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(d)(1) Any person who believes that he or she has been subjected to discrimination prohibited by this part may by him or herself or by his or her authorized representative file a complaint. Any person who believes that any specific class of persons has been subjected to discrimination prohibited by this part and who is a member of that class or the authorized representative of a member of that class may file a complaint.

(2) The agency shall accept and investigate all complete complaints over which it has jurisdiction.

(3) All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receive a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), is not readily accessible to and usable by individuals with handicaps.

(g)(1) Within 180 days of the receipt of a complete complaint over which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(i) Findings of fact and conclusions of law;

(ii) A description of a remedy for each violation found; and

(iii) A notice of the right to appeal.

(2) Agency employees are required to cooperate in the investigation and attempted resolution of complaints. Employees who are required to participate in any investigation under this section shall do so as part of their official duties and during the course of regular duty hours.

(3) If a complaint is resolved informally, the terms of the agreement shall be reduced to writing and made part of the complaint file, with a copy of the agreement provided to the complainant. The written agreement shall describe the subject matter of the complaint and any corrective action to which the parties have agreed.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 60 days of receipt from the agency of the letter required by §17.170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Director, Human Resources Directorate, or his or her designee, who will issue the final agency decision which may include appropriate corrective action to be taken by the agency.

(j) The agency shall notify the complainant of the results of the appeal within 30 days of the receipt of the appeal. If the agency determines that it needs additional information from the complainant, it shall have 30 days from the date it received the additional information to make its determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended for an individual case when the Assistant Secretary for Departmental Finance and Management determines that there is good cause, based on the particular circumstances of that case, for the extension.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies or may contract with a nongovernment investigator to perform the investigation, but the authority for making the final determination may not be delegated to another agency.

§§17.171—17.999 [Reserved]

PART 18—TEMPORARY REGULATIONS RELATING TO THE TAX TREATMENT OF CONRAIL PUBLIC SALE

AUTHORITY: Sec. 8021, Omnibus Budget Reconciliation Act of 1986, Pub. L. 99–509, 100 Stat. 1874.

§18.0 Tax treatment of Conrail public sale.

(a) *Scope.* Subtitle A of Title VIII of the Omnibus Budget Reconciliation Act of 1986 (the ''Act'') provides that, for Federal income tax purposes, new

Conrail shall be treated as a new corporation that purchased all of the assets of old Conrail as of the purchase date for an amount equal to the deemed purchase price. This section provides rules for determining the Federal income tax treatment of new Conrail in connection with the public sale of Conrail common stock pursuant to the Act. The rules contained in this section are applicable only to the tax treatment of Conrail resulting from the public sale and no inferences should be made with respect to the tax treatment of Conrail or of any other taxpayer in other transactions.

(b) *Applicable rules.* Except as hereinafter provided, the determination of the deemed purchase price for old Conrail's assets and the allocation of such amount as basis to the assets of new Conrail as of the purchase date shall be based upon the rules adopted in the temporary regulations issued under section 338(b) of the Internal Revenue Code. (Unless otherwise indicated, all section references are to the Internal Revenue Code of 1986). See §§ 1.338(b)–1T, 1.338(b)–2T and 1.338(b)–3T (26 CFR part 1). As provided in the following paragraphs, several modifications of those rules shall be applicable to the tax treatment of the deemed asset sale. No inference from such special rules shall be made with respect to the tax treatment of Conrail or any other taxpayer in any other transactions.

(c) *Computation of deemed purchase price*—(1) *Tentative deemed purchase price.* The tentative deemed purchase price is an amount equal to the gross amount received from purchasers by the underwriters pursuant to the public sale as adjusted to account for the qualified minority stock. The tentative deemed purchase price equals such gross amount received pursuant to the public sale multiplied by a fraction—

(i) The numerator of which is 100 percent, and

(ii) The denominator of which is a percentage equal to the ratio that the value of the Conrail common stock sold in the public sale bears to the value of such stock plus the value of the qualified minority stock. For purposes of this paragraph (c)(1)(ii), each share of Conrail common stock shall be deemed to have the same value.

(2) *Qualified minority stock*—(i) *Defined.* The term *qualified minority stock* means only the Conrail common stock held by the Conrail ESOP as of the purchase date. For this purpose, the following stock shall not be treated as qualified minority stock:

(A) Any Conrail common stock that Conrail is obligated under section 4024(f)(1) and (3) of the Act to contribute to the ESOP, or to distribute to persons who are or were ESOP participants, as of the purchase date, and

(B) Any common stock that may be held by the Conrail Equity Corporation as of the purchase date.

(ii) *Treatment of certain contributions or distributions.* Any contribution or distribution of Conrail common stock pursuant to Conrail's obligation under section 4024(f)(1) and (3) of the Act, shall be treated as satisfying the conditions of section 162 and shall not be treated as an amount paid that is described in section 263(a).

(3) *Deemed purchase price.* The deemed purchase price is computed by making appropriate adjustments to the tentative deemed purchase price for the liabilities of old Conrail and other relevant items.

(i) *Liabilities included in the deemed purchase price.* The liabilities that may be included in the deemed purchase price as of the purchase date are only those described in § 1.338(b)–1T(f)(2)(i) (26 CFR part 1). Liabilities that are initially excluded from the deemed purchase price under the preceding sentence may be taken into account in redetermining the deemed purchase price only at the time and to the extent such an adjustment would be permitted under §§ 1.338(b)–1T(f)(2)(ii) and 1.338(b)–3T (26 CFR part 1).

(ii) *Other relevant items.* As provided in §§ 1.338(b)–1T(g) and 1.338(b)–3T(a) (26 CFR part 1), other relevant items may arise only from events that occur after the close of new Conrail's first taxable year. Any events that occur before the close of new Conrail's first taxable year are taken into account for purposes of determining the deemed purchase price as if they had occurred on the purchase date. The only events that may constitute another relevant item are the change in a contingent liability of old

Conrail to one which is fixed and determinable and reductions in liabilities of Conrail (and the liabilities to which its assets are subject) that were taken into account in determining the deemed purchase price. No other adjustments shall be made to the tentative deemed purchase price, including, but not limited to, any adjustment in respect of the various statutory obligations under the Act to which new Conrail will be subject or to reflect additional proceeds that might have resulted if the sale of Conrail common stock had occurred in another manner.

(iii) *Deemed asset sales by old Conrail's subsidiaries.* The rules of section 338(h)(3)(B) and §1.338–4T(c)(3) (26 CFR part 1) shall apply to the deemed acquisition of the assets of old Conrail's subsidiaries. Thus, each of old Conrail's subsidiaries shall be treated as a new corporation (and a subsidiary of new Conrail) that purchased all of its assets as of the purchase date for an amount equal to the portion of the deemed purchase price allocated to the stock of such subsidiary pursuant to paragraph (d) of this section, as adjusted for liabilities and other relevant items of the subsidiary.

(4) *Redetermining the deemed purchase price following the close of new Conrail's first taxable year.* Other relevant items (within the meaning of paragraph (c)(3)(ii) of this section) are accounted for in redetermining the deemed purchase price and the related allocation of such amount (as basis) to new Conrail assets following the close of new Conrail's first taxable year in accordance with the rules applicable to the redetermination of adjusted grossed-up basis in accounting for adjustment events under §1.338(b)–3T (26 CFR part 1). For this purpose, an *acquisition date asset,* as defined in §1.338(b)–3T(b)(2)(v), means any asset held by new Conrail on the purchase date.

(d) *Allocation of deemed purchase price (as basis) among assets of new Conrail*—(1) *In general.* Except as expressly provided in paragraph (d)(2) of this section, the deemed purchase price shall be allocated as basis among the assets of new Conrail in accordance with the temporary regulations prescribed under section 338(b). *See* §1.338(b)–2T (26 CFR part 1). Therefore, the deemed purchase price is first reduced by the amount of Class I assets owned by new Conrail on the purchase date. The remaining amount is then allocated among Class II assets owned by new Conrail on the pruchase date in proportion to their relative fair market values. The amount allocated to any Class II asset may not, however, exceed the fair market value of such asset. The amount of the deemed purchase price in excess of the amounts allocated to Class I and Class II assets is then allocated among Class III assets owned by new Conrail on the purchase date also in proportion to their relative fair market values and subject to the fair market value limitation. The amount, if any, remaining after the allocations to the Class I, Class II, and Class III assets is allocated finally to Class IV assets.

(2) *Special rules.* The following special rules and conventions apply to the deemed asset sale:

(i) *Class I and Class II assets.* Notwithstanding the definitions in §1.338(b)–2T(b)(1) and (2)(ii) (26 CFR part 1),

(A) Accounts receivable and materials and supplies owned by new Conrail shall be deemed to be Class I assets and the amount of the deemed purchase price allocable to those assets shall be their respective book values, and

(B) Commercial paper and repurchase agreements (within the meaning of section 1058(b)) shall be deemed to be Class II assets.

(ii) *Pension plan.* Any interest of Conrail in any qualified plan that satisfies the requirements of section 401(a) on the purchase date shall be deemed to have no fair market value and no portion of the deemed purchase price shall be allocated (as basis) to such interest.

(iii) *Recorded and unrecorded assets.* Except for the assets identified in paragraph (d)(2)(iv) of this section, the allocation of the deemed purchase price to Class I, Class II and Class III assets under this paragraph (d) shall be restricted solely to those tangible and intangible assets identified on old Conrail's most recently audited financial statement submitted to the Interstate Commerce Commission as of the purchase date (''Conrail's financial statement''). Thus, except for the assets

identified in paragraph (d)(2)(iv) of this section, no portion of the deemed purchase price shall be allocated to any Class I, Class II or Class III asset that is not identified on that financial statement. In addition, no portion of the deemed purchase price shall be allocated to any asset listed on Conrail's financial statement that is not treated as an asset owned by Conrail for Federal income tax purposes.

(iv) *Safe harbor leases.* The deemed acquisition by new Conrail of old Conrail's interest in any agreements characterized as leases under section 168(f)(8) that properly continue to be so characterized shall be subject to the rules of § 5c.168(f)(8)–2(a)(7) (26 CFR part 5c), and such agreements shall be treated as Class III assets. For this purpose, the fair market value of such agreements is equal to the book value of the property that is subject to those agreements. Accordingly, to the extent the deemed purchase price is allocated to such agreements under this paragraph (d), such amount shall first be allocated to the lessor's obligation to Conrail to the extent of the unpaid balance of the obligation. Any excess over such unpaid balance shall be allocated between any leasehold interests and purchase options in proportion to their relative fair market values.

(v) *Class III assets.* For purposes of allocating the deemed purchase price to Class III assets of new Conrail and determining the fair market value limitation, except as provided in paragraph (d)(2)(iv) of this section, the fair market value of all tangible assets, including land, and any intangible assets shall be deemed to be their respective book values.

(e) *Disallowance of certain deductions.* No deduction shall be allowed to new Conrail for any amount that is paid after the date of the public sale to employees of Conrail for services performed on or before the date of the public sale pursuant to Conrail's obligation under section 4024(e) of the Act (''past service liability''). Conrail's past service liability as of the purchase date, however, shall be included in the deemed purchase price as a liability of old Conrail under paragraph (c) of this section. Accordingly, the disallowance of a current deduction for Conrail's past service liability shall not prohibit a deduction to new Conrail for the recovery of the basis in its assets that is attributable to such liability.

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

(1) *Book value.* The term *book value* means the amount reported as the net book value of old Conrail's assets for financial accounting purposes in its most recently audited financial statement submitted to the Interstate Commerce Commission as of the date of the public sale. For this purpose, the term net book value means the book value, net of the related reserve. Notwithstanding the book value of old Conrail's assets as determined under the preceding sentences of this paragraph (f)(1) of this section, the term book value shall not take into account the book value for any asset that old Conrail is not considered to own for Federal income tax purposes.

(2) *Conrail.* The term *Conrail* means the Consolidated Rail Corporation and, as the context may require, any corporation that was a subsidiary of Conrail. A subsidiary of Conrail means any corporation in which Conrail owns stock meeting the requirements of section 1504(a)(2).

(i) *Old Conrail.* The term *old Conrail* means Conrail, immediately before the purchase date.

(ii) *New Conrail.* The term *new Conrail* means Conrail, on the purchase date and for all periods thereafter. New Conrail shall be treated as unrelated to old Conrail for all purposes.

(3) *Date of the public sale.* The date of the public sale shall be the date on which the initial public offering is closed. For purposes of applying section 338 and the regulations thereunder (including §§ 1.338–4T(c)(3) and 1.338(b)–1T(f) (26 CFR part 1)), the ''acquisition date'' is the date of the public sale.

(4) *Deemed asset sale.* The term *deemed asset sale* means the deemed purchase of old Conrail assets by new Conrail as described in paragraph (a) of this section.

(5) *Liabilities.* The liabilities of Conrail include only the liabilities of old Conrail (and the liabilities to which its assets are subject).

(6) *Public sale.* The term *public sale* means the sale of stock in Conrail pursuant to a public offering under the

Act. If there is more than one public offering under the Act, such term means the sale pursuant to the initial public offering under the Act. Any sales of stock subsequent to the initial public offering shall be disregarded for purposes of determining the deemed purchase price under paragraph (c) of this section.

(7) *Purchase date.* The term *purchase date* means the beginning of the day after the date of the public sale.

[52 FR 1452, Jan. 14, 1987]

PART 19—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

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APPENDIX A TO PART 19—CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS—PRIMARY COVERED TRANSACTIONS

APPENDIX B TO PART 19—CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER TIER COVERED TRANSACTIONS

APPENDIX C TO PART 19—CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

AUTHORITY: E.O. 12549; sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 *et seq.*); 31 U.S.C. 321.

SOURCE: 53 FR 19187, and 19204, May 26, 1988, unless otherwise noted. Redesignated at 54 FR 4958, Jan. 31, 1989.

CROSS REFERENCE: See also Office of Management and Budget notice published at 55 FR 21679, May 25, 1990, and 60 FR 33036, June 26, 1995.

Subpart A—General

§ 19.100 Purpose.

(a) Executive Order (E.O.) 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a governmentwide system for nonprocurement debarment and suspension. A person who is debarred or suspended shall be excluded from Federal financial and nonfinancial assistance and benefits under Federal programs and activities. Debarment or suspension of a participant in a program by one agency shall have governmentwide effect.