-----	4.50	Do.
120	Dots, medium, not filled in, finished off, 8 to 9 stitches.....	2.97	2.97	Do.
120.1	Dots, medium, in groups, not finished off, 5 stitches with double embroidery thread.....	-----	1.92	Do.
120.2	Dots, medium, in groups, finished off, 5 stitches, with double embroidery thread.....	-----	2.55	Do.
121	Embroidery, solid, 3/16" to 1/4" thick, average 28 stitches per inch. ²	-----	9.00	Per dozen inches.
122	Embroidery, solid, straight or diagonal, same as image stitch, filled in, loose.....	-----	9.00	Do.
123	Embroidery, solid, straight or diagonal, same as image stitch, not filled in, loose.....	-----	6.75	Do.
124	Eyelets, 1/8" diameter.....	5.03	5.03	Per dozen.
125	Feather stitch, 12 stitches per inch.....	5.00	5.00	Per dozen inches.
126	Feather stitch cord.....	-----	2.64	Do.
127	Flat hems without pasada.....	-----	2.34	Do.

¹ For description of operations included under "hand-sewing," see definitions in applicable section of wage order.
² These piece rates have been set on the basis of O. N. T. thread No. 5, corded, which averages 28 stitches per inch of solid cord. If corded threads are used, which are not so thick, the rate should be increased in proportion to the increase in the number of stitches per inch. If corded thread No. 11 is used, 15 percent must be added to the piece rates established for thread No. 5.

PROPOSED RULE MAKING

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF AND SQUARE SCARF DIVISION AND THE ART LINEN AND NEEDLEPOINT DIVISION OF THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO—Continued

No.	Operation	Piece rate (cents) based on hourly rate of 22½ cents		Unit of payment
		Handkerchiefs and square scarves	Art linens	
HAND-SEWING OPERATIONS ¹ —continued				
128	French knots, not finished off	0.95	0.95	Per dozen.
128.1	French knots, finished off, with double embroidery thread.	-----	1.80	Do.
129	Guariquenas	2.25	2.25	Do.
130	Hand or French rolling, 10 stitches or less per inch	6.36	-----	Per 48 inches.
131	Hand or French rolling, 11 stitches or more per inch.	7.04	-----	Do.
132	Hand-rolling 1 side of a corner; the piece rate shall apply under the following conditions: (a) The machine-stitching runs to the end on 1 side of each corner; and on the other side, the space left open for hand-rolling at the corner is not less than ¼ inch nor more than 1 inch; and (b) Only 1 side of each corner is hand-rolled; and the hand-rolling is not longer than 1 inch.	15.00	-----	Per dozen handkerchiefs.
133	Hand-rolling both sides of a corner; the piece rate shall apply under the following conditions: (a) The machine-stitching does not run to the end of either side of any corner; and the space left open for hand-rolling at each side of the corners is not less than ¼ inch nor more than 1 inch; and (b) Both sides of the corners are hand-rolled; but the hand-rolling is not longer than 1 inch on either side of any corner.	30.00	-----	Do.
134	Hand-rolling both sides of a corner; the piece rate shall apply under the following conditions: (a) The machine-stitching runs to the end on 1 side of each corner; and on the other side, the space left open for hand-rolling at the corner is not less than ¼ inch nor more than 1 inch; and (b) Both sides of the corners are hand-rolled; but the hand-rolling is not longer than 2 inches on any corner.	37.50	-----	Do.
135	Hemstitching, double (tru-tru), 4 threads in a bundle, thread drawing not included.	9.30	9.30	Per dozen inches.
136	Hemstitching, single, 4 threads in a bundle, thread drawing not included.	4.89	4.89	Do.
137	Initials, simple, with hoops	22.50	-----	Do.
138	Initials, simple, without hoops	13.95	-----	Do.
139	Lace, joined at corners with hemming stitch	6.75	-----	Do.
140	Leaves, simple	.84	.84	Per dozen.
141	Leaves, solid, not finished off, ¼" long	3.00	3.00	Do.
142	Leaves, solid, not finished off, ⅜" to ½" long	4.50	4.50	Do.
143	Leaves, solid, not finished off, ⅝" to ¾" long	9.00	9.00	Do.
144	Loops, made with worm stitch, ¼"	-----	1.50	Do.
		Proportionate rate for other lengths.		
145	Pasadas, 11" x 11" to 14" x 14", linen up to 1600 count, inclusive.	4.50	-----	Per dozen pasadas.
146	Pasadas, 11" x 11" to 14" x 14", linen 1700 count and over.	6.30	-----	Do.
147	Pasadas, 15" x 15", linen up to 1600 count, inclusive.	7.65	-----	Do.
148	Pasadas, 15" x 15", linen 1700 count and over	9.45	-----	Do.
149	Pasadas, 16" x 16" to 20" x 20", linen up to 1400 count, inclusive.	10.80	-----	Do.
150	Pasadas, short, 1" to 7", linen up to 1600 count, inclusive.	2.34	-----	Do.
		For each additional count of 100, add 0.90 cent.		
151	Pasadas, short: Cambrie, 1" to 10"	-----	4.50	Do.
152	Crash, 1" to 10"	-----	3.38	Do.
153	Cambrie, 10½" to 18"	-----	9.00	Do.
154	Crash, 10½" to 18"	-----	6.75	Do.
155	Patches, circular, sewed on with hemming stitch, cutting included.	-----	4.92	Per dozen inches.
156	Patches, irregular outline, sewed on with hemming stitch, cutting included.	8.58	8.58	Do.
156.1	Patches, irregular outline, sewed on with blind stitch, up to 4"	-----	6.30	Do.
156.2	Patches, irregular outline, sewed on with blind stitch, over 4"	-----	3.20	Do.
157	Patches, rectangular, sewed on with hemming stitch, cutting included.	-----	4.04	Do.
158	Pin stitch, thread drawing not included, 1" squares.	54.00	54.00	Per dozen squares.
159	Randa, Don Diego, thread drawing not included.	10.13	10.13	Per dozen inches.
160	Randa, Mexican, tied at center only, thread drawing not included.	2.25	2.25	Do.
161	Randa, simple, not stitched at either side, thread drawing not included.	1.70	1.70	Do.
162	Rose buds, worm stitch, 4 worms, 2 colors or tones.	6.68	6.68	Per dozen.
163	Scallops, plain, cutting included	7.55	7.55	Per dozen inches.
164	Shadow stitch, up to ⅜" wide	14.50	14.50	Do.
165	Spiders, 4 legs	4.50	4.50	Per dozen.
166	Spiders, 8 legs	8.81	8.81	Do.

¹For description of operations included under "hand-sewing," see definitions in applicable section of wage order.

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF AND SQUARE SCARF DIVISION AND THE ART LINEN AND NEEDLEPOINT DIVISION OF THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO—Continued

No.	Operation	Piece rate (cents) based on hourly rate of 22½ cents		Unit of payment
		Cambrio	Crash	
167.0	Thread drawing: Art linens, first thread, not coming out at edge: Stamped, 1" to 10".....	1.61		Per dozen threads.
167.2	Not stamped, 1" to 10".....	2.01	1.20	Do.
167.4	Art linens, unstamped, first thread, all-around, not coming out at edge: Dollies 12" x 18".....	8.99	7.32	Per dozen pieces.
167.6	Napkins: 12" x 12".....	7.19	6.09	Do.
167.7	15" x 15".....	8.99	7.32	Do.
167.8	18" x 18".....	10.79	8.45	Do.
168.0	Scarves: 17" x 39".....	15.88	11.38	Do.
168.1	17" x 45".....	18.58	12.83	Do.
168.2	17" x 54".....	21.28	14.25	Do.
168.3	Squares: 36" x 36".....	21.59	14.39	Do.
168.4	45" x 45".....	26.97	17.11	Do.
168.5	54" x 54".....	32.37	19.99	Do.
168.6	Art linens, unstamped, first thread at one end, coming out at both edges: Towels: 9" x 15".....		1.13	Do.
168.7	15" x 24".....		1.65	Do.
168.8	18" x 30".....		1.89	Do.
169	Art linens, after first thread.....	For second and third threads, 20 percent of rate for first thread; for additional threads, 15 percent of rate for first thread.		

No.	Operation	Piece rate (cents) based on hourly rate of 22½ cents	Unit of payment
170	Handkerchiefs, ladies: First thread, cotton or linen, up to 1600 count, inclusive: Coming out at both edges.....	2.25	Per dozen threads.
171	Not coming out at edge.....	2.82	Do.
172	After first thread.....	For second and third threads, 20 percent of rate for first thread; for additional threads, 15 percent of rate for first thread.	
173	Handkerchiefs, men's: First thread, linen, up to 1500 count, inclusive, 16" x 16" to 20" x 20".....	3.38	Do.
174	Coming out at both edges.....	3.95	Do.
175	Not coming out at edge.....	3.95	Do.
176	First thread, linen, 1600 count and over, 16" x 16" to 20" x 20".....	4.50	Do.
177	Coming out at both edges.....	For second and third threads, 20 percent of rate for first thread; for additional threads, 15 percent of rate for first thread.	
	Not coming out at edge.....		
	After first thread.....		

No.	Operation	Piece rate (dollars) based on hourly rate of 22½ cents														Unit of payment	
		Dollies			Napkins			Table scarves			Squares			Table cloths			
		8" x 16"	10" x 14"	12" x 18"	12" x 12"	15" x 15"	18" x 18"	17" x 36"	17" x 45"	17" x 54"	36" x 36"	45" x 45"	54" x 54"	54" x 72"	72" x 72"		72" x 90"
179	Half roll, cambrio and crash, at 2.46 cents per dozen inches.	\$1.18	\$1.18	\$1.47	\$1.18	\$1.47	\$1.77	\$2.61	\$3.05	\$3.50	\$3.54	4.42	\$5.31	\$6.20	\$7.08	\$7.98	Per dozen.
180	Hand or French rolling, 10 stitches or less per inch, cambrio and crash, at 1.50 cents per dozen inches.	.77	.77	.96	.77	.96	1.14	1.68	1.97	2.26	2.30	2.87	3.44	4.01	4.58	5.15	Do.
181	Hemming stitch over pasada, measuring all around edge: Cambrio at 1.50 cents per dozen inches.	.72	.72	.90	.72	.90	1.08	1.59	1.86	2.13	2.16	2.70	3.24	3.78	4.32	4.86	Do.
182	Crash, at 1.41 cents per dozen inches. Second seams, for separate borders, measuring all around edge:	.68	.68	.84	.68	.84	1.02	1.49	1.74	2.00	2.03	2.54	3.05	3.54	4.05	4.56	Do.
183	Cambrio, at 1.50 cents per dozen inches.	.72	.72	.90	.72	.90	1.08	1.59	1.86	2.13	2.16	2.70	3.24	3.78	4.32	4.86	Do.
184	Crash, at 1.41 cents per dozen inches. Second seams, for separate borders, with French corners, measuring all around edge:	.68	.68	.84	.68	.84	1.02	1.49	1.74	2.00	2.03	2.54	3.05	3.54	4.05	4.56	Do.
185	Cambrio, at 1.69 cents per dozen inches.	.81	.81	1.02	.81	1.02	1.22	1.79	2.10	2.40	2.43	3.05	3.65	4.26	4.86	5.48	Do.
186	Crash, at 1.50 cents per dozen inches.	.72	.72	.90	.72	.90	1.08	1.59	1.86	2.13	2.16	2.70	3.24	3.78	4.32	4.86	Do.

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF AND SQUARE SCARF DIVISION AND THE ART LINEN AND NEEDLEPOINT DIVISION OF THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO—Continued

No.	Operation	Piece rate (based on hourly rate of 40 cents)	Unit of payment
NON-HAND-SEWING OPERATIONS			
187.4	Hand-cutting machine-embroidered, shallow, curved scallops on handkerchiefs or square scarves: Small, measuring from 3/8" up to, but not including, 1/2", along outside edge.	Cents 0.21	Per dozen scallops.
187.5	Medium, measuring from 1/2" up to, but not including, 3/4", along outside edge.	.27	Do.
187.6	Large, measuring from 3/4" to, and inclusive of, 1 1/4", along outside edge.	.40	Do.

SCHEDULE C—PIECE RATE SCHEDULE FOR THE FABRIC GLOVE AND LEATHER GLOVE DIVISIONS OF THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO¹

No.	Operation	Piece rate (cents) based on hourly rates of—		Unit of payment	
		Ladies' woven or knitted fabric gloves ² (22 1/2 cents)	Leather gloves ² (30 cents)		
			Ladies'		Men's
188	Buttons, slip stitched with tape, 1 button per glove.			45.000	Per dozen pairs.
189	Buttonholes, stitched in and outside, 1 buttonhole per glove.			60.000	Do.
190	Crede stitch, 5 to 6 stitches per inch.	0.293			Per inch.
191	Egyptian stitch, 5 to 6 stitches per inch.		0.412		Do.
192	Feather stitch, 5 to 6 stitches per inch.	.352	.517		Do.
193	Large stitch (husky), 5 to 6 stitches per inch.			.370	Do.
194	Regular stitch, 5 to 6 stitches per inch.	.231	.388	.370	Do.
195	Slip stitch, hem only, 5 to 6 stitches per inch.	.149	.265	.265	Do.
196	Slip stitch, reinforcement on slit, 5 to 6 stitches per inch. ³		.265	.265	Do.
197	Swaggor stitch, 5 to 6 stitches per inch.	.231	.388	.370	Do.
198	Whip stitch, 5 to 6 stitches per inch.	.231	.388	.370	Do.

¹ For description of operations included under "hand-sewing", see definitions in applicable section of wage order.
² The hourly minimum rates applicable to leather gloves are also applicable to combination leather and fabric gloves. However, piece rates for combination leather and fabric gloves must be set by employers in accordance with § 545.10.
³ When facing has been sewn on by machine.

SCHEDULE D—PIECE RATE SCHEDULE FOR THE NEEDLEPOINT DIVISION OF THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO¹

GROSSPOINT			
No.	Operation	Piece rate (cents) based on hourly rate of 22 1/2 cents	Unit of payment
200	Compact florals, figures and landscapes.	23.40	Per 1,000 stitches.
201	Scattered florals.	25.20	Do.
202	Scattered florals consisting of borders or garlands only.	27.00	Do.
203	Combinations of compact center and scattered borders in which the compact portion totals 45 percent or more of the total design.	25.20	Do.
204	Combinations of compact center and scattered borders in which the compact portion totals less than 45 percent of the entire design.	27.00	Do.
205	One and two-tenths cents must be added to the above piece rates to cover thumb-tack mounting on frame, for each piece of canvas. Employers using other methods must set individual rates for mounting and removing canvas in accordance with section 545.10.		

¹ The piece rates apply only to "hand-sewing" operations. For description of operations included under "hand-sewing", see definition in applicable section of wage order.

EXCEPTIONS

These piece rates do not apply to the following types of needlepoint. For these, and all other varieties of needlepoint not covered by the schedule and definitions, piece rates must be set by employers in accordance with Regulations 545.10.

1. Florals having more than 10,000 stitches.
2. Florals having more than 36 color tones.
3. Figures and landscapes having more than 3,000 stitches.
4. Figures and landscapes having more than 25 color tones.
5. Petit point.
6. Stamped grospoint.

DEFINITIONS

1. A scattered design is one in which 50 percent or more of the component parts, when finished, are separated by spaces of unsewn canvas.
2. A compact design is one in which 50 percent or more of the finished piece contains no spaces of unsewn canvas.

SCHEDULE E—PIECE RATE SCHEDULE FOR THE MISCELLANEOUS DIVISION OF THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO¹

No.	Operation	Piece rate (cents) based on hourly rate of 21 cents	Unit of payment
207	Crocheting shade pulls, not over 30 stitches per ring:		
	Cotton thread.	67.20	Per gross.
208	Rayon thread.	68.60	Do.

¹ The piece rates apply only to "hand-sewing" operations. For description of operations included under "hand-sewing", see definition in applicable section of wage order.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 907]

[Docket No. AO 212-A10]

HANDLING OF MILK IN MILWAUKEE, WIS., MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVELY APPROVED MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Colonial Room, Wisconsin Hotel, 720 North Third Street, Milwaukee, Wisconsin, at 10:30 a. m., c. s. t., June 15, 1955.

The hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the handling of milk for the Milwaukee, Wisconsin, marketing area and to the proposed amendments set forth herein below, or modifications thereof, to the tentative marketing agreement as heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the said marketing area. The amendments proposed have not received the approval of the Secretary of Agriculture.

The following amendments have been proposed:

By Milwaukee Cooperative Milk Producers:

1. Amend paragraph (a) of § 907.51 *Class I milk* to read:

(a) The price for Class I milk shall be the basic formula price plus the following amounts as indicated: July through December, inclusive, \$1.06; and January through June, inclusive, \$0.86; *Provided*, That such Class I price differential shall be increased or decreased, respectively, 3 cents for each full percent that the current supply-demand ratio computed pursuant to paragraph (e) of this section is greater or less than 72 percent, but shall not be increased or decreased more than 24 cents due to the supply-demand ratio.

2. Amend paragraph (e) of § 907.51 *Automatic price adjustment* to read:

(e) On or before the last day of each month the market administrator shall make the following computations based upon the combined reported receipts and utilization of handlers under the Milwaukee order and of handlers as defined in the order, as amended, regulating the handling of milk in the Chicago, Illinois, marketing area, as computed by the market administrator under the latter order;

(1) Determine the total receipts of Grade A milk from all producers (including receipts from own farm production) for the most recent 12-month period,

(2) Determine the total pounds of Grade A milk actually utilized in Class I milk and Class II milk products during

the most recent 12-month period and subtract therefrom the amount of Class II milk represented by frozen cream and plastic cream moving into storage during such 12-month period, and

(3) Divide the amount obtained in subparagraph (2) of this paragraph by the amount obtained in subparagraph (1) of this paragraph and round to the nearest full percent, which resulting percentage shall be known as the "current supply-demand ratio."

By Pure Milk Products Cooperative:

3. Amend § 907.51 (a) to provide for a Class I differential of \$0.96 per hundred-weight over the basic formula price for each delivery period during the year.

4. Amend § 907.51 so as to modify the supply-demand adjuster provision as it affects Class I and Class II price differentials.

By Milwaukee Cooperative Milk Producers:

5. Amend paragraphs (a) and (b) of § 907.60 *Computation of base for each producer* to read:

(a) Divide the total pounds of milk received by a handler (s) from each producer during the months of September through December, 1955, and during the months of August through November in subsequent years immediately preceding by the number of days, not to be less than seventy-five, of such producer's delivery in such period, and increase the resulting amount by ten percent (10%); *Provided*, That any producer for whom a base has been allotted shall have the option upon notice in writing to the market administrator given before the end of April in any year, to relinquish his base for such year and to be allotted a base equal to 70 percent of his average daily deliveries during the month involved; and

(b) Any producer entering the market following twelve or more consecutive months without producer status shall have his milk deliveries priced according to the proviso in paragraph (a) of this section; or upon notifying the market administrator prior to qualifying as a producer, he may elect to have a base computed in the manner provided in paragraph (a) of this section with respect to his deliveries of milk to any fluid milk plant, receiving station, or nonfluid plant, such deliveries to be subject to verification by the market administrator: *Provided*, That this paragraph shall not be construed to conflict with § 907.61 (a) or (b).

By Blochowiak Dairy Company; Heinemann Kewaskum Dairy; Borden Company Milwaukee Milk Division; Luick Dairy Company; Gehl's Guernsey Farms, Inc.; and Hawthorn-Melody Farms Dairy of Wisconsin:

6. Change the base-making period in § 907.60 (a) from the months of September through December to August through November.

7a. Delete from § 907.60 (a) the following: "the following applicable percentage: (1) for April through June of 1952, forty percent (40%); (2) for April through June of 1953, thirty percent (30%); and (3) for each April through June thereafter twenty percent (20%)."

b. Add the following: "the following applicable percentage: (1) for April through June of 1956, fifteen percent (15%); (2) for April through June of 1957, ten percent (10%); (3) for April through June of 1958, five percent (5%); and (4) no increase thereafter."

8. Change the date for electing the hardship provision in § 907.60 (a) from the end of April to the end of January.

9. Change the hardship provision in § 907.60 (a) from 80 percent of deliveries in the month involved to 60 percent of deliveries in the month involved.

By the Dairy Division, Agricultural Marketing Service:

10. Delete the following words in parentheses from § 907.30 (d): "(except Class III milk and Class IV milk products disposed of in the form in which received without further processing by the handler)."

11. Delete paragraph § 907.32 (b).

12. Delete the words "receipt of" following the word "all" in § 907.33 (a).

13. Delete § 907.41 (d) (3) and substitute therefor the following: "(3) actual shrinkage, but in an amount not to exceed one-half percent of the total pounds of butterfat received directly from producers, plus two percent of the total pounds of butterfat in bulk milk, skim milk, and cream in fluid form received at a handler's plant from all sources which were not disposed of in bulk to a plant of another handler."

14. In conjunction with change in § 907.41 (d), delete also § 907.46 (f) (6) and substitute therefor the following:

(6) Determine the maximum number of pounds of butterfat shrinkage in Class IV milk by multiplying by two percent the pounds of butterfat in bulk milk, skim milk, or cream in fluid form received at a handler's plant from producers, other handlers and other sources which were not disposed of in bulk to other handlers, and adding such amount to the result obtained by multiplying by ½ percent the pounds of butterfat received directly from producers: *Provided*, That the pounds determined pursuant to this subparagraph shall be zero if records of utilization satisfactory to the market administrator are not available.

15. Delete from § 907.43 the following words "without regard to" and substitute a comma and the words "regardless of."

16. Clarify language for application of § 907.44 (b) and its relation to other provisions of the order, especially to § 907.45 (b).

17. Delete from § 907.45 (a) the words "including a producer-handler"; and delete also the word "writing" and substitute therefor the word "reports"; and delete also the words "on or before the 7th day"; and delete from the proviso the word "any" and substitute therefor the words "such other".

18. Delete from § 907.45 (b) (1) the following language: "on or before the 7th day after the end of the month within which such transaction occurred."

19. Delete from § 907.45 (b) (2) the word "and" at the end of the sentence.

20. Delete from § 907.45 (b) (3) the following words "as Class I milk if milk or skim milk or as Class II if cream" and

substitute therefore the following: "in such other classes as contain butterfat for use to establish equivalent amounts of milk;"

21. Add subparagraph (4) to § 907.45 (b) as follows:

(4) "The nonfluid milk plant is located within the State of Wisconsin or in an area outside of Wisconsin not more than 150 miles from the marketing area."

22. Delete § 907.47 (a) and substitute therefore the following:

(a) Subtract from the pounds of Class IV milk the 3.5 percent milk equivalent of inventory variation prorated to other source milk, and subtract the lesser pounds of the following two items: (1) the pounds of shrinkage prorated to other source milk pursuant to § 907.42, or (2) the maximum number of pounds of shrinkage determined for other source milk in § 907.46 (f) (6);

23. Insert in § 907.47 (b) after the words "producer milk" within parentheses the following "and other handlers' milk"; and insert the word "and" between the words "Class III milk" and "Class II milk"; then delete the words "and Class I milk", and substitute a comma for a colon following the word "received", and insert the following: "and then subtract from Class I the pounds of milk equivalent of the remaining butterfat pounds in such other source milk computed at the average test of Class I milk."

24. In § 907.50 insert the word "and" between the letters "(a)" and "(b)" and delete "and (c)" from the introductory sentence, and add to the sentence the following: "adjusted to the nearest full cent."

25. Present paragraph § 907.50 (c) should be labeled § 907.50 (b).

26. Delete the following from the proviso in § 907.51 (c) concerning the price of Class III milk: "the market administrator shall include in the computation of such average the prices per hundred-weight reported to have been paid, or to be paid, for the current month for milk containing 3.5 percent butterfat received during such month at the following listed manufacturing plants for which prices are reported to the United States Department of Agriculture or to the market administrators:

Companies and Location

Armour & Co., Stoughton, Wis.
United Milk Products Co., Johnson Creek, Wis."

and substitute therefore the following: "the price for Class III milk shall be the basic formula price determined in accordance with § 907.50 (a)."

27. In § 907.51 (d) on the price of Class IV milk, substitute "b" for "c" in the section number shown as § 907.50 (c); and substitute a period for a comma at this place; and delete the following: "except for the months of April, May and June of 1954, deduct 10 cents from the price computed pursuant to § 907.50 (c)."

28. Revert to § 907.61 *Base rules*.

29. Make such other changes as may be required to make the entire marketing agreement and order conform with

any amendments thereto that may result from this hearing.

Copies of this notice of hearing and of the said order, as amended, may be procured from the Market Administrator, 956 North 12th Street, Milwaukee 3, Wisconsin, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: June 8, 1955.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 55-4697; Filed, June 10, 1955;
8:52 a. m.]

Commodity Stabilization Service

[7 CFR Part 725]

FLUE-CURED TOBACCO

NOTICE OF DETERMINATIONS TO BE MADE WITH RESPECT TO MARKETING QUOTA FOR FLUE-CURED TOBACCO FOR 1956-57 MARKETING YEAR

Pursuant to the Agricultural Adjustment Act of 1938, as amended, the Secretary of Agriculture is preparing to proclaim a national marketing quota for flue-cured tobacco for the 1956-57 marketing year.

The act (7 U. S. C. 1312 (a)) provides that the Secretary shall proclaim a national marketing quota for each marketing year for each kind of tobacco for which a national marketing quota was proclaimed for the immediately preceding marketing year. A national marketing quota for flue-cured tobacco for the 1955-56 marketing year was proclaimed on November 26, 1954 (19 F. R. 7929).

The act (7 U. S. C. 1312 (a)) provides that the Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the total quantity of tobacco which may be marketed, which will make available during such marketing year a supply of tobacco equal to the reserve supply level. The act provides further that the amount of the 1956-57 national marketing quota may, not later than March 1, 1956, be increased by not more than 20 per centum if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restriction of marketings in adjusting the total supply to the reserve supply level. The act (7 U. S. C. 1301 (b)) defines the "total supply" of tobacco for any marketing year as the carry-over at the beginning of the marketing year (July 1, 1955, in the case of flue-cured tobacco), plus the estimated production in the United States during the calendar year in which such marketing year begins. "Reserve supply level" is defined as the normal supply plus five per centum thereof. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption, and 65 per centum of a normal year's exports. A "normal year's

domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the ten marketing years immediately preceding the marketing year in which such exports are determined, adjusted for the current trends in such exports.

The act (7 U. S. C. 1312 (b)) provides that within 30 days after a national marketing quota is proclaimed for the 1956-57 marketing year the Secretary shall conduct a referendum of farmers who are engaged in the production of the 1955 crop of flue-cured tobacco to determine whether such farmers are in favor of or opposed to such quota. If more than one-third of the farmers voting in the referendum oppose such quota, the quota shall not be effective thereafter. The Secretary is also required to submit to such farmers the question of whether they favor marketing quotas for a period of three years beginning with the 1956-57 marketing year. If two-thirds of the farmers voting on this question favor quotas for such three-year period, the Secretary is required to proclaim marketing quotas for such period.

In making the determination as to the amount of the national marketing quota for flue-cured tobacco for the 1956-57 marketing year, consideration will be given to any data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture, Washington 25, D. C. All submissions must be postmarked not later than ten days after the date of publication of this notice in the FEDERAL REGISTER in order to be considered.

Issued at Washington, D. C., this 7th day of June 1955.

[SEAL] PRESTON RICHARDS,
Acting Administrator.

[F. R. Doc. 55-4677; Filed, June 10, 1955;
8:49 a. m.]

[7 CFR Part 729]

PEANUTS

NOTICE OF PROPOSED PROCLAMATION WITH RESPECT TO 1956 NATIONAL MARKETING QUOTA AND APPORTIONMENT OF NATIONAL ACREAGE ALLOTMENT AND DEVELOPMENT OF REGULATIONS FOR ESTABLISHING FARM ALLOTMENTS

Pursuant to Title III of the Agricultural Adjustment Act of 1938, as amended (7 U. S. C. 1301-1393 and Supps.), the Secretary of Agriculture is required by section 358 (a) thereof to proclaim, between July 1 and December 1 of each calendar year, the amount of the national marketing quota for peanuts for the crop produced in the next

succeeding calendar year. The amount of such quota is the total quantity of peanuts which will make available for marketing a supply of peanuts from the crop with respect to which the quota is proclaimed equal to the average quantity of peanuts harvested for nuts during the five years immediately preceding the year in which such quota is proclaimed, adjusted for current trends and prospective demand conditions.

Section 358 (a) of the act further provides that the national marketing quota for peanuts shall be converted to a national acreage allotment by dividing such quota by the normal yield per acre of peanuts for the United States determined by the Secretary on the basis of the average yield per acre of peanuts in the five years preceding the year in which the quota is proclaimed, with such adjustment as may be found necessary to correct for trends in yields and for abnormal conditions of production affecting yields.

Section 358 (a) of the act further provides that the national marketing quota established for any year subsequent to 1941 shall be a quantity of peanuts sufficient to provide a national acreage allotment of not less than that established for the crop produced in the calendar year 1941, which was 1,610,000 acres.

Section 358 (c) (1) of the act provides that for any year subsequent to 1951, the national acreage allotment for that year, less the acreage to be allotted to new farms under section 358 (f) of the act, shall be apportioned among the States on the basis of their share of the national acreage allotment for the most recent year in which such apportionment was made. Pursuant to this provision of the act, the national acreage allotment for the 1956 crop of peanuts will be apportioned to States on the basis of their shares of the 1955 national acreage allotment.

In addition to the foregoing determinations to be made with respect to the 1956 crop of peanuts, the Secretary has under consideration the formulation of regulations which will provide the procedures for apportioning the 1956 State peanut acreage allotment to farms, or to counties and farms; for establishing allotments for farms on which peanuts were not produced in 1953, 1954, and 1955, but on which peanuts are to be produced in 1956; and for determining farm normal yields per acre for peanuts. It is expected that the regulations for the 1956 crop of peanuts will be substantially the same as the regulations for the 1955 crop (19 F. R. 6134).

Prior to proclaiming the national marketing quota, establishing the national acreage allotment, apportioning the national acreage allotment among the States, formulating regulations governing the apportionment of State acreage allotments to farms or to counties and farms, determining the percentage of the national acreage allotment to be reserved for new farms and formulating regulations governing the apportionment of such acreage among new farms, and determining farm normal yields for peanuts, consideration will be given to any

data, views, and recommendations relating thereto which are submitted in writing to the Director, Oils and Peanut Division, Commodity Stabilization Service, U. S. Department of Agriculture, Washington 25, D. C. Any data, views, and recommendations relating to the question of whether the State acreage allotment should be apportioned to the

counties in the State as provided in section 358 (e) of the act, should be submitted in writing direct to the State Agricultural Stabilization and Conservation Committee, whose address may be obtained from any County Agricultural Stabilization and Conservation Office in the State. All written submissions must be postmarked not later than 30 days

after publication of this notice in the FEDERAL REGISTER.

Done at Washington, D. C., this 7th day of June 1955.

[SEAL] PRESTON RICHARDS,
Acting Administrator.

[F. R. Doc. 55-4676; Filed, June 10, 1955;
8:48 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Fiscal Service, Bureau of Accounts

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1955,
Supp. 108]

AMERICAN FIRE AND CASUALTY CO.,
ORLANDO, FLA.

TERMINATION OF AUTHORITY TO QUALIFY AS SURETY ON FEDERAL BONDS

JUNE 7, 1955.

Notice is hereby given that the Certificate of Authority issued by the Secretary of the Treasury to the American Fire and Casualty Company, Orlando, Florida, under the provisions of the act of Congress approved July 30, 1947 (6 U. S. C. secs. 6-13), to qualify as sole surety on recognizances, stipulations, bonds and undertakings permitted or required by the laws of the United States, terminated as of April 30, 1955.

The American Fire and Casualty Company received its initial authority from the Secretary of the Treasury to do business with the United States on May 19, 1954, and remained continuously so qualified until April 30, 1955.

The company requested permission from the Treasury to retire voluntarily from the execution of any new business in favor of the United States.

In order that there may be a coordinated record showing the status of outstanding bonds of this company as of this date in favor of the United States, bond-approving officers are requested, upon the receipt of this circular, to examine carefully the records of their offices and report promptly to the Surety Bonds Branch, Bureau of Accounts, Treasury Department, all outstanding bonds accepted by them and executed by the American Fire and Casualty Company as surety or co-surety on which the liability of the company has not terminated.

It is also requested that the Surety Bonds Branch be advised as expeditiously as possible as to all facts, in detail, relating to any existing claim, or with respect to the occurrence of any event or the existence of any circumstance which may hereafter result in a claim against the American Fire and Casualty Company.

In furnishing the above information bond-approving officers will please give the name of the principal on the bond, the date and penalty of the bond, and with respect to claims, the nature of the claim, the circumstances out of which it

arose, and its status at the time of the report.

Bond-approving officers and other agents of the Government charged with the duty of taking bonds, recognizances, stipulations or undertakings should proceed immediately to secure new bonds, where necessary, with acceptable sureties, in lieu of bonds executed by the American Fire and Casualty Company.

[SEAL] W. RANDOLPH BURGESS,
Acting Secretary of the Treasury.

[F. R. Doc. 55-4684; Filed, June 10, 1955;
8:50 a. m.]

Internal Revenue Service

[Commissioner Delegation Order 4]

ASSISTANT COMMISSIONER (INSPECTION) ET AL.

DELEGATION OF AUTHORITY TO ISSUE SUMMONSES AND TO EXAMINE BOOKS, RECORDS AND WITNESSES

Pursuant to the authority vested in me as Commissioner of Internal Revenue, it is hereby ordered:

1. The following officers and employees of the Internal Revenue Service are authorized to exercise the authority provided by section 7602 of the Internal Revenue Code of 1954, including the authority (1) to examine books, papers, records, or other data; (2) to summon persons to appear and produce books, papers, records, or other data and give testimony under oath; and (3) to take testimony under oath of a person concerned:

(a) Assistant Commissioner (Inspection).

(b) Regional Commissioners and District Directors of Internal Revenue.

(c) Assistant Regional Commissioners (Intelligence); Executive Assistants to Assistant Regional Commissioners (Intelligence); Chiefs, Review and Conference Staff, Intelligence Division; and Reviewer Conferees, Intelligence Division.

(d) Assistant Regional Commissioners (Alcohol and Tobacco Tax).

(e) Officers and employees of the respective divisions of the Internal Revenue Service designated as follows:

(1) *Collection Division.* Chiefs of the Collection Divisions, Chiefs of the Delinquent Accounts and Returns Branches, and Group Supervisors.

(2) *Audit Division.* Chiefs of Divisions and Branches, Group Supervisors,

all Internal Revenue Agents, and Estate Tax Examiners.

(3) *Intelligence Division.* Chiefs, Assistant Chiefs, Group Supervisors and all Special Agents.

(4) *Inspection.* Director, Internal Security Division; Assistant Directors, Internal Security Division; Regional Inspectors; and all Inspectors.

The authority to summon persons delegated by this paragraph may not be redelegated.

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

3. The Assistant Commissioner (Inspection), each Regional Commissioner and each District Director of Internal Revenue is authorized to redelegate to any employee of the Internal Revenue Service within his jurisdiction the authority provided by section 7602 (1) of the Internal Revenue Code of 1954 to examine books, papers, records, or other data.

4. This order supersedes Commissioner's Reorganization Order No. 6 dated May 15, 1952 (17 F. R. 4587). All other delegations of authority to officers or employees of the Internal Revenue Service are superseded to the extent that they are inconsistent with any of the provisions of this order.

[SEAL] O. GORDON DELK,
Acting Commissioner.

JUNE 7, 1955.

[F. R. Doc. 55-4686; Filed, June 10, 1955;
8:51 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6602]

METROPOLITAN EDISON CO.

NOTICE OF ORDER PERMITTING AMORTIZATION OF CERTAIN CHARGES

JUNE 7, 1955.

Notice is hereby given that on May 13, 1955, the Federal Power Commission issued its order adopted May 11, 1955,

permitting amortization of charges associated with refunded bonds under balance sheet accounts instruction 6-E in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-4678; Filed, June 10, 1955;
8:49 a. m.]

[Docket No. E-6613]

IOWA PUBLIC SERVICE CO.

NOTICE OF ORDER AUTHORIZING ISSUANCE OF
COMMON STOCK

JUNE 7, 1955.

Notice is hereby given that on May 11, 1955, the Federal Power Commission issued its order adopted May 11, 1955, authorizing issuance of common stock in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-4679; Filed, June 10, 1955;
8:49 a. m.]

[Docket Nos. G-2877, G-3023, G-3554, G-3555, G-3602, G-3684, G-3690, G-4692, G-6328]

D. J. HARRISON ET AL.

NOTICE OF FINDINGS AND ORDER

JUNE 7, 1955.

In the matters of D. J. Harrison, Docket No. G-2877; J. C. Means, Jr., et al., Docket No. G-3023; Lloyd H. Smith, Inc., et al., Docket No. G-3554; Lloyd H. Smith, Inc., et al., Docket No. G-3555; Meredith & Company, as Operator, Docket No. G-3602; J. M. Frost, Jr., et al., Docket No. G-3684; J. M. Frost, Jr., et al., Docket No. G-3690; Carnes W. Weaver Drilling Company and Frank W. Warburton, Trustee, Docket No. G-4692; McCarthy Oil & Gas Corporation, et al., Docket No. G-6328.

Notice is hereby given that on May 16, 1955, the Federal Power Commission issued its findings and order adopted May 11, 1955, issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-4680; Filed, June 10, 1955;
8:49 a. m.]

[Docket Nos. G-6851—G-6853]

TEXAS NORTHERN GAS CORP. ET AL.

NOTICE OF FINDINGS AND ORDER

JUNE 7, 1955.

In the matters of Texas Northern Gas Corporation, Docket No. G-6851; Louisiana Natural Gas Corporation, Docket No. G-6852; Texas Gas Transmission Corporation, Docket No. G-6853.

Notice is hereby given that on May 13, 1955, the Federal Power Commission issued its findings and order adopted May 11, 1955, in the above-entitled matters, issuing a certificate of public convenience and necessity to Texas Gas Transmission Corporation, Docket No. G-6853, to

acquire and operate all facilities owned and operated by Louisiana Natural Gas Corporation, Docket No. G-6852, and Texas Northern Gas Corporation, Docket No. G-6851.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-4681; Filed, June 10, 1955;
8:49 a. m.]

[Docket Nos. G-3865, G-7324, G-7507, G-8296, G-8299, G-8320, G-8339, G-8343, G-8378, G-8385, G-8460, G-8470, G-8484, G-8509, G-8525, G-8538]

KIRBY PETROLEUM CO. ET AL.

NOTICE OF FINDINGS AND ORDERS

JUNE 7, 1955.

In the matters of Kirby Petroleum Company, Docket No. G-3865; Edwin L. Cox, Docket No. G-7324; Utah Southern Oil Company, Docket No. G-7507, Dr. Jan Karolcik, Docket No. G-8296; Southern Union Gas Company, Docket No. G-8299; Currie B. Davis, Docket No. G-8320; F. J. Danglade and J. C. Clower, Docket No. G-8339; Dalport Oil Corporation, et al., Docket No. G-8343; Northern Pump Company, et al., Docket No. G-8378; The Federal Royalty Company, Docket No. G-8385; Delta Drilling Company, et al., Docket No. G-8460; Harold Davidor and Robert H. Davidor, Docket No. G-8470; Midstates Oil Corporation, Docket No. G-8484; Crystal Oil Refining Corporation, Docket No. G-8509; William V. Montin, et al., Docket No. G-8525; J. P. Gibbins, Docket No. G-8538.

Notice is hereby given that on May 13, 1955, the Federal Power Commission issued its findings and orders adopted May 11, 1955, issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-4670; Filed, June 10, 1955;
8:47 a. m.]

[Project No. 2075]

WASHINGTON WATER POWER CO.

NOTICE OF ORDER ISSUING LICENSE (MAJOR)

JUNE 7, 1955.

Notice is hereby given that on May 12, 1955, the Federal Power Commission issued its order adopted May 11, 1955, issuing license (Major) in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-4682; Filed, June 10, 1955;
8:49 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 8, 1955.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15

days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT-HAUL

FSA No. 30724: Scrap iron and steel from Kentucky, Virginia, and West Virginia. Filed by C. W. Boin, Agent, for interested rail carriers. Rates on scrap iron or steel, carloads, from specified points in Kentucky, Virginia, and West Virginia to destinations in Ohio, Pennsylvania, and West Virginia described in the application.

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Agent R. B. LeGrand's I. C. C. 257.

FSA No. 30725: Asphalt—Baltimore, Md., and Catlettsburg, Ky., to Roanoke, Va. Filed by C. W. Boin, Agent, for interested rail carriers. Rates on asphalt (asphaltum), natural, by-product of petroleum, from Baltimore, Md., and Catlettsburg, Ky., to Roanoke, Va.

Grounds for relief: Market competition and circuitry.

Tariff: Supplement 6 to B & O RR tariff I. C. C. 23956 and three other tariffs.

FSA No. 30726: Grain and products—Western points to Cassville, Mo. Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on grain, grain products, carloads, from Council Bluffs, Iowa, other points in Iowa, and points in Nebraska, Minnesota, Missouri, and South Dakota to Cassville, Mo.

Grounds for relief: Truck competition, destination rate relations and circuitry.

Tariff: Supplement 15 to Agent Prueter's I. C. C. A-3992; Supplement 7 to Agent Prueter's I. C. C. A-4021.

FSA No. 30727: Coal to Chattahoochee Valley railway stations. Filed by R. E. Eoyle, Jr., Agent, for interested rail carriers. Rates on bituminous coal, carloads, from mines in Kentucky, Tennessee, and Virginia to stations on the Chattahoochee Valley Railway.

Grounds for relief: Circuitous routes. Tariff: Supplement 5 to Southern Railway Company I. C. C. A-11352.

FSA No. 30728: Crude sulphur—Louisiana and Texas to LeMoyne, Ala. Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on sulphur (brimstone), crude, carloads, from specified points in Louisiana (west of the Mississippi River) and Texas to LeMoyne, Ala.

Grounds for relief: Circuitous routes. Tariff: Supplement 269 to Agent Kratzmeir's I. C. C. 3862.

FSA No. 30729: Fine coal—Southwest to Storm Lake and West Storm Lake, Iowa. Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on fine coal, carloads, from specified mines in Arkansas, Kansas, Missouri, and Oklahoma to Storm Lake and West Storm Lake, Iowa.

Grounds for relief: Natural gas competition and circuitry.

Tariff: Supplement 26 to Agent Prueter's I. C. C. A-3969; Supplement 102 to Agent Kratzmeir's I. C. C. 3920.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 55-4683; Filed, June 10, 1955;
8:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-933]

REM-CRU TITANIUM, INC.

NOTICE OF FILING OF APPLICATION REQUESTING ORDER EXEMPTING CERTAIN TRANSACTIONS BETWEEN AFFILIATES

JUNE 7, 1955.

Notice is hereby given that Rem-Cru Titanium, Inc. ("Applicant"), which is indirectly controlled by Christiana Securities Corporation ("Christiana"), a registered closed-end, non-diversified investment company, which in turn is controlled by Delaware Realty and Investment Company ("Realty"), also a registered closed-end, non-diversified investment company, has filed an application pursuant to section 17 (b) of the Investment Company Act of 1940 ("act") for an order exempting from the prohibitions contained in section 17 (a) of the act the transaction described below whereby Applicant proposes to purchase from Crucible Steel Company of America ("Vendor"), of Pittsburgh, Pennsylvania, a New Jersey corporation, for \$461,500 certain tracts of land, with the buildings and improvements located thereon (hereinafter referred to as "the Property"), which Applicant desires to acquire to provide facilities for the production and sale of titanium products.

Realty owns approximately thirty-three percent of the outstanding common stock of Christiana. Christiana owns with full power to vote, approximately twenty-seven percent of the outstanding common stock of E. I. du Pont de Nemours and Company, which in turn owns approximately sixty percent of the outstanding voting securities of Remington Arms Company, Inc. The latter and the Vendor each own fifty percent of the outstanding Common stock (the only class of stock) of Applicant. Accordingly Vendor is an affiliated person of Applicant and the latter is presumed to be controlled by the registered investment companies, Realty and Christiana.

The Property contains approximately ten acres of land, buildings in which Applicant is presently conducting certain industrial operations, and much of the machinery and equipment therein. The Vendor has used The Property since its acquisition for cold drawing of steel and in the past few years part of it has been leased to Applicant for melting of titanium.

The Property was acquired by the Vendor at a total cost of \$493,105. The Vendor acquired part of the land in 1912 for a price of \$6,415; and in 1948 it purchased the remaining land, the buildings and equipment at a cost of \$486,690. At December 31, 1954, the Vendor carried the property on its books at a gross value of \$493,105.

The purchase price of \$461,500 for the Property was arrived at in extended negotiations between representatives of Remington Arms Company, Inc., Vendor and Applicant.

Section 17 (a) of the act prohibits an affiliated person of a registered investment company, including an affiliate of

such a person, from selling any security or other property to such registered company or to any company controlled by such registered company, subject to certain exceptions, unless the Commission upon application pursuant to section 17 (b) of the act, grants an exemption from the provisions of section 17 (a) of the act and finds that the terms of the proposed transaction, including the consideration, are reasonable and fair and do not involve overreaching on the part of anyone concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the act and is consistent with the general purposes of the act.

Notice is further given that any interested person may, not later than June 22, 1955, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 55-4671; Filed, June 10, 1955;
8:48 a. m.]

ALLEN E. BEERS Co.

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the matter of Allen E. Beers Company, Western Savings Fund Building, Broad and Chestnut Streets, Philadelphia 7, Pennsylvania.

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 7th day of June 1955.

I. The Commission's public official files disclose that Allen E. Beers Company, a partnership, hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof,¹ stating that registrant did not file with the Commission reports of his financial condition during the calendar year 1954, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

¹ Filed as part of original document.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V. *It is ordered*, That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 11th day of July 1955, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before June 27, 1955. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the Rules of Practice unless such decision is waived.

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to July 11, 1955.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of

the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 55-4672; Filed, June 10, 1955;
8:48 a. m.]

WINNER AND MYERS

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the matter of Winner and Myers, 218 E. Water Street, Lock Haven, Pennsylvania.

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 7th day of June 1955.

I. The Commission's public official files disclose that Winner and Myers, a partnership, hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof,¹ stating that registrant did not file with the Commission reports of his financial condition during the calendar year 1954, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V. *It is ordered*, That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 11th day of July 1955, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing

Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before June 27, 1955. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived.

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to July 11, 1955.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 55-4673; Filed, June 10, 1955;
8:48 a. m.]

[File No. 70-3381]

ELECTRIC BOND AND SHARE CO.

ORDER APPROVING PROPOSED ACQUISITION OF SECURITIES THROUGH STABILIZATION TRANSACTIONS IN CONNECTION WITH SALE OF PORTFOLIO SECURITIES

JUNE 2, 1955.

Electric Bond and Share Company ("Bond and Share"), a registered holding company, has filed, pursuant to Rule U-44 (c) promulgated under the Public Utility Holding Company Act of 1935 ("act"), a notice of intention to sell, through a rights offering to its common stockholders, and without underwriting, 525,036 shares of the common stock of United Gas Corporation ("United Gas") as a step in the consummation of a plan heretofore approved by the Commission under section 11 (e) of the act.

Bond and Share has also filed an application, pursuant to sections 9 (a) (1) and 10 of the act, in connection with the proposed rights offering, for approval

of its proposed acquisition of not to exceed 52,500 additional shares of United Gas common stock and of its proposed purchase and sale of rights to purchase United Gas common stock for stabilization purposes. The acquisitions of United Gas common stock are to be made by purchases on the New York Stock Exchange at a price (exclusive of commissions) not in excess of the last preceding sale price of such stock. Such purchases and sales of stock and rights may commence on the day on which "when issued" trading in such rights commences on the American Stock Exchange; and no purchases or sales are to be made subsequent to the expiration of the period for exercising such rights. Any shares of United Gas common stock acquired through such stabilization transactions will be subsequently disposed of by Bond and Share as part of the shares required to be disposed of under the Plan.

The only fees and expenses to be paid in connection with the stabilizing operations proposed by Bond and Share are (a) regular brokerage commissions charged for similar transactions on the New York Stock Exchange and the American Stock Exchange and (b) fees of \$500 and expenses of \$25 of Bond and Share's counsel for services in connection with the carrying out of such operations, including the processing of the present application.

Notice of the filing of the application in respect of the proposed acquisition of not in excess of 52,500 additional shares of United Gas common stock and of the proposed purchase and sale of rights to purchase United Gas common stock, for stabilization purposes, having been duly issued in the manner provided by Rule U-23 promulgated under the act; and no hearing having been requested of or ordered by the Commission; and

The Commission finding with respect to the proposed acquisition of not in excess of 52,500 additional shares of United Gas common stock and the proposed purchase and sale of rights to purchase United Gas common stock that the applicable standards of the act are satisfied, and that the fees and expenses, if they do not exceed the amounts estimated, are not unreasonable, and deeming it appropriate in the public interest and in the interest of investors and consumers to grant the application:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that the application of Bond and Share for approval of its acquisition of not to exceed 52,500 additional shares of United Gas common stock and of the purchase and sale of rights to purchase United Gas common stock, for stabilization purposes, be, and it hereby is, granted effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 55-4631; Filed, June 9, 1955;
8:48 a. m.]

¹Filed as part of original document.

[File No. 812-923]

NEWMONT MINING CORP.

NOTICE OF AND ORDER FOR HEARING ON APPLICATION FOR ORDER DECLARING THAT COMPANY IS NOT AN INVESTMENT COMPANY

JUNE 8, 1955.

Notice is hereby given that Newmont Mining Corporation ("Newmont"), a registered management investment company, has filed an application and an amendment thereto, pursuant to section 3 (b) (2) of the Investment Company Act of 1940 ("act"), for an order declaring it to be engaged primarily in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities.

The application states that Newmont was organized in Delaware in 1921 to engage in and carry on the business of exploration, development, financing and operation of non-ferrous mines and petroleum in the mining and oil regions throughout the world. The applicant states that it has been engaged in such business ever since its organization.

Newmont registered under the act as an investment company in 1942. Its registration statement sets forth that its policy is to engage actively in the business of exploring for and financing of mines and mining properties which are generally thereafter owned, developed and operated by other corporations either already in existence or organized by the applicant, and to invest funds not required for that purpose in marketable stock of mining corporations, pending such time as such funds may become needed for the acquisition and financing of new mining properties.

In pursuance of the purposes for which it was organized and in line with its stated policy, Newmont states that it has expanded its ownership of mining and oil corporations, either wholly-owned or controlled by the applicant to the extent that it is no longer properly classified as an investment company under the Investment Company Act.

Newmont states that it does not hold itself out as being primarily engaged in investing, reinvesting, owning, holding, or trading in securities. On the contrary, Newmont represents that it is primarily engaged directly or through companies which are controlled in fact by ownership of over 25 percent of the voting stock, and in some instances, by management contract, in the business of exploration, acquisition, financing, development, and operation of mining properties.

The application states that nearly all of the time of Newmont's employees is devoted almost exclusively to the business of mining exploration, development, equipment, and operation of mines and petroleum and the disposal of the products therefrom. Newmont has established a reputation as a mine-finder, and mining prospects from most of the mining regions of the free world are brought to its attention and literally hundreds of such properties are given at least office consideration each year. Newmont maintains a staff of specialized

and experienced engineers and geologists who devote their entire time to the business of mining exploration, development and operation, including the management of producing properties. Field work is continuously being conducted either directly or through subsidiaries in most of the mining regions of the world.

The application states further that through the operation of controlled companies Newmont actually conducts wide-spread mining operations which constitute the major portion of its activities. Some eight thousand employees of companies controlled and directed by the applicant produced in 1954 over 41,000 tons of metallic copper, 58,000 tons of lead, 39,000 tons of zinc, 57,000 ounces of gold, 1,300,000 ounces of silver, and 460,000 barrels of oil. The control and conduct of these operations, combined with widespread exploration activities, require the greater proportion of the time and efforts of the officers and employees of Newmont.

Section 3 (a) (3) of the act defines an investment company as one which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of the company's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. For purposes of this section, "investment securities" are defined as including all securities except Government securities, securities issued by employees' securities companies, and securities issued by majority-owned subsidiaries which are not investment companies.

Section 3 (b) (2) of the act provides that, notwithstanding section 3 (a) (3), the term "investment company" does not include a person whom the Commission upon application finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or through majority-owned subsidiaries or through controlled companies conducting similar types of businesses.

Newmont is an investment company in accordance with the statistical definition of section 3 (a) (3) of the act. At December 31, 1954, Newmont's total assets (exclusive of Government securities and cash items) had a value of \$201,900,121. The value of securities of majority-owned subsidiaries of Newmont was \$74,146,765 or approximately 37 percent of total assets. Investment securities had a value of \$127,469,398 or approximately 63 percent of total assets. Included in the latter figure are securities of companies which Newmont controls but in which it does not have a majority interest, such securities having a value of \$18,592,582 or approximately 9 percent of Newmont's total assets. Thus, the total value of majority-owned and controlled securities at December 31, 1954, was equal to \$92,739,347 or approximately 46 percent of Newmont's total assets. Newmont points out that its in-

vestments in controlled companies would be increased substantially if and when it converts into common stock its holdings of \$8,000,000 of convertible debentures of Sherritt Gordon Mines, Ltd. Such conversion would increase to 38.1 percent Newmont's present ownership of 13.8 percent of the common stock of this company, which is developing important nickel deposits in Canada. If all of the securities owned by Newmont in this company were classified as investments in controlled companies at December 31, 1954, the total of securities of majority owned or controlled companies would be increased to \$107,633,709, or 53.3 percent.

Newmont's total income in 1954, exclusive of realized capital gains, was \$10,088,893, of which \$6,403,196 or 63.5 percent came from investments in controlled companies, \$3,571,318 or 35.4 percent from investment in non-controlled companies, and \$114,379 or 1.1 percent from other sources. Newmont also realized \$2,867,297 in capital gains from the sale of investment securities in 1954, and including this amount in total income, 49.4 percent of its income was derived from controlled companies, 49.7 percent from non-controlled companies, and .9 percent from other sources.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the application pursuant to section 3 (b) (2);

It is ordered, Pursuant to section 40 (a) of said act, that a hearing on the aforesaid application under the applicable provisions of the act and of the rules of the Commission thereunder be held on the 23d day of June 1955, at 10:00 a. m., in the offices of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At such time the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person desiring to be heard or otherwise wishing to participate in this proceeding is directed to file with the Secretary of the Commission his application as provided by Rule XVII of the Commission's rules of practice, on or before the date provided in that rule setting forth any issues of law or facts which he desires to controvert or any additional issues which he deems raised by this Notice and Order or by such application.

It is further ordered, That Edward C. Johnson, or any officer or officers of the Commission, designated by it for that purpose, shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation having advised the Commission that it has made a preliminary examination of the application, and that upon the basis thereof the following matters and questions are presented for consideration, without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether Newmont is primarily engaged in the business of exploring for, developing, operating, and financing mining and petroleum properties either directly or through majority-owned subsidiaries, or through controlled companies conducting similar types of businesses, or whether it is primarily engaged in the business of investing, reinvesting, owning, holding, or trading in securities.

(2) Whether, pursuant to the terms of section 8 (f) of the act, an order should be issued declaring that Newmont has ceased to be an investment company and that its registration as such shall cease to be in effect and whether it is necessary for the protection of investors that any appropriate conditions should be provided in such order.

It is further ordered, That at the aforesaid hearing attention be given to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this notice and order by registered mail to Newmont, and that notice to all persons shall be given by publication of this notice and order in the FEDERAL REGISTER; and that a general release of this Commission in respect of this notice and order be distributed to the press and mailed to the mailing list for releases.

It is further ordered, That Newmont shall give notice of this hearing to all its stockholders (insofar as the identity of such security holders is known or available to it) by mailing to each of said persons a copy of this notice and order to his last known address at least 13 days prior to the date set for said hearing.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 55-4705; Filed, June 10, 1955;
8:54 a. m.]

GENERAL SERVICES ADMINISTRATION

SECRETARY, DEPARTMENT OF HEALTH,
EDUCATION AND WELFARE

DELEGATION OF AUTHORITY TO NEGOTIATE
CERTAIN CONTRACTS FOR PURCHASE OF
LIVESTOCK REQUIRED BY PUBLIC HEALTH
SERVICE FOR BREEDING PURPOSES

1. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, herein called the act, authority is hereby delegated to the Secretary of Health, Education and Welfare to negotiate, without advertising, under section 302 (c) (9) of the act, contracts for the purchase of livestock required by the Public Health Service for breeding purposes.

2. This authority shall be exercised in accordance with applicable limitations and requirements of the act, particularly sections 304 and 307, and in accordance with the policies, procedures and controls prescribed by the General Services Administration.

3. The authority herein delegated may be redelegated to any official or employee of the Department of Health, Education and Welfare.

4. This delegation shall be effective as of the date hereof.

Dated: June 8, 1955.

EDMUND F. MANSURE,
Administrator.

[F. R. Doc. 55-4755; Filed, June 10, 1955;
11:55 a. m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 47]

ARKANSAS

DECLARATION OF DISASTER AREA

Whereas, it has been reported that beginning on or about May 26, 1955, because

of the disastrous effects of tornado and excessive rainfall, damage resulted to residences and business property located in certain areas in the State of Arkansas; and

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected; and

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act of 1953;

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) of the Small Business Act of 1953 may be received and considered by the Offices below indicated from persons or firms whose property situated in the following counties (including any areas adjacent to the counties below named) suffered damage or other destruction as a result of the catastrophe above referred to:

Counties of: Garland, Perry, Pulaski; Small Business Administration Regional Office, 1114 Commerce Street, Dallas, Texas. Small Business Administration Branch Office, U. S. O. Building, 217 Main Street, Little Rock, Ark.

2. Special field offices to receive such applications will not be established at this time.

3. Applications for disaster loans under the authority of this order will not be accepted subsequent to December 31, 1955.

Dated: June 6, 1955.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 55-4687; Filed, June 10, 1955;
8:51 a. m.]