THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET

FEDERAL REGISTER

OF THE UNITED STATES 1934

VOLUME 21 NUMBER 86

Washington, Thursday, May 3, 1956

TITLE 3—THE PRESIDENT

PROCLAMATION 3134

WOODROW WILSON CENTENNIAL YEAR

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS Woodrow Wilson, the twenty-eighth President of the United States, gave to this Nation and to the world a concept of peace based on justice and freedom and supported by the brotherhood of man; and

WHEREAS this scholar, educator, and statesman led the United States successfully through the ordeal of a devastating war, which was fought to preserve those high principles which this Nation cherishes; and

WHEREAS Woodrow Wilson's outstanding character, his devotion to his country's service, his efforts to strengthen the Government and to promote the public welfare, his dependence upon divine guidance, and his unfailing confidence in our system of free government and the ultimate wisdom of the American people, are a lasting inspiration to the Nation; and

WHEREAS the year 1956 marks the one hundredth anniversary of the birth of Woodrow Wilson, and the Congress, by a joint resolution approved August 30, 1954, 68 Stat. 964, established the Woodrow Wilson Centennial Celebration Commission to develop plans for commemorating that event; and by a joint resolution approved April 27, 1956, has authorized and requested the President to issue a proclamation inviting the people of the United States to observe the anniversary with appropriate ceremonies:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby call upon the people of the United States to observe the centennial of the birth of Woodrow Wilson; and I urge interested individuals and organizations, both private and governmental, to participate in appropriate ceremonies during 1956 designed to honor and commemorate his life, his ideals, and his concern for the freedom of peoples throughout the world.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 27th day of April in the year of our Lord nineteen hundred and fifty-six, and of the Independence of the United States of America the one hundred and eightieth.

[SEAL]

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 56-3528; Filed, May 2, 1956; 11:00 a. m.]

PROCLAMATION 3135

MOTHER'S DAY, 1956

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the American mother stands as a symbol of those high principles and lofty ideals which sustain and enrich our Nation; and

WHEREAS the Congress, by a joint resolution approved May 8, 1914 (38 Stat. 770), formalized the felicitous custom of commemorating motherhood by designating the second Sunday in May of each year as Mother's Day, and requested the President to issue a proclamation calling for the observance of that day; and

WHEREAS it is fitting that on that day we should acknowledge anew our gratitude, our love, and our reverence for our own mothers and for all mothers of our great Nation:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby request that Sunday, May 13, 1956, be observed as Mother's Day; and I direct the appropriate officials of the Government to arrange for the display of the flag of the United States on all public buildings on that day.

I also call upon the people generally to give public and private expression to the esteem in which our country holds its mothers through the display of the flag at their homes or other suitable places, through prayers at their places of wor-

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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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CODIFICATION GUIDE

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

CODIFICATION GUIDE—Con.

ship, and through appropriate manifestations of honor and devotion.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this first day of May in the year of our Lord nineteen hundred and fifty-six, and of the Independence of the United States of America the one hundred and eighth.

[SEAL]

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 56-3529; Filed, May 2, 1956; 11:00 a. m.]

RULES AND REGULATIONS

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 24—FORMAL EDUCATION REQUIREMENTS FOR APPOINTMENT TO CERTAIN SCIENTIFIC, TECHNICAL, AND PROFESSIONAL POSITIONS

STUDENT TRAINEE

Section 24.121 is amended to read as follows:

§ 24.121 *Student Trainee, GS–1–4, in the following codes: GS–402, 408, 455, 458, 462, 483, 802, 1311, 1341, 1371, 1521, or other code covering positions of student trainee for any professional field as follows: Any biological science (Group GS–400), any branch of engineering (Group GS–800), any physical science (Group GS–1300) architecture, landscape architecture, mathematics; and GS–2–4 in economics, statistics, and accounting* — (a) *Educational requirements.* (1) For Student Trainee, GS–1: Applicants must have been graduated from an accredited high school upon the successful completion of all the high school courses required for admission to an accredited college or university in a curriculum leading to the bachelors' degree in one of the specialized fields shown in the headnote of this section, and they must have the intention of enrolling in such institution and curriculum within 4 months of the date of entrance on duty in the Student Trainee positions.

(2) Applicants for grades GS–2, 3, and 4 must have successfully completed the number of academic years of study specified below, a full academic year of study being defined as a period or combination of periods of study at college (in either cooperative or noncooperative curricula) equal in length to two semesters or three quarters:

For student trainee, GS–2: One full academic year of study.

For student trainee, GS–3: Two full academic years of study.

For student trainee, GS–4: Three full academic years of study.

(3) The college study specified must have been at an accredited college or university in a full 4-year or longer professional curriculum leading to a bachelor's degree with specialization in one of the fields listed in the headnote of this section. The specialized field applied for, which is the field in which the applicant will receive training on the job if appointed, must correspond to the course which the applicant is pursuing in college and to the specialization in which he expects to complete the requirements of major study. The required specialization must be such that at time of graduation the specific course requirements which are specified for eligibility in the U. S. Civil Service Commission examination for the corresponding GS–5 professional positions can be met.

(4) College study at an accredited junior college will be accepted if the credits are acceptable in full by a 4-year accredited college toward completion of its own curriculum in the field concerned.

(b) *Duties.* The duties of a Student Trainee consist of a combination of (1) on-the-job training in a Federal agency, and (2) scholastic training in a college or university. While on the job in a Federal agency, appointees participate in research or other scientific or engineering work such as development, design, surveys, investigations, computations, laboratory or full experimentation or studies, construction, testing, standardization; or appointees participate in technical or research work in compiling, analyzing, summarizing and interpreting of statistical, economic or accounting data.

(c) *Knowledge and training requisite for performance of duties.* Student Trainees are employed for the purpose of training them for advancement to professional positions in the employing agency upon completion of the training program. Since the duties of the position involve, in addition to actual scientific, engineering, or technical work while in training, the pursuance of academic studies of the first, second, third, or fourth year of a specified undergraduate

college curriculum in order to perform successfully duties at the professional level, applicants must have the specified education in order to enroll in the required year of a standard college curriculum in an accredited college or university.

(Sec. 11, 58 Stat. 390; 5 U. S. C. 860)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 56-3485; Filed, May 2, 1956; 8:54 a. m.]

TITLE 6—AGRICULTURAL CREDIT

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

Subchapter B—Loans, Purchases and Other Operations

[1955 C. C. C. Grain Price Support Bulletin 1, Supp. 2, Oats]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1955 CROP OATS RESEAL LOAN PROGRAM

A reseal loan program has been announced for 1955-crop oats. The 1955 C. C. C. Grain Price Support Bulletin 1 (20 F. R. 3017 and 4563), issued by the Commodity Credit Corporation and containing the general requirements with respect to price support operations for grains and related commodities produced in 1955, supplemented by Supplement 1, Oats (20 F. R. 3590), containing the specific requirements for the 1955-crop oats price support program, is hereby further supplemented as follows:

Sec.
421.1286 Applicable sections of 1955 C. C. C. Grain Price Support Bulletin 1, and Supplement 1, Oats.
421.1287 Availability.
421.1288 Eligible producer.
421.1289 Eligible oats.
421.1290 Approved storage.
421.1291 Approved forms.
421.1292 Quantity eligible for resealing.
421.1293 Additional service charges.
421.1294 Transfer of producer's equity.
421.1295 Setoffs.
421.1296 Storage and track-loading payments.
421.1297 Maturity and satisfaction.
421.1298 Support rates.

AUTHORITY: §§ 421.1286 to 421.1298 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 301, 401, 63 Stat. 1054; 15 U. S. C. 714c, 7 U. S. C. 1421, 1447.

§ 421.1286 *Applicable sections of 1955 C. C. C. Grain Price Support Bulletin 1 and Supplement 1, Oats.* The following sections of the 1955 C. C. C. Grain Price Support Bulletin 1, as amended, and Supplement 1, Oats, published in 20 F. R. 3017, 4563 and 3590, shall be applicable to the 1955 Oats Reseal Loan Program: § 421.1001 *Administration;* § 421.1005 *Approved lending agencies;* § 421.1008 *Liens;* § 421.1011 *Interest rate;* § 421.1013 *Safeguarding the commodity;* § 421.1014 *Insurance on farm-storage loans;* § 421.1015 *Loss or damage to the commodity;* § 421.1016 *Personal liability of the producer;* § 421.1017 *Release of the commodity under loan;* § 421.1019 *Foreclosure;* § 421.1020 *Purchase of notes;* § 421.1280 *Determination of quantity.* Other sections of the 1955 C. C. C. Grain Price Support Bulletin 1, as amended, and Supplement 1, Oats, shall be applicable to the extent indicated in this subpart.

§ 421.1287 *Availability*—(a) *Area and scope.* The reseal program will be available in areas in the following five States where ASC State Committees determine that there may be a shortage of storage space and that oats can be safely stored on farms for the period of the reseal loan: Illinois, Iowa, Minnesota, North Dakota and South Dakota. This program provides, under certain circumstances, for the extension of 1955-crop farm-storage loans and the making of farm-storage loans on 1955-crop oats covered by purchase agreements. Neither warehouse-storage loans nor purchase agreements will be available to producers under this program.

(b) *Time.* (1) The producer who desires to participate in the reseal loan program must file an application for a farm-storage reseal loan at the office of the ASC county committee.

(2) In the case of a farm-storage loan, the producer will be required to apply for extension of his loan before the final date for delivery specified in the delivery instructions issued to him by the office of the ACS county committee.

(3) The producer who signed a purchase agreement on farm-stored oats is required under the 1955 Oats Price Support Program to notify the office of the ASC county committee not later than April 30, 1956, in the case of oats stored in any of the States listed in paragraph (a) of this section, if he intends to sell the oats to CCC. If the producer has notified the office of the ASC county committee on or before April 30, 1956, of his intention to sell the oats to CCC or to participate in this program, he may obtain a farm-storage loan on the oats. The loan documents must be executed by the producer on or before the final date for delivery specified in the delivery instructions, or on or before June 30, 1956, if the producer has not requested or received delivery instructions. The loan documents must be presented for disbursement within 15 days after execution. Disbursement of loans will be made to producers by approved lending agencies under an agreement with CCC, or by ASC county offices by means of sight drafts drawn on CCC. Payment in cash, credit to the producer's account, or the drawing of a check or draft shall constitute disbursement. The producer shall not present the loan documents for disbursement unless the oats are in existence and in good condition. If the oats were not in existence and in good condition at the time of disbursement, the total amount disbursed under the loan shall be promptly refunded by the producer. In the event the amount disbursed exceeds the amount authorized under this subpart, the producer shall be personally liable for repayment of the amount of such excess.

(c) *Source.* A producer desiring to participate in the reseal loan program should make application to the office of the ASC county committee which approved his loan or purchase agreement. Disbursements of loans completed on oats covered by purchase agreements shall be made to producers by ASC county offices by means of sight drafts drawn on CCC or by approved lending agencies under agreements with CCC.

§ 421.1288 *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 oats in 1955 as landowner, landlord, tenant, or sharecropper, who either completed a farm-storage loan or signed a purchase agreement covering oats of the 1955 crop.

§ 421.1289 *Eligible oats*—(a) *Requirements of eligibility.* The oats (1) must meet the requirements set forth in § 421.1278 (a), (b) and (c), and must not grade Tough, Weevily, Smutty, Ergoty, Garlicky, Bleached or Thin, or otherwise be of low quality; (2) must be under price support loan or purchase agreement; and (3) must, in addition, meet the sanitation requirements set forth in paragraph (b) of this section.

(b) *Sanitation requirements.* The oats (1) must be of a quality which meets the sanitation requirements, if any, of the Federal Food and Drug Administration in effect at the time the loan is made or extended, and (2) must not contain mercurial compounds or other substances poisonous to man or animals.

(c) *Inspection*—(1) *Extended farm-storage loans.* If a producer makes application to extend his farm-storage loan, the commodity loan inspector shall, with the producer, reinspect the oats and the farm-storage structure in which the oats are stored. If recommended by either the commodity loan inspector or the producer, a sample of the oats shall be taken and submitted for grade analysis.

(2) *Oats covered by purchase agreement.* If a producer makes application for a farm-storage loan on oats covered by a purchase agreement, the commodity loan inspector shall inspect the oats and storage structure, obtain a sample if the oats and structure appear eligible, and proceed in the regular manner for the inspection of a commodity to be placed under loan.

(c) *Determination of quality.* Quality determinations shall be made as set forth in § 421.1281: *Provided,* That determinations, if any, with respect to sanitation requirements specified in paragraph (a) of this section shall be made in accordance with instructions issued by CCC. Such instructions will be available for examination at the ASC county office.

§ 421.1290 *Approved storage.* Oats covered by any loans extended and any new loans completed must be stored in structures which meet the requirements

for farm-storage loans as provided in § 421.1006 (a). Consent for storage for any loans extended or new loans completed must be obtained by the producer for the period ending June 30, 1957, if the structure is owned or controlled by someone other than the producer, or if the lease expires prior to June 30, 1957.

§ 421.1291 *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 farm-storage loan is extended.

§ 421.1292 *Quantity eligible for resealing.* (a) The quantity of oats eligible for reseal on an extended farm-storage loan will be the quantity shown on the original note and the chattel mortgage, less any quantity delivered or redeemed.

(b) A producer may obtain a loan on not in excess of the quantity of oats specified in the purchase agreement, minus any quantity of the oats under such purchase agreement (1) which has been previously placed under a loan or (2) on which he exercises his option to sell to CCC.

§ 421.1293 *Additional service charges.* (a) When a farm-storage loan is extended, the producer will not be required to pay an additional service charge.

(b) At the time a farm-storage loan is made to the producer on oats covered by a purchase agreement, the producer shall pay an additional service charge of ½ cent per bushel on the number of bushels placed under loan, or $1.50, whichever is greater. No refund of service charges will be made.

§ 421.1294 *Transfer of producer's equity.* The producer shall not transfer either his remaining interest in or his right to redeem the oats mortgaged as security for a loan under this program. A producer who wishes to liquidate all or part of his loan by contracting for the sale of the oats must obtain written prior approval of the county committee on Commodity Loan Form 12 to remove the oats 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 ASC county committee.

§ 421.1295 *Set-offs.* If the producer is indebted to CCC on any accrued obligation, or if any installment or installments on any loan made available by CCC on farm-storage facilities or mobile drying equipment are past due, or are payable under the provisions of the note evidencing such loan out of the proceeds of the price support loan, he must designate CCC or the lending agency holding such note as the payee of the proceeds of the price support loan to the extent of such indebtedness or installments, but not to exceed that portion of the proceeds remaining after deduction of loan service charges and amounts due prior lienholders. If the producer is indebted to any other agency of the United States and such indebtedness is listed on the county debt register, he must designate such agency as the payee of the proceeds as provided in this section. Indebtedness owing to CCC or to a lending agency as provided in this section shall be given first consideration after claims of prior lienholders. Where the producer has an outstanding loan(s), made under the Farm Storage Facility Loan Program or the Mobile Drying Equipment Loan Program, any storage payment due the producer for storage of the oats in farm-storage structures shall be applied (a) to any delinquent amount(s), (b) to the borrower's storage facility loan installment or mobile drying equipment loan installment which is due and payable when the storage payment is due and (c) to any extended installment(s), each including interest. Any amount of such storage payment not so applied, together with all other payments for services due the producer, shall be subject to set-off in the same manner as provided in this section for loan proceeds. Compliance with the provisions of this section shall not constitute a waiver of any right of the producer to contest the justness of the indebtedness involved either by administrative appeal or by legal action.

§ 421.1296 *Storage and track-loading payments*—(a) *Storage payment.* A reseal storage payment will be made as follows:

(1) *Storage payment for full reseal period.* A storage payment computed at the rate of 12 cents per bushel will be made to the producer on the quantity involved if he (i) redeems the oats from the loan on or after April 30, 1957, (ii) delivers the oats to CCC on or after April 30, 1957, or (iii) delivers the oats to CCC prior to April 30, 1957, pursuant to demand by CCC for repayment of the loan solely for the convenience of CCC if the oats were not damaged or otherwise impaired due to negligence on the part of the producer.

(2) *Prorated storage payment.* (i) A storage payment computed at the rate of 0.00039 per bushel a day (but not to exceed 12 cents per bushel) according to the length of time the quantity of oats involved was in store after June 30, 1956, will be made to the producer; (*a*) in the case of loss assumed by CCC under the provisions of the loan program; (*b*) in the case of oats redeemed from the loan prior to April 30, 1957, and (c) in the case of oats delivered to CCC pursuant to its demand and not solely for the convenience of CCC, or upon request of the producer and with the approval of CCC, prior to April 30, 1957: *Provided, however,* That no storage payment will be made where the delivered oats are 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.

(ii) 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 oats have been abandoned or where there has been conversion on the part of the producer.

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

§ 421.1297 *Maturity and satisfaction.* (a) Loans will mature on demand but not later than April 30, 1957. The producer must pay off his loan, plus interest, on or before maturity or deliver the mortgaged oats in accordance with the instructions of the county committee. Credit will be given at the applicable settlement value according to grade and quality for the total quantity eligible for delivery. Delivery of oats will be accepted only from bin(s) in which the oats under reseal loan are stored. The provisions of § 421.1018 (a), (c), (f) and (g) and of § 421.1285 (a) (1) shall be applicable thereto: *Provided,* That, if upon delivery, the oats are of a quality which do not meet sanitation requirements (§ 421.1289 (b)) in effect at the time the loan was extended or at the time the loan was made on oats covered by a purchase agreement, the oats, in the event of failure to meet the requirements of § 421.1289 (b) (1), shall be sold for feed, or for industrial uses other than food and beverages, and, in the event of failure to meet the requirements of § 421.1289 (b) (2), shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animals, and in each instance covered by this proviso, the settlement value shall be the same as the sales price: *Provided further,* That if CCC is unable to sell such oats for the use specified above, the settlement value shall be the market value, if any, as determined by CCC, as of the date of delivery.

§ 421.1298 *Support rates.* The support rate for an extended farm-storage loan shall remain the same as for the original loan. The support rate for oats covered by a purchase agreement placed under a farm-storage loan shall be the support rate established for the oats in § 421.1283.

Issued this 27th day of April 1956.

[SEAL] WALTER C. BERGER,
Acting Executive Vice President, Commodity Credit Corporation.

[F. R. Doc. 56-3445; Filed, May 2, 1956; 8:45 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board

PART 325—REGISTRATION AND CLAIMS FOR BENEFITS

MISCELLANEOUS AMENDMENTS

Pursuant to the general authority contained in section 12 of the act of June 25, 1938 (52 Stat. 1094, 1107; 45 U. S. C. 362) §§ 325.6, 325.8 and 325.14 are rescinded and §§ 325.1, 325.11, 325.12 (a) and (c), 325.15, 325.18 and 325.50 of the regulations under such act (5 F. R. 2111; 5 F. R. 4141; 5 F. R. 4815; 7 F. R. 97; 7 F. R. 3192; 7 F. R. 9225; 11 F. R. 1206; 11 F. R. 6584; 11 F. R. 11768; 12 F. R. 224; 13 F. R. 7239; 14 F. R. 5240; 16 F. R. 6504; 20 F. R. 6767) are amended by Board Order 56-100, dated April 13, 1956, to read as follows:

§ 325.1 *Statutory provisions.* Section 12 (i) of the Railroad Unemployment Insurance Act (as amended) provides that:

* * * The Board shall prescribe a procedure for registration of unemployed employees at employment offices. Such procedure for registration shall be prescribed with a view to such registration affording substantial evidence of the days of unemployment of the employees who register. The Board may, when such registration is made personally by an employee, except such registration as initial proof of unemployment sufficient to certify for payment a claim for benefits.

Section 1 (k) of the Railroad Unemployment Insurance Act (as amended) provides that:

* * * a day of unemployment, with respect to any employee, means a calendar day on which he is able to work and is available for work and with respect to which (i) no remuneration is payable or accrues to him, and (ii) he has, in accordance with such regulations as the Board may prescribe, registered at an employment office * * *: *Provided, however,* That "subsidiary remuneration" as * * * defined * * * shall not be considered remuneration for the purpose of this subsection except with respect to an employee whose base-year compensation, exclusive of earnings from the position or occupation in which he earned such subsidiary remuneration, is less than $400: *Provided, further,* That remuneration for a working day which includes a part of each of two consecutive calendar days shall be deemed to have been earned on the second of such two days, and any individual who takes work for such working day shall not by reason thereof be deemed not available for work on the first of such calendar days: *Provided, further,* That any calendar day on which no remuneration is payable to or accrues to an employee solely because of the application to him of mileage or work restrictions agreed upon in schedule agreements between employers and employees or solely because he is standing by for or laying over between regularly assigned trips or tours of duty shall not be considered * * * a day of unemployment * * *.

Section 1 (h) of the Railroad Unemployment Insurance Act, as amended, provides that:

(h) The term "registration period" means, with respect to any employee, the period which begins with the first day for which such employee registers at an employment office in accordance with such regulations as the Board may prescribe, and ends with whichever is the earlier of (i) the thirteenth day thereafter, or (ii) the day immediately preceding the day for which he next registers at a different employment office; and thereafter each period which begins with the first day for which he next registers at an employment office after the end of his last preceding registration period which began with a day for which he registered at an employment office and ends with whichever is the earlier of (i) the thirteenth day thereafter, or (ii) the day immediately preceding the day for which he next registers at a different employment office.

§ 325.11 *Designation of unemployment claims agents and free employment offices.* Each employee of an employer, selected by it under an agreement between such employer and the Board entered into pursuant to section 12 (h) of the Railroad Unemployment Insurance Act, to take registrations of unemployed employees, and each other person designated by the Board, or pursuant to authority conferred by the Board, to take registrations of unemployed employees, is an unemployment claims agent. Each office or other facility selected by an unemployment claims agent for the registration of unemployed employees is designated a "free employment office." Each employment service office maintained by a State or by the Federal Government is designated a "free employment office" for the purpose of section 4 (a-2) (ii) of the Railroad Unemployment Insurance Act.

§ 325.12 *Registration*—(a) *Method of registration.* Registration with respect to any day shall be made by the employee's appearing before an unemployment claims agent at a free employment office during such agent's working hours and claiming the day by signing for it on the registration and claim form provided by the Board: *Provided, however,* That no registration shall be deemed to have been made with respect to any day which, if registration were made with respect to it, would be the first day of a registration period in a benefit year in which (1) the employee is not a qualified employee under section 3 of the Railroad Unemployment Insurance Act, or (2) benefits have already been payable to him for 130 days of unemployment, or (3) benefits for days of unemployment have already been payable to him in an amount equal to his compensation in the base year: *And provided further,* That if registration is made with respect to any day, and the claim to such day as a day of unemployment on the basis of such registration is not withdrawn, nothing done subsequent to such registration, except reregistration under § 325.50, shall be deemed registration with respect to such day.

* * * * *

(c) *Day of registration.* (1) Registration with respect to any day shall be made on such day or on any day not later than the sixth calendar day thereafter, except that, if such sixth calendar day is not a business day, the employee may make his registration on the next following business day. For the purpose of this paragraph the term "business day" means any day which is not a Saturday or Sunday, which is not a day generally observed as a holiday in the locality in which the employee registers for such day, and which is not a holiday at the employment office at which the employee registers for such day.

§ 325.15 *Signature of claims agent.* Upon taking the registration of an employee for a particular day or days, the unemployment claims agent shall sign as witness to the employee's signature. If the unemployment claims agent has information indicating that an employee's registration for a particular day or days may be invalid, he shall report such information in writing to the Board.

§ 325.18 *Registration in Alaska.* Nothing provided in § 325.12 shall apply to employees registering in Alaska, but such employee shall register for each day of unemployment with the Alaska Territorial Employment Service, or persons designated by it as agents for this purpose, as required by such Service under arrangements with the Board. (B. O. 40-260, May 23, 1940, effective July 1, 1939).

§ 325.50 *Lost or destroyed forms.* If it appears that a registration and claim form on which an employee registered for a particular day or days has been lost or destroyed, and if it is established, by clear and convincing evidence, after full and complete investigation, that the employee in fact registered for such days, the employee may reregister for such days at any time within one year of the last of such days.

(Sec. 12, 52 Stat. 1107, as amended; 45 U. S. C. 362)

Dated: April 26, 1956.

By authority of the Board.

MARY B. LINKINS,
Secretary of the Board.

[F. R. Doc. 56-3459; Filed, May 2, 1956; 8:49 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

Subchapter B—Food and Food Products

PART 19—CHEESES; PROCESSED CHEESES; CHEESE FOODS; CHEESE SPREADS, AND RELATED FOODS; DEFINITIONS AND STANDARDS OF IDENTITY

ORDER STAYING EFFECTIVENESS OF ORDER ESTABLISHING DEFINITION AND STANDARD OF IDENTITY FOR SAMSOE CHEESE

In the matter of establishing a definition and standard of identity for samsoe cheese:

In accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 401, 52 Stat. 1046, 68 Stat. 54, 55; 21 U. S. C. 341), the Commissioner of Food and Drugs, under authority delegated to him by the Secretary of Health, Education, and Welfare (20 F. R. 1996), promulgated an order on March 6, 1956 (21 F. R. 1440), fixing and establishing a definition and standard of identity for samsoe cheese (21 CFR 19.544). A pe-

riod of 30 days was permitted for the filing of objections to the order. Within that period Kraft Foods Company, Chicago, Illinois, filed a statement showing that it would be adversely affected by such order, stated its objections, and requested a public hearing. The objections were directed primarily at the maximum moisture content prescribed by the standard for samsoe cheese. Since it will serve no good purpose to stay only the provision of the standard fixing a maximum moisture content, the effectiveness of the entire order will be stayed pending a hearing on the objections.

Now, therefore it is ordered, That the order establishing a definition and standard of identity for samsoe cheese (21 F. R. 1440) be stayed in its entirety.

In accordance with the provisions of section 401 of the Federal Food, Drug, and Cosmetic Act, the Commissioner will, as soon as practicable, announce a public hearing for the purpose of receiving evidence relevant and material to the issues raised by the objections filed.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies sec. 401, 52 Stat. 1046, as amended; 21 U. S. C. 341)

Dated: April 26, 1956.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 56-3469; Filed, May 2, 1956; 8:50 a. m.]

Subchapter C—Drugs

PART 146b—CERTIFICATION OF STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS

STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) POLYMYXIN-NEOMYCIN OINTMENT

By virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, 61 Stat. 11; 21 U. S. C. 357) and delegated to the Commissioner of Food and Drugs by the Secretary (20 F. R. 1996), the regulations for the certification of streptomycin and streptomycin-containing drugs are amended, in § 146b.124 *Streptomycin-polymyxin-neomycin ointment* * * * by changing the third sentence of paragraph (a) *Standards of identity* * * * to read as follows: "Its potency is such that when used as directed in its labeling each dose shall contain not less than 250 milligrams of streptomycin or dihydrostreptomycin, 100,000 units of polymyxin B, and 150 milligrams of neomycin."

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for the amendment set forth above.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

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

Dated: April 26, 1956.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 56-3468; Filed, May 2, 1956; 8:50 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter F—Procedure and Administration

[T. D. 6172]

PART 301—PROCEDURE AND ADMINISTRATION

PERIODS OF LIMITATION

On July 29, 1955, notice of proposed rule making regarding the regulations under chapter 66 of the Internal Revenue Code of 1954, relating to limitations applicable to the taxes imposed by such Code, was published in the FEDERAL REGISTER (20 F. R. 5423). After consideration of such relevant suggestions as were presented by interested persons regarding the proposals, the following regulations are hereby adopted:

LIMITATIONS

LIMITATIONS ON ASSESSMENT AND COLLECTION

Sec.	
301.6501 (a)	Statutory provisions; limitations on assessment and collection; general rule.
301.6501 (a)-1	Period of limitations upon assessment and collection.
301.6501 (b)	Statutory provisions; limitations on assessment and collection; time return deemed filed.
301.6501 (b)-1	Time return deemed filed for purposes of determining limitations.
301.6501 (c)	Statutory provisions; limitations on assessment and collection; exceptions.
301.6501 (c)-1	Exceptions to general period of limitations on assessment and collection.
301.6501 (d)	Statutory provisions; limitations on assessment and collection; request for prompt assessment.
301.6501 (d)-1	Request for prompt assessment.
301.6501 (e)	Statutory provisions; limitations on assessment and collection; omission from gross income.
301.6501 (e)-1	Omission from return.
301.6501 (f)	Statutory provisions; limitations on assessment and collection; personal holding company tax.
301.6501 (f)-1	Personal holding company tax.
301.6501 (g)	Statutory provisions; limitations on assessment and collection; certain income tax returns of corporations.
301.6501 (g)-1	Certain income tax returns of corporations.
301.6501 (h)	Statutory provisions; limitations on assessment and collection; joint income return after separate return.
301.6502	Statutory provisions; collection after assessment.
301.6502-1	Collection after assessment.
301.6503 (a)	Statutory provisions; suspension of running of period of limitation; issuance of statutory notice of deficiency.
301.6503 (a)-1	Suspension of running of period of limitation; issuance of statutory notice of deficiency.
301.6503 (b)	Statutory provisions; suspension of running of period of limitation; assets of taxpayer in control or custody of court.
301.6503 (b)-1	Suspension of running of period of limitation; assets of taxpayer in control or custody of court.
301.6503 (c)	Statutory provisions; suspension of running of period of limitation; location of property outside the United States or removal of property from the United States.
301.6503 (c)-1	Suspension of running of period of limitation; location of property outside the United States or removal of property from the United States.
301.6503 (d)	Statutory provisions; suspension of running of period of limitation; extensions of time for payment of estate tax.
301.6503 (d)-1	Suspension of running of period of limitation; extension of time for payment of estate tax.
301.6503 (e)	Statutory provisions; suspension of running of period of limitation; cross references.
301.6504	Statutory provisions; cross references.

LIMITATIONS ON CREDIT OR REFUND

301.6511 (a)	Statutory provisions; limitations on credit or refund; period of limitation on filing claim.
301.6511 (a)-1	Period of limitation on filing claim.
301.6511 (b)	Statutory provisions; limitations on credit or refund; limitation on allowance of credits and refunds.
301.6511 (b)-1	Limitations on allowance of credits and refunds.
301.6511 (c)	Statutory provisions; limitations on credit or refund; special rules applicable in case of extension of time by agreement.
301.6511 (c)-1	Special rules applicable in case of extension of time by agreement.
301.6511 (d)	Statutory provisions; limitations on credit or refund; special rules applicable to income taxes.
301.6511 (d)-1	Overpayment of income tax on account of bad debts, worthless securities, etc.
301.6511 (d)-2	Overpayment of income tax on account of net operating loss carrybacks.
301.6511 (d)-3	Special rules applicable to credit against income tax for foreign taxes.

AUTHORITY: §§ 301.6501 to 301.6533 issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

GENERAL RULES

EFFECTIVE DATE AND RELATED PROVISIONS

LIMITATIONS

LIMITATIONS ON ASSESSMENT AND COLLECTION

§ 301.6501 (a) *Statutory provisions; limitations on assessment and collection; general rule.*

SEC. 6501. *Limitations on assessment and collection.*

(a) *General rule.* Except as otherwise provided in this section, the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) or, if the tax is payable by stamp, within 3 years after such tax became due, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period.

§ 301.6501 (a)-1 *Period of limitations upon assessment and collection.* (a) The amount of any tax imposed by the Internal Revenue Code of 1954 (other than a tax collected by means of stamps) shall be assessed within 3 years after the return was filed. For rules applicable in cases where the return is filed prior to the due date thereof, see section 6501 (b). In the case of taxes payable by stamp, assessment must be made within 3 years after the tax became due. For exceptions and additional rules, see subsections (b) to (g) of section 6501, and for cross references to other provisions relating to limitations on assessment and collection, see sections 6501 (h) and 6504.

(b) No proceeding in court without assessment for the collection of any tax shall be begun after the expiration of the applicable period for the assessment of such tax.

§ 301.6501 (b) *Statutory provisions; limitations on assessment and collection; time return deemed filed.*

SEC. 6501. *Limitations on assessment and collection.* * * *

(b) *Time return deemed filed*—(1) *Early return.* For purposes of this section, a return of tax imposed by this title, except tax imposed by chapter 21 or 24, filed before the last day prescribed by law or by regulations promulgated pursuant to law for the filing thereof, shall be considered as filed on such last day.

(2) *Return of certain employment taxes.* For purposes of this section, if a return of tax imposed by chapter 21 or 24 for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such calendar year.

(3) *Return executed by Secretary.* Notwithstanding the provisions of paragraph (2) of section 6020 (b), the execution of a return by the Secretary or his delegate pursuant to the authority conferred by such section shall not start the running of the period of limitations on assessment and collection.

§ 301.6501 (b)-1 *Time return deemed filed for purposes of determining limitations*—(a) *Early return.* Any return, other than employment tax returns referred to in paragraph (b) of this section, filed prior to the last day prescribed by law or regulations for the filing thereof (determined without regard to any extension of time for filing) shall be considered as filed on such last day.

(b) *Returns of social security tax and of income tax withholding.* If a return of tax under chapter 21 (relating to the Federal Insurance Contributions Act) or chapter 24 (relating to the collection of income tax at source on wages) for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be deemed filed on April 15 of such succeeding calendar year. For example, if quarterly returns are filed for the four quarters of 1955 on April 30, July 31, and October 31, 1955, and on January 31, 1956, the period of limitation for assessment with respect to the tax required to be reported on such returns is measured from April 15, 1956. However, if any of such returns is filed after April 15, 1956, the period of limitation for assessment of the tax required to be reported on that return is measured from the date it is in fact filed.

(c) *Returns executed by district directors or other internal revenue officers.* The execution of a return by a district director or other authorized internal revenue officer or employee under the authority of section 6020 (b) shall not start the running of the statutory period of limitations on assessment and collection.

§ 301.6501 (c) *Statutory provisions; limitations on assessment and collection; exceptions.*

SEC. 6501. *Limitations on assessment and collection.* * * *

(c) *Exceptions*—(1) *False return.* In the case of a false or fraudulent return with the intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(2) *Willful attempt to evade tax.* In case of a willful attempt in any manner to defeat or evade tax imposed by this title (other than tax imposed by subtitle A or B), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(3) *No return.* In the case of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(4) *Extension by agreement.* Where, before the expiration of the time prescribed in this section for the assessment of any tax imposed by this title, except the estate tax provided in chapter 11, both the Secretary or his delegate and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(5) *Tax resulting from changes in certain income tax or estate tax credits.* For special rules applicable in cases where the adjustment of certain taxes allowed as a credit against income taxes or estate taxes results in additional tax, see section 905 (c) (relating to the foreign tax credit for income tax purposes) and section 2016 (relating to taxes of foreign countries, States, etc., claimed as credit against estate taxes).

§ 301.6501 (c)-1 *Exceptions to general period of limitations on assessment and collection*—(a) *False return.* In the case of a false or fraudulent return with intent to evade any tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time after such false or fraudulent return is filed.

(b) *Willful attempt to evade tax.* In the case of a willful attempt in any manner to defeat or evade any tax imposed by the Internal Revenue Code of 1954 (other than a tax imposed by subtitle A or B, relating to income, estate, or gift taxes), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(c) *No return.* In the case of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time after the date prescribed for filing the return.

(d) *Extension by agreement.* The time prescribed by section 6501 for the assessment of any tax (other than the estate tax imposed by chapter 11) may, prior to the expiration of such time, be extended for any period of time agreed

upon in writing by the taxpayer and the district director or an assistant regional commissioner. The extension shall become effective when the agreement has been executed by both parties. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

§ 301.6501 (d) *Statutory provisions; limitations on assessment and collection; request for prompt assessment.*

SEC. 6501. *Limitations on assessment and collection.* * * *

(d) *Request for prompt assessment.* Except as otherwise provided in subsection (c), in the case of any tax (other than the tax imposed by chapter 11 of subtitle B, relating to estate taxes) for which return is required in the case of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within 18 months after written request therefor (filed after the return is made and filed in such manner and such form as may be prescribed by regulations of the Secretary or his delegate) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of 3 years after the return was filed. This subsection shall not apply in the case of a corporation unless—

(1) Such written request notifies the Secretary or his delegate that the corporation contemplates dissolution at or before the expiration of such 18-month period; and

(2) The dissolution is in good faith begun before the expiration of such 18-month period; and

(3) The dissolution is completed.

§ 301.6501 (d)–1 *Request for prompt assessment.* (a) Except as otherwise provided in section 6501 (c) or (e), any tax for which a return is required and for which—

(1) A decedent or an estate of a decedent may be liable, other than the estate tax imposed by chapter 11, or

(2) A corporation which either has been dissolved, or is contemplating dissolution, may be liable,

shall be assessed, or a proceeding in court without assessment for the collection of such tax shall be begun, within 18 months after the receipt of a written request for prompt assessment thereof.

(b) The executor, administrator, or other fiduciary representing the estate of the decedent, or the corporation, or the fiduciary representing the dissolved corporation, as the case may be, shall, after the return in question has been filed, file the request for prompt assessment in writing with the district director for the internal revenue district in which such return was filed. The request, in order to be effective, must be transmitted separately from any other document, must set forth the classes of tax and the taxable periods for which the prompt assessment is requested, and must clearly indicate that it is a request for prompt assessment under the provisions of section 6501 (d). The effect of such a request is to limit the time in which an assessment of tax may be made, or a proceeding in court without assessment for collection of tax may be begun, to a period of 18 months from the date the request is filed with the proper district director. The request does not extend the time within which an assessment may be made, or a proceeding in court without assessment may be begun, beyond 3 years from the date the return was filed. This special period of limitations will not apply to any return filed after a request for prompt assessment has been made unless an additional request is filed in the manner provided herein.

(c) In the case of a corporation the 18-month period shall not apply unless—

(1) The written request notifies the district director that the corporation either has been dissolved or contemplates dissolution at or before the expiration of such period, and

(2) In the case of a corporation contemplating dissolution—

(i) The dissolution is in good faith begun before the expiration of such 18-month period, and

(ii) The dissolution so begun is completed either before or after the expiration of such period.

§ 301.6501 (e) *Statutory provisions; limitations on assessment and collection; omission from gross income.*

SEC. 6501. *Limitations on assessment and collection.* * * *

(e) *Omission from gross income.* Except as otherwise provided in subsection (c)—

(1) *Income taxes.* In the case of any tax imposed by subtitle A—

(A) *General rule.* If the taxpayer omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. For purposes of this subparagraph—

(i) In the case of a trade or business, the term "gross income" means the total of the amounts received or accrued from the sale of goods or services (if such amounts are required to be shown on the return) prior to diminution by the cost of such sales or services; and

(ii) In determining the amount omitted from gross income, there shall not be taken into account any amount which is omitted from gross income stated in the return if such amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary or his delegate of the nature and amount of such item.

(B) *Constructive dividends.* If the taxpayer omits from gross income an amount properly includible therein under section 551 (b) (relating to the inclusion in the gross income of United States shareholders of their distributive shares of the undistributed foreign personal holding company income), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(2) *Estate and gift taxes.* In the case of a return of estate tax under chapter 11 or a return of gift tax under chapter 12, if the taxpayer omits from the gross estate or from the total amount of the gifts made during the year items includible in such gross estate or such total gifts, as the case may be, as exceed in amount 25 percent of the gross estate stated in the return or the total amount of gifts stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. In determining the items omitted from the gross estate or the total gifts, there shall not be taken into account any item which is omitted from the gross estate or from the total gifts stated in the return if such item is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary or his delegate of the nature and amount of such item.

§ 301.6501 (e)–1 *Omission from return*—(a) *Income taxes*—(1) *General rule.* (i) If the taxpayer omits from the gross income stated in the return of a tax imposed by subtitle A an amount properly includible therein which is in excess of 25 percent of the gross income so stated, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(ii) For purposes of this subparagraph, the term "gross income", as it relates to a trade or business, means the total of the amounts received or accrued from the sale of goods or services, to the extent required to be shown on the return, without reduction for the cost of such sales or services. An item shall not be considered as omitted from gross income if information, sufficient to apprise the district director of the nature and amount of such item, is disclosed in the return or in any schedule or statement attached to the return.

(2) *Constructive dividends.* If a taxpayer omits from gross income an amount properly includible therein under section 551 (b) as his distributive share of the undistributed foreign personal holding company income, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(b) *Estate and gift taxes.* (1) If the taxpayer omits from the gross estate as stated in the estate tax return, or from the total amount of the gifts made during the year as stated in the gift tax return, an item or items properly includible therein the amount of which is in excess of 25 percent of the gross estate as stated in the return, or 25 percent of the total amount of the gifts as stated in the return, the tax may be assessed, or a proceeding in court for the collection thereof may be begun without assessment, at any time within 6 years after the return was filed.

(2) For purposes of this paragraph, an item disclosed in the return or in any schedule or statement attached to the return in a manner sufficient to apprise the district director of the nature and amount thereof shall not be taken into account in determining items omitted from the gross estate or total gifts, as the case may be. Further, there shall not be taken into account in computing the 25 percent omission from the gross estate stated in the estate tax return or from the total gifts stated in the gift tax return, any increases in the valuation of assets disclosed on the return.

(c) *Exception.* The provisions of this section do not limit the application of section 6501 (c).

§ 301.6501 (f) *Statutory provisions; limitations on assessment and collection; personal holding company tax.*

SEC. 6501. *Limitations on assessment and collection.* * * *

(f) *Personal holding company tax.* If a corporation which is a personal holding company for any taxable year fails to file with its return under chapter 1 for such year a schedule setting forth—

(1) The items of gross income, described in section 543 (a), received by the corporation during such year, and

(2) The names and addresses of the individuals who owned, within the meaning of section 544 (relating to rules for determining stock ownership), at any time during the last half of such year more than 50 percent in value of the outstanding capital stock of the corporation,

the personal holding company tax for such year may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return for such year was filed.

§ 301.6501 (f)–1 *Personal holding company tax.* If a corporation which is a personal holding company for any taxable year fails to file with its income tax return for such year a schedule setting forth the items of gross income described in section 543 (a) received by the corporation during such year, and the names and addresses of the individuals who owned, within the meaning of section 544, at any time during the last half of such taxable year, more than 50 percent in value of the outstanding capital stock of the corporation, the personal holding company tax for such year may be assessed, or a proceeding in court for the collection thereof may be begun without assessment, at any time within 6 years after the return for such year was filed.

§ 301.6501 (g) *Statutory provisions; limitations on assessment and collection; certain income tax returns of corporations.*

SEC. 6501. *Limitations on assessment and collection.* * * *

(g) *Certain income tax returns of corporations*—(1) *Trusts or partnerships.* If a taxpayer determines in good faith that it is a trust or partnership and files a return as such under subtitle A, and if such taxpayer is thereafter held to be a corporation for the taxable year for which the return is filed, such return shall be deemed the return of the corporation for purposes of this section.

(2) *Exempt organizations.* If a taxpayer determines in good faith that it is an exempt organization and files a return as such under section 6033, and if such taxpayer is thereafter held to be a taxable corporation for the taxable year for which the return is filed, such return shall be deemed the return of the corporation for purposes of this section.

§ 301.6501 (g)–1 *Certain income tax returns of corporations*—(a) *Trusts or partnerships.* If a taxpayer determines in good faith that it is a trust or partnership and files a return as such under subtitle A, and if the taxpayer is later held to be a corporation for the taxable year for which the return was filed, such return shall be deemed to be the return of the corporation for the purpose of section 6501.

(b) *Exempt organizations.* If a taxpayer determines in good faith that it is an exempt organization and files a return as such under section 6033, and if the taxpayer is later held to be a taxable organization for the taxable year for which the return was filed, such return shall be deemed to be the return of the organization for the purpose of section 6501.

§ 301.6501 (h) *Statutory provisions; limitations on assessment and collection; joint income return after separate return.*

SEC. 6501. *Limitations on assessment and collection.* * * *

(h) *Joint income return after separate return.* For period of limitations for assessment and collection in the case of a joint income return filed after separate returns have been filed, see section 6013 (b) (3) and (4).

§ 301.6502 *Statutory provisions; collection after assessment.*

SEC. 6502. *Collection after assessment*—(a) *Length of period.* Where the assessment of any tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by levy or by a proceeding in court, but only if the levy is made or the proceeding begun—

(1) Within 6 years after the assessment of the tax, or

(2) Prior to the expiration of any period for collection agreed upon in writing by the Secretary or his delegate and the taxpayer before the expiration of such 6-year period (or, if there is a release of levy under section 6343 after such 6-year period, then before such release).

The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) *Date when levy is considered made.* The date on which a levy on property or rights to property is made shall be the date on which the notice of seizure provided in section 6335 (a) is given.

§ 301.6502–1 *Collection after assessment*—(a) *Length of period*—(1) *General rule.* In any case in which a tax has been assessed within the statutory period of limitation properly applicable thereto, a proceeding in court to collect such tax may be begun, or levy for the collection of such tax may be made, within 6 years after the assessment thereof.

(2) *Extension by agreement.* (i) The 6-year period of limitation on collection after assessment of any tax may, prior to the expiration thereof, be extended for any period of time agreed upon in writing by the taxpayer and the district director. The extension shall become effective upon execution of the agreement by both the taxpayer and the district director.

(ii) The period of limitation on collection after assessment of any tax (including any extension of such period) may be extended after the expiration thereof if there has been a levy on any part of the taxpayer's property prior to such expiration and if the extension is agreed upon in writing prior to a release of the levy under the provisions of section 6343. An extension under this subdivision has the same effect as an agreement made prior to the expiration of the period of limitation on collection after assessment, and during the period of the extension collection may be enforced as to all property or rights to property owned by the taxpayer whether or not seized under the levy which was released.

(iii) Any period agreed upon under the provisions of this subparagraph may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) *Date when levy is considered made.* The date on which a levy on property or rights to property is made is the date on which the notice of seizure provided in section 6335 (a) is given.

§ 301.6503 (a) *Statutory provisions; suspension of running of period of limitation; issuance of statutory notice of deficiency.*

SEC. 6503. *Suspension of running of period of limitation*—(a) *Issuance of statutory notice of deficiency*—(1) *General rule.* The running of the period of limitations provided in section 6501 or 6502 on the making of assessments or the collection by levy or a proceeding in court, in respect of any deficiency as defined in section 6211 (relating to income, estate, and gift taxes), shall (after the mailing of a notice under section 6212 (a)) be suspended for the period during which the Secretary or his delegate is prohibited from making the assessment or from collecting by levy or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

(2) *Corporation joining in consolidated income tax return.* If a notice under section 6212 (a) in respect of a deficiency in tax imposed by subtitle A for any taxable year is mailed to a corporation, the suspension of the running of the period of limitations provided in paragraph (1) of this subsection shall apply in the case of corporations with which such corporation made a consolidated income tax return for such taxable year.

§ 301.6503 (a)–1 *Suspension of running of period of limitation; issuance of statutory notice of deficiency*—(a) *General rule.* Upon the mailing of a notice of deficiency for income, estate, or gift tax under the provisions of section 6212, the period of limitation on assessment and collection of any deficiency is suspended for 90 days if the notice of deficiency is addressed to a person within the States of the Union and the District of Columbia, or 150 days if such notice is addressed to a person outside the States of the Union and the District of Columbia (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the 90th or 150th day), plus an additional 60 days thereafter in either case. If a proceeding in respect of the deficiency is placed on the docket of the Tax Court, the period of limitations is suspended until the decision of the Tax Court becomes final, and for an additional 60 days thereafter. If a notice of deficiency is mailed to a taxpayer within the period of limitation and the taxpayer does not appeal therefrom to the Tax Court, the notice of deficiency so given does not suspend the running of the period of limitation with respect to any additional deficiency shown to be due in a subsequent deficiency notice.

Example. A taxpayer filed a return for the calendar year 1954 on April 15, 1955; the notice of deficiency was mailed to him (at an address within the United States) on April 15, 1958; and he filed a petition with the Tax Court on July 14, 1958. The decision of the Tax Court became final on November 6, 1959. The running of the period of limi-

tation for assessment is suspended from April 15, 1958 to January 5, 1960, which date is 60 days after the date (November 6, 1959) on which the decision became final. If in this example the taxpayer had failed to file a petition with the Tax Court, the running of the period of limitation for assessment would then be suspended from April 15, 1958 (the date of notice), to September 12, 1958 (that is, for the 90-day period in which he could file a petition with the Tax Court, and for 60 days thereafter).

(b) *Corporations joining in consolidated return.* If a notice under section 6212 (a) with respect to a deficiency in tax imposed by subtitle A for any taxable year is mailed to a corporation, the suspension of the running of the period of limitations provided in section 6503 (a) (1) shall apply in the case of corporations with which such corporation made a consolidated income tax return for such taxable year. Under § 1.1502–16 of the Income Tax Regulations (relating to consolidated returns), notices of deficiency are mailed only to the common parent.

§ 301.6503 (b) *Statutory provisions; suspension of running of period of limitation; assets of taxpayer in control or custody of court.*

SEC. 6503. *Suspension of running of period of limitation.* * * *

(b) *Assets of taxpayer in control or custody of court.* The period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period the assets of the taxpayer (other than the estate of a decedent or of an incompetent) are in the control or custody of the court in any proceeding before any court of the United States or of any State or Territory or of the District of Columbia, and for 6 months thereafter.

§ 301.6503 (b)–1 *Suspension of running of period of limitation; assets of taxpayer in control or custody of court.* Where the assets of a taxpayer (other than the estate of a decedent or of an incompetent) are in the control or custody of the court in any proceeding before any court of the United States or of any State or Territory of the United States or of the District of Columbia, the period of limitation on collection after assessment prescribed in section 6502 is suspended for the period such assets are in the control or custody of the court, and for 6 months thereafter.

§ 301.6503 (c) *Statutory provisions; suspension of running of period of limitation; location of property outside the United States or removal of property from the United States.*

SEC. 6503. *Suspension of running of period of limitation.* * * *

(c) *Location of property outside the United States or removal of property from the United States.* In case collection is hindered or delayed because property of the taxpayer is situated or held outside the United States or is removed from the United States, the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period collection is so hindered or delayed. The total suspension of time under this subsection shall not in the aggregate exceed 6 years.

§ 301.6503 (c)–1 *Suspension of running of period of limitation; location of property outside the United States or removal of property from the United States.* The running of the period of limitation on collection after assessment prescribed in section 6502 is suspended for the period of time that collection is hindered or delayed because property of the taxpayer is situated or held outside the United States or is removed from the United States. The total suspension of time under this provision shall not in the aggregate exceed 6 years. In any case in which the district director determines that collection is so hindered or delayed, he shall make and retain in the files of his office a written report which shall identify the taxpayer and the tax liability, shall show what steps were taken to collect the tax liability, shall state the grounds for his determination that property of the taxpayer is situated or held outside, or is removed from, the United States, and shall show the date on which it was first determined that collection was so hindered or delayed. The term "property" includes all property or rights to property, real or personal, tangible or intangible, belonging to the taxpayer. The suspension of the running of the period of limitation on collection shall be considered to begin on the date so determined by the district director. A copy of the report shall be mailed to the taxpayer at his last known address.

§ 301.6503 (d) *Statutory provisions; suspension of running of period of limitation; extensions of time for payment of estate tax.*

SEC. 6503. *Suspension of running of period of limitation.* * * *

(d) *Extensions of time for payment of estate tax.* The running of the period of limitations for assessment or collection of any tax imposed by chapter 11 shall be suspended for the period of any extension of time for payment granted under the provisions of section 6161 (a) (2) or (b) (2).

§ 301.6503 (d)–1 *Suspension of running of period of limitation; extension of time for payment of estate tax.* Where an estate is granted an extension of time as provided in section 6161 (a) (2) or (b) (2) for payment of any estate tax, the running of the period of limitations for assessment or collection of such tax is suspended for the period of time for which the extension is granted.

§ 301.6503 (e) *Statutory provisions; suspension of running of period of limitation; cross references.*

SEC. 6503. *Suspension of running of period of limitation.* * * *

(e) *Cross references.* For suspension in case of—

(1) Deficiency dividends of a personal holding company, see section 547 (f).

(2) Bankruptcy and receiverships, see subchapter B of chapter 70.

(3) Claims against transferees and fiduciaries, see chapter 71.

§ 301.6504 *Statutory provisions; cross references.*

SEC. 6504. *Cross references.* For limitation period in case of—

(1) Adjustments incident to involuntary liquidation of inventory, see section 1321.

(2) Adjustments to accrued foreign taxes, see section 905 (c).

(3) Change of election to take standard deduction where taxpayer and his spouse make separate returns, see section 144 (b).

(4) Involuntary conversion of property, see section 1033 (a) (3) (C) and (D).

(5) Gain upon sale or exchange of residence, see section 1034 (j).

(6) War loss recoveries where prior benefit rule is elected, see section 1335.

(7) Recovery of unconstitutional Federal taxes, see section 1346.

(8) Limitations on deductions allowable to individuals in certain cases, see section 270 (d).

(9) Application by executor for discharge from personal liability for estate tax, see section 2204.

(10) Insolvent banks and trust companies, see section 7507.

(11) Service in a combat zone, etc., see section 7508.

(12) Claims against transferees and fiduciaries, see chapter 71.

LIMITATIONS ON CREDIT OR REFUND

§ 301.6511 (a) *Statutory provisions; limitations on credit or refund; period of limitation on filing claim.*

SEC. 6511. *Limitations on credit or refund.*—(a) *Period of limitation on filing claim.* Claim for credit or refund of an overpayment of any tax imposed by this title in respect of which tax the taxpayer is required to file a return shall be filed by the taxpayer within 3 years from the time the return was required to be filed (determined without regard to any extension of time) or 2 years from the time the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within 2 years from the time the tax was paid. Claim for credit or refund of an overpayment of any tax imposed by this title which is required to be paid by means of a stamp shall be filed by the taxpayer within 3 years from the time the tax was paid.

§ 301.6511 (a)–1 *Period of limitation on filing claim.* (a) In the case of any tax (other than a tax payable by stamp)—

(1) If a return is filed, a claim for credit or refund of an overpayment must be filed by the taxpayer within 3 years from the last date prescribed for the filing of the return (determined without regard to any extension of time for filing such return) or within 2 years from the time the tax was paid, whichever of such periods expires the later.

(2) If no return is filed, the claim for credit or refund of an overpayment must be filed by the taxpayer within 2 years from the time the tax was paid.

(b) In the case of any tax payable by means of a stamp, a claim for credit or refund of an overpayment of such tax must be filed by the taxpayer within 3 years from the time the tax was paid. For provisions relating to redemption of unused stamps, see section 6805.

(c) For limitations on allowance of credit or refund, special rules, and exceptions, see subsections (b) through (e) of section 6511. For limitations in the case of a petition to the Tax Court, see section 6512. For rules as to time return is deemed filed and tax considered paid, see section 6513.

§ 301.6511 (b) *Statutory provisions; limitations on credit or refund; limitation on allowance of credits and refunds.*

SEC. 6511. *Limitations on credit or refund.* * * *

(b) *Limitation on allowance of credits and refunds*—(1) *Filing of claim within prescribed period.* No credit or refund shall be allowed or made after the expiration of the period of limitation prescribed in subsection (a) for the filing of a claim for credit

or refund, unless a claim for credit or refund is filed by the taxpayer within such period.

(2) *Limit on amount of credit or refund—*

(A) *Limit to amount paid within 3 years.* If the claim was filed by the taxpayer during the 3-year period prescribed in subsection (a), the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim. If the tax was required to be paid by means of a stamp, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

(B) *Limit to amount paid within 2 years.* If the claim was not filed within such 3-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the 2 years immediately preceding the filing of the claim.

(C) *Limit if no claim filed.* If no claim was filed, the credit or refund shall not exceed the amount which would be allowable under subparagraph (A) or (B), as the case may be, if claim was filed on the date the credit or refund is allowed.

§ 301.6511 (b)–1 *Limitations on allowance of credits and refunds—*(a) *Effect of filing claim.* Unless a claim for credit or refund of an overpayment is filed within the period of limitation prescribed in section 6511 (a), no credit or refund shall be allowed or made after the expiration of such period.

(b) *Limit on amount to be credited or refunded.* (1) In the case of any tax (other than a tax payable by stamp)—

(i) If a return was filed, and a claim is filed within 3 years from the last date prescribed for filing such return (determined without regard to any extension of time for such filing), the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

(ii) If a return was filed, and a claim is filed after the 3-year period described in subdivision (i) of this subparagraph but within 2 years from the time the tax was paid, the amount of the credit or refund shall not exceed the portion of the tax paid within the 2 years immediately preceding the filing of the claim.

(iii) If no return was filed, but a claim is filed, the amount of the credit or refund shall not exceed the portion of the tax paid within the 2 years immediately preceding the filing of the claim.

(iv) If no claim is filed, the amount of the credit or refund allowed or made by the district director shall not exceed the amount that would have been allowable under the preceding subdivisions of this subparagraph if a claim had been filed on the date the credit or refund is allowed.

(2) In the case of a tax payable by stamp—

(i) If a claim is filed, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

(ii) If no claim is filed, the amount of the credit or refund allowed or made by the district director shall not exceed the portion of the tax paid within the 3 years immediately preceding the allowance of the credit or refund.

For provisions relating to redemption of unused stamps, see section 6805.

§ 301.6511 (c) *Statutory provisions; limitations on credit or refund; special rules applicable in case of extension of time by agreement.*

SEC. 6511. *Limitations on credit or refund.* * * *

(c) *Special rules applicable in case of extension of time by agreement.* If an agreement under the provisions of section 6501 (c) (4) extending the period for assessment of a tax imposed by this title is made within the period prescribed in subsection (a) for the filing of a claim for credit or refund—

(1) *Time for filing claim.* The period for filing claim for credit or refund or for making credit or refund if no claim is filed, provided in subsections (a) and (b) (1), shall not expire prior to 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof under section 6501 (c) (4).

(2) *Limit on amount.* If a claim is filed, or a credit or refund is allowed when no claim was filed, after the execution of the agreement and within 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof, the amount of the credit or refund shall not exceed the portion of the tax paid after the execution of the agreement and before the filing of the claim or the making of the credit or refund, as the case may be, plus the portion of the tax paid within the period which would be applicable under subsection (b) (2) if a claim had been filed on the date the agreement was executed.

(3) *Claims not subject to special rule.* This subsection shall not apply in the case of a claim filed, or credit or refund allowed if no claim is filed, either—

(A) Prior to the execution of the agreement or

(B) More than 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof.

§ 301.6511 (c)–1 *Special rules applicable in case of extension of time by agreement—*(a) *Scope.* If, within the period prescribed in section 6511 (a) for the filing of a claim for credit or refund, an agreement extending the period for assessment of a tax has been made in accordance with the provisions of section 6501 (c) (4), the special rules provided in this section become applicable. This section shall not apply to any claim filed, or credit or refund allowed if no claim is filed, either (1) prior to the execution of an agreement extending the period in which assessment may be made, or (2) more than 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof.

(b) *Period in which claim may be filed.* Claim for credit or refund of an overpayment may be filed, or credit or refund may be allowed if no claim is filed, at any time within which an assessment may be made pursuant to an agreement, or any extension thereof, under section 6501 (c) (4), and for 6 months thereafter.

(c) *Limit on amount to be credited or refunded.* (1) If a claim is filed within the time prescribed in paragraph (b) of this section, the amount of the credit or refund allowed or made shall not exceed the portion of the tax paid after the execution of the agreement and before the filing of the claim, plus the amount that could have been properly credited or refunded under the provisions of section 6511 (b) (2) if a claim had been filed on the date of the execution of the agreement.

(2) If no claim is filed, the amount of credit or refund allowed or made within the time prescribed in paragraph (b) of this section shall not exceed the portion of the tax paid after the execution of the agreement and before the making of the credit or refund, plus the amount that could have been properly credited or refunded under the provisions of section 6511 (b) (2) if a claim had been filed on the date of the execution of the agreement.

(d) *Effective date of agreement.* The agreement referred to in this section shall become effective when signed by the taxpayer and the district director or an assistant regional commissioner.

§ 301.6511 (d) *Statutory provisions; limitations on credit or refund; special rules applicable to income taxes.*

SEC. 6511. *Limitations on credit or refund.* * * *

(d) *Special rules applicable to income taxes—*

(1) *Seven-year period of limitation with respect to bad debts and worthless securities.* If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of—

(A) The deductibility by the taxpayer, under section 166 or section 832 (c), of a debt as a debt which became worthless, or, under section 165 (g), of a loss from worthlessness of a security, or

(B) The effect that the deductibility of a debt or loss described in subparagraph (A) has on the application to the taxpayer of a carryover,

in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be 7 years from the date prescribed by law for filing the return for the year with respect to which the claim is made. If the claim for credit or refund relates to an overpayment on account of the effect that the deductibility of such a debt or loss has on the application to the taxpayer of a carryback, the period shall be either 7 years from the date prescribed by law for filing the return for the year of the net operating loss which results in such carryback or the period prescribed in paragraph (2) of this subsection, whichever expires the later. In the case of a claim described in this paragraph the amount of the credit or refund may exceed the portion of the tax paid within the period prescribed in subsection (b) (2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the deductibility of items described in this paragraph.

(2) *Special period of limitation with respect to net operating loss carrybacks—*(A) *Period of limitation.* If the claim for credit or refund relates to an overpayment attributable to a net operating loss carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 39th month following the end of the taxable year of the net operating loss which results in such carryback, or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b) (2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) *Applicable rules.* If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carry-

back is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. If the allowance of an application, credit, or refund of a decrease in tax determined under section 6411 (b) is otherwise prevented by the operation of any law or rule of law other than section 7122, such application, credit, or refund may be allowed or made if application for a tentative carryback adjustment is made within the period provided in section 6411 (a). In the case of any such claim for credit or refund or any such application for a tentative carryback adjustment, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the net operating loss deduction, and the effect of such deduction, to the extent that such deduction is affected by a carryback which was not in issue in such proceeding.

(3) *Special rules relating to foreign tax credit*—(A) *Special period of limitation with respect to foreign taxes paid or accrued.* If the claim for credit or refund relates to an overpayment attributable to any taxes paid or accrued to any foreign country or to any possession of the United States for which credit is allowed against the tax imposed by subtitle A in accordance with the provisions of section 901 or the provisions of any treaty to which the United States is a party, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be 10 years from the date prescribed by law for filing the return for the year with respect to which the claim is made.

(B) *Exception in the case of foreign taxes paid or accrued.* In the case of a claim described in subparagraph (A), the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the allowance of a credit for the taxes described in subparagraph (A).

§ 301.6511 (d)–1 *Overpayment of income tax on account of bad debts, worthless securities, etc.* (a) (1) If the claim for credit or refund relates to an overpayment of income tax on account of—

(i) The deductibility by the taxpayer, under section 166 or section 832 (c), of a debt as a debt which became worthless, or, under section 165 (g), of a loss from the worthlessness of a security, or

(ii) The effect that the deductibility of a debt or loss described in subdivision (i) of this subparagraph has on the application to the taxpayer of a carryover,

then in lieu of the 3-year period from the last date prescribed for filing the return (determined without regard to any extension of time for filing such return), in which claim may be filed or credit or refund allowed, as prescribed in section 6511 (a) or (b), the period shall be 7 years from the date prescribed by law for filing the return (determined without regard to any extension of time for filing such return) for the taxable year for which the claim is made or the credit or refund allowed or made.

(2) If the claim for credit or refund relates to an overpayment on account of the effect that the deductibility of a debt or loss, described in subparagraph (1) of this paragraph, has on the application to the taxpayer of a net operating loss carryback provided in section 172 (b), the period in which claim for credit or refund may be filed shall be whichever of the following two periods expires later:

(i) Seven years from the last date prescribed for filing the return (determined without regard to any extension of time for filing such return) for the taxable year of the net operating loss which results in such carryback, or

(ii) The period which ends with the expiration of the period prescribed in section 6511 (c) within which a claim for credit or refund may be filed with respect to the taxable year of the net operating loss which resulted in the carryback.

(3) In the case of a claim for credit or refund involving items described in this section, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in section 6511 (b) (2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the deductibility of items described in subparagraph (1) of this paragraph. If the claim involves an overpayment based not only on the deductibility of items described in subparagraph (1) of this paragraph but based also on other items, the credit or refund cannot exceed the sum of the following:

(i) The amount of the overpayment which is attributable to the deductibility of items described in subparagraph (1) of this paragraph, and

(ii) The balance of such overpayment up to a limit of the portion, if any, of the tax paid within the period provided in section 6511 (b) (2) or (c), or within the period provided in any other applicable provision of law.

(4) If the claim involves an overpayment based not only on the deductibility of items described in subparagraph (1) of this paragraph but based also on other items, and if the claim with respect to any items is barred by the expiration of any applicable period of limitation, the portion of the overpayment attributable to the items not so barred shall be determined by treating the allowance of such items as the first adjustment to be made in computing such overpayment.

(b) If a claim for credit or refund is not filed within the applicable period described in paragraph (a) of this section, then credit or refund may be allowed or made only if claim therefor is filed or if such credit or refund is allowed within any period prescribed in section 6511 (a), (b), or (c), whichever is applicable, subject to the provisions thereof limiting the amount of credit or refund in the case of a claim filed, or, if no claim was filed, in the case of credit or refund allowed within such applicable period as prescribed in section 6511 (b) or (c).

(c) The provisions of this section and section 6511 (d) (1) do not apply to an overpayment resulting from the deductibility of a debt that became partially worthless during the taxable year, but only to an overpayment resulting from the deductibility of a debt which became entirely worthless during such year.

(d) The provisions of paragraph (a) of this section with regard to an overpayment caused by the deductibility of a bad debt under section 166 or section 832 (c), or of a loss from the worthlessness of a security under section 165 (g), are likewise applicable to an overpayment caused by the effect that the deductibility of such bad debt or loss has on the application to the taxpayer of a carryover or of a carryback.

§ 301.6511 (d)–2 *Overpayment of income tax on account of net operating loss carrybacks*—(a) *Special period of limitation.* (1) If the claim for credit or refund relates to an overpayment of income tax attributable to a net operating loss carryback, provided in section 172 (b), then in lieu of the 3-year period from the last date prescribed for the filing of the return (determined without regard to any extension of time for filing such return) in which the claim may be filed or credit or refund allowed, as prescribed in section 6511 (a) or (b), the period shall be whichever of the following 2 periods expires later:

(i) The period which ends with the expiration of the fifteenth day of the thirty-ninth month following the end of the taxable year of the net operating loss which resulted in the carryback; or

(ii) The period which ends with the expiration of the period prescribed in section 6511 (c) within which a claim for credit or refund may be filed with respect to the taxable year of the net operating loss which resulted in the carryback.

(2) In the case of a claim for credit or refund involving a net operating loss carryback described in subparagraph (1) of this paragraph, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in section 6511 (b) (2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the carryback. If the claim involves an overpayment based not only on a net operating loss carryback described in subparagraph (1) of this paragraph but based also on other items, the credit or refund cannot exceed the sum of the following:

(i) The amount of the overpayment which is attributable to the net operating loss carryback, and

(ii) The balance of such overpayment up to a limit of the portion, if any, of the tax paid within the period provided in section 6511 (b) (2) or (c), or within the period provided in any other applicable provision of law.

(3) If the claim involves an overpayment based not only on a net operating loss carryback described in subparagraph (1) of this paragraph but based also on other items, and if the claim with respect to any items is barred by the expiration of any applicable period of limitation, the portion of the overpayment attributable to the items not so barred shall be determined by treating the allowance of such items as the first adjustment to be made in computing such overpayment. If a claim for credit or refund is not filed, and if credit or refund is not allowed, within the period prescribed in this paragraph, then credit or refund may be allowed or made only if claim therefor is filed, or if such credit or refund is allowed, within the period prescribed in section 6511 (a), (b), or (c), whichever is applicable, subject to the provisions thereof limiting the amount of credit or refund in the case

of a claim filed, or if no claim was filed, in case of credit or refund allowed, within such applicable period. For the limitations on the allowance of interest for an overpayment where credit or refund is subject to the provisions of this section, see section 6611 (f).

(b) *Barred overpayments.* If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carryback is otherwise prevented by the operation of any law or rule of law (other than section 7122, relating to compromises), such credit or refund may be allowed or made under the provisions of section 6511 (d) (2) (B) if a claim therefor is filed within the period provided by section 6511 (d) (2) (A) and paragraph (a) of this section for filing a claim for credit or refund of an overpayment attributable to a carryback. Similarly, if the allowance of an application, credit, or refund of a decrease in tax determined under section 6411 (b) is otherwise prevented by the operation of any law or rule of law (other than section 7122), such application, credit, or refund may be allowed or made if an application for a tentative carryback adjustment is filed within the period provided in section 6411 (a). Thus, for example, even though the tax liability (not including the net operating loss deduction or the effect of such deduction) for a given taxable year has previously been litigated before the Tax Court, credit or refund of an overpayment may be allowed or made despite the provisions of section 6512 (a), if claim for such credit or refund is filed within the period provided in section 6511 (d) (2) (A) and paragraph (a) of this section. In the case of a claim for credit or refund of an overpayment attributable to a carryback, or in the case of an application for a tentative carryback adjustment, the determination of any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the net operating loss deduction, and the effect of such deduction, to the extent that such deduction is affected by a carryback which was not in issue in such proceeding.

§ 301.6511 (d)–3 *Special rules applicable to credit against income tax for foreign taxes*—(a) *Period in which claim may be filed.* In the case of an overpayment of income tax resulting from a credit, allowed under the provisions of section 901 or under the provisions of any treaty to which the United States is a party, for taxes paid or accrued to a foreign country or possession of the United States, a claim for credit or refund must be filed by the taxpayer within 10 years from the last date prescribed for filing the return (determined without regard to any extension of time for filing such return) for the taxable year with respect to which the claim is made. Such 10-year period shall be applied in lieu of the 3-year period prescribed in section 6511 (a).

(b) *Limit on amount to be credited or refunded.* In the case of a claim described in paragraph (a) of this section, the amount of the credit or refund allowed or made may exceed the portion of the tax paid within the period prescribed in section 6511 (b) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the allowance of a credit against income tax referred to in paragraph (a) of this section.

§ 301.6511 (e) *Statutory provisions; limitations on credit or refund; special rules in case of manufactured sugar.*

SEC. 6511. *Limitations on credit or refund.*
* * *

(e) *Special rules in case of manufactured sugar*—(1) *Use as livestock feed or for distillation of alcohol.* No payment shall be allowed under section 6418 (a) unless within 2 years after the right to such payment has accrued a claim therefor is filed by the person entitled thereto.

(2) *Exportation.* No payment shall be allowed under section 6418 (b) unless within 2 years after the right to such payment has accrued a claim therefor is filed by the person entitled thereto.

§ 301.6511 (e)–1 *Special rules applicable to manufactured sugar*—(a) *Use as livestock feed and for distillation of alcohol.* No payment shall be allowed or made under section 6418 (a) unless within 2 years after the date the right to such payment has accrued a claim therefor is filed by the person entitled thereto. Such right accrues as of the date the manufactured sugar, or article manufactured therefrom, is used for a purpose for which payment is allowable under section 6418 (a).

(b) *Exportation.* No payment shall be allowed or made under section 6418 (b) unless within 2 years after the date the right to such payment has accrued a claim therefor is filed by the person entitled thereto. Such right accrues as of the date the articles are exported.

§ 301.6511 (f) *Statutory provisions; limitations on credit or refund; cross references.*

SEC. 6511. *Limitations on credit or refund.* * * *

(f) *Cross references.* (1) For time return deemed filed and tax considered paid, see section 6513.

(2) For limitations with respect to certain credits against estate tax, see sections 2011 (c), 2014 (b), and 2015.

(3) For limitations in case of floor stocks refunds, see section 6412.

(4) For a period of limitations for credit or refund in the case of joint income returns after separate returns have been filed, see section 6013 (b) (3).

§ 301.6512 *Statutory provisions; limitations in case of petition to Tax Court.*

SEC. 6512. *Limitations in case of petition to Tax Court*—(a) *Effect of petition to Tax Court.* If the Secretary or his delegate has mailed to the taxpayer a notice of deficiency under section 6212 (a) (relating to deficiencies of income, estate, and gift taxes) and if the taxpayer files a petition with the Tax Court within the time prescribed in section 6213 (a), no credit or refund of income tax for the same taxable year, of gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, in respect of which the Secretary or his delegate has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Tax Court which has become final; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Tax Court which has become final; and

(3) As to any amount collected after the period of limitation upon the making of levy or beginning a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Tax Court which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

(b) *Overpayment determined by Tax Court*—(1) *Jurisdiction to determine.* If the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, of gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, in respect of which the Secretary or his delegate determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the Tax Court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Tax Court has become final, be credited or refunded to the taxpayer.

(2) *Limit on amount of credit or refund.* No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

(A) After the mailing of the notice of deficiency, or

(B) Within the period which would be applicable under section 6511 (b) (2), (c), or (d), if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court finds that there is an overpayment.

§ 301.6512–1 *Limitations in case of petition to Tax Court*—(a) *Effect of petition to Tax Court*—(1) *General rule.* If a person, having a right to file a petition with the Tax Court with respect to a deficiency in income, estate, or gift tax imposed by subtitle A or B, has filed such petition within the time prescribed in section 6213 (a), no credit or refund of income tax for the same taxable year, or of gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, in respect of which a district director (or an assistant regional commissioner, appellate) has determined the deficiency, shall be allowed or made, and no suit in any court for the recovery of any part of such tax shall be instituted by the taxpayer, except as to items set forth in subparagraph (2) of this paragraph.

(2) *Exceptions.* The exceptions to the rule stated in subparagraph (1) of this paragraph are as follows:

(i) An overpayment determined by a decision of the Tax Court which has become final;

(ii) Any amount collected in excess of an amount computed in accordance with the decision of the Tax Court which has become final; and

(iii) Any amount collected after the expiration of the period of limitation upon levying or beginning a proceeding in court for collection.

(b) *Overpayment determined by Tax Court.* If the Tax Court finds that there is no deficiency and further finds that the

taxpayer has made an overpayment of income tax for the same taxable year, or of gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, in respect of which a district director (or an assistant regional commissioner, appellate) has determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the overpayment determined by the Tax Court shall be credited or refunded to the taxpayer when the decision of the Tax Court has become final. (See section 7481, relating to the date when Tax Court decision becomes final.) No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

(1) After the mailing of the notice of deficiency, or

(2) Within the period which would be applicable under section 6511 (b) (2), (c), or (d) (see §§ 301.6511 (b)–1, 301.6511 (c)–1, 301.6511 (d)–1, 301.6511 (d)–2, and 301.6511 (d)–3), if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court finds that there is an overpayment.

(c) *Jeopardy assessments.* In the case of a jeopardy assessment made under section 6861 (a), if the amount which should have been assessed as determined by a decision of the Tax Court which has become final is less than the amount already collected, the excess payment shall be credited or refunded subject to a determination being made by the Tax Court with respect to the time of payment as stated in paragraph (b) of this section.

(d) *Disallowance of deficiency by reviewing court.* If the amount of the deficiency determined by the Tax Court (in a case where collection has not been stayed by the filing of a bond) is disallowed in whole or in part by the reviewing court, then the overpayment resulting from such disallowance shall be credited or refunded without the making of claim therefor, subject to a determination being made by the Tax Court with respect to the time of payment as stated in paragraph (b) of this section. (See section 7481, relating to date Tax Court decision becomes final.)

(e) *Collection in excess of amount determined by Tax Court.* Where the amount collected is in excess of the amount computed in accordance with the decision of the Tax Court which has become final, the excess payment shall be credited or refunded within the period of limitation provided in section 6511.

(f) *Collection after expiration of statutory period.* Where an amount is collected after the statutory period of limitation upon the beginning of levy or a proceeding in court for collection has expired (see section 6502, relating to collection after assessment), the taxpayer may file a claim for refund of the amount so collected within the period of limitation provided in section 6511. In any such case, the decision of the Tax Court as to whether the statutory period upon collection of the tax expired before notice of the deficiency was mailed shall, when the decision becomes final, be conclusive.

§ 301.6513 *Statutory provisions; time return deemed filed and tax considered paid.*

SEC. 6513. *Time return deemed filed and tax considered paid*—(a) *Early return or advance payment of tax.* For purposes of section 6511, any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day. For purposes of section 6511 (b) (2) and (c) and section 6512, payment of any portion of the tax made before the last day prescribed for the payment of the tax shall be considered made on such last day. For purposes of this subsection, the last day prescribed for filing the return or paying the tax shall be determined without regard to any extension of time granted the taxpayer and without regard to any election to pay the tax in installments.

(b) *Prepaid income tax.* For purposes of section 6511 or 6512, any tax actually deducted and withheld at the source during any calendar year under chapter 24 shall, in respect of the recipient of the income, be deemed to have been paid by him on the 15th day of the fourth month following the close of his taxable year with respect to which such tax is allowable as a credit under section 31. For purposes of section 6511 or 6512, any amount paid as estimated income tax for any taxable year shall be deemed to have been paid on the last day prescribed for filing the return under section 6012 for such taxable year (determined without regard to any extension of time for filing such return).

(c) *Return and payment of social security taxes and income tax withholding.* Notwithstanding subsection (a), for purposes of section 6511 with respect to any tax imposed by chapter 21 or 24—

(1) If a return for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such succeeding calendar year; and

(2) If a tax with respect to remuneration paid during any period ending with or within a calendar year is paid before April 15 of the succeeding calendar year, such tax shall be considered paid on April 15 of such succeeding calendar year.

(d) *Overpayment of income tax credited to estimated tax.* If any overpayment of income tax is, in accordance with section 6402 (b), claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year (whether or not claimed as a credit in the return of estimated tax for such succeeding taxable year), and no claim for credit or refund of such overpayment shall be allowed for the taxable year in which the overpayment arises.

§ 301.6513–1 *Time return deemed filed and tax considered paid*—(a) *Early return or advance payment of tax.* For purposes of section 6511, a return (other than the employment tax returns referred to in paragraph (c) of this section) filed before the last day prescribed by law or regulations for the filing thereof shall be considered as filed on such last day. For purposes of section 6511 (b) (2) and (c) and section 6512, payment of any portion of the tax made before the last day prescribed for payment shall be considered made on such last day. An extension of time for filing a return or for paying any tax, or an election to pay any tax in installments, shall not be given any effect in determining under this section the last day prescribed for filing a return or paying any tax.

(b) *Prepaid income tax.* For purposes of section 6511 (relating to limitations on credit or refund) or section 6512 (relating to limitations in case of petition to Tax Court), any tax actually deducted and withheld at the source during any calendar year under chapter 24 (relating to collection of income tax at source on wages) shall, in respect of the recipient of the income, be deemed to have been paid by him on the 15th day of the fourth month following the close of his taxable year with respect to which such tax is allowable as a credit under section 31 (relating to tax withheld on wages). For purposes of section 6511 or 6512, any amount paid as estimated income tax for any taxable year shall be deemed to have been paid on the last day prescribed for filing the return under section 6012 (relating to persons required to make returns of income) for such taxable year (determined without regard to any extension of time for filing such return).

(c) *Return and payment of social security taxes and income tax withholding.* If a return of tax under chapter 21 (relating to the Federal Insurance Contributions Act) or chapter 24 (relating to the collection of income tax at source on wages) for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year or if a tax with respect to remuneration paid during any period ending with or within a calendar year is paid before such date, for purposes of section 6511 (relating to limitations on credit or refund) the return shall be considered filed, or the tax considered paid, on April 15th of such succeeding calendar year.

(d) *Overpayment of income tax credited to estimated tax.* If a taxpayer elects under the provisions of section 6402 (b) to credit an overpayment of income tax for a taxable year against estimated tax for the succeeding taxable year, the amount so credited shall be considered a payment of income tax for such succeeding taxable year (whether or not claimed as a credit on the estimated tax return for such succeeding taxable year). If the treatment of such amount as a payment of income tax for the succeeding taxable year results in an overpayment for such succeeding taxable year, the period of limitations applicable to such overpayment is determined by reference to that taxable year. An election so to credit an overpayment of income tax precludes the allowance of a claim for credit or refund of such overpayment for the taxable year in which the overpayment arises.

§ 301.6514 (a) *Statutory provisions; credits or refunds after period of limitation.*

SEC. 6514. *Credits or refunds after period of limitation*—(a) *Credits or refunds after period of limitation.* A refund of any portion of an internal revenue tax shall be considered erroneous and a credit of any such portion shall be considered void—

(1) *Expiration of period for filing claim.* If made after the expiration of the period of

limitation for filing claim therefor, unless within such period claim was filed; or

(2) *Disallowance of claim and expiration of period for filing suit.* In the case of a claim filed within the proper time and disallowed by the Secretary or his delegate, if the credit or refund was made after the expiration of the period of limitation for filing suit, unless within such period suit was begun by the taxpayer.

(3) *Recovery of erroneous refunds.* For procedure by the United States to recover erroneous refunds, see sections 6532 (b) and 7405.

§ 301.6514 (a)–1 *Credits or refunds after period of limitation.* (a) A refund of any portion of any internal revenue tax (or any interest, additional amount, addition to the tax, or assessable penalty) shall be considered erroneous and a credit of any such portion shall be considered void—

(1) If made after the expiration of the period of limitation prescribed by section 6511 for filing claim therefor, unless prior to the expiration of such period claim was filed, or

(2) In the case of a timely claim, if the credit or refund was made after the expiration of the period of limitation prescribed by section 6532 (a) for the filing of suit, unless prior to the expiration of such period suit was begun.

(b) For procedure by the United States to recover erroneous refunds, see sections 6532 (b) and 7405.

§ 301.6514 (b) *Statutory provisions; credit after period of limitation.*

SEC. 6514. *Credits or refunds after period of limitation.* * * *

(b) *Credit after period of limitation.* Any credit against a liability in respect of any taxable year shall be void if any payment in respect to such liability would be considered an overpayment under section 6401 (a).

§ 301.6514 (b)–1 *Credit against barred liability.* Any credit against a liability in respect of any taxable year shall be void if the collection of such liability would be barred by the applicable statute of limitations at the time such credit is made.

§ 301.6515 *Statutory provisions; cross references.*

SEC. 6515. *Cross references.* For limitations in case of—

(1) Adjustments incident to involuntary liquidation of inventory, see section 1321.

(2) War loss recoveries where prior benefit rule is elected, see section 1335.

(3) Deficiency dividends of a personal holding company, see section 547.

(4) Overpayment in certain renegotiations of war contracts, see section 1481.

(5) Tentative carry-back adjustments, see section 6411.

(6) Service in a combat zone, etc., see section 7508.

(7) Suits for refund by taxpayers, see section 6532 (a).

MITIGATION OF EFFECT OF PERIOD OF LIMITATIONS

§ 301.6521 *Statutory provisions; mitigation of effect of limitation in case of related taxes under different chapters.*

SEC. 6521. *Mitigation of effect of limitation in case of related taxes under different chapters*—(a) *Self-employment tax and tax on wages.* In the case of the tax imposed by chapter 2 (relating to tax on self-employment income) and the tax imposed by section 3101 (relating to tax on employees under the Federal Insurance Contributions Act)—

(1) If an amount is erroneously treated as self-employment income, or if an amount is erroneously treated as wages, and

(2) If the correction of the error would require an assessment of one such tax and the refund or credit of the other tax, and

(3) If at any time the correction of the error is authorized as to one such tax but is prevented as to the other tax by any law or rule of law (other than section 7122, relating to compromises),

then, if the correction authorized is made, the amount of the assessment, or the amount of the credit or refund, as the case may be, authorized as to the one tax shall be reduced by the amount of the credit or refund, or the amount of the assessment, as the case may be, which would be required with respect to such other tax for the correction of the error if such credit or refund, or such assessment, of such other tax were not prevented by any law or rule of law (other than section 7122, relating to compromises).

(b) *Definitions.* For purposes of subsection (a), the terms "self-employment income" and "wages" shall have the same meaning as when used in section 1402 (b).

§ 301.6521–1 *Mitigation of effect of limitation in case of related employee social security tax and self-employment tax.* (a) Section 6521 may be applied in the correction of a certain type of error involving both the tax on self-employment income under section 1401 and the employee tax under section 3101 if the correction of the error as to one tax is, on the date the correction is authorized, prevented in whole or in part by the operation of any law or rule of law other than section 7122, relating to compromises. Examples of such law are section 6212 (c), 6401 (a), 6501, 6511, 6512 (a), 6514, 6532, 6901 (c), (d) and (e), 7121, and 7459 (e).

(b) If the liability for either tax with respect to which the error was made has been compromised under section 7122, the provisions of section 6521 limiting the correction with respect to the other tax do not apply.

(c) Section 6521 is not applicable if, on the date of the authorization, correction of the effect of the error is permissible as to both taxes without recourse to such section.

(d) If, because an amount of wages, as defined in section 3121 (a), is erroneously treated as self-employment income, as defined in section 1402 (b), or an amount of self-employment income is erroneously treated as wages, it is necessary in correcting the error to assess the correct tax and give a credit or refund for the amount of the tax erroneously paid, and if either, but not both, of such adjustments is prevented by any law or rule of law (other than section 7122), the amount of the assessment, or the amount of the credit or refund, authorized shall reflect the adjustment which would be made in respect of the other tax (either the tax on self-employment income under section 1401 or the employee tax under section 3101) but for the operation of such law or rule of law. For example, assume that during 1955 A paid $10 as tax on an amount erroneously treated as "wages", when such amount was actually self-employment income, and that credit or refund of the $10 is not barred. A should have paid a self-employment tax of $15 on the amount. If the assessment of the correct tax, that is, $15, is barred by the statute of limitations, no credit or refund of the $10 shall be made without offsetting against such $10 the $15, assessment of which is barred. Thus, no credit or refund in respect of the $10 can be made.

(e) As another example, assume that during 1955 a taxpayer reports wages of $4,200 and net earnings from self-employment of $900. By reason of the limitations of section 1402 (b) he shows no self-employment income. Assume further that by reason of a final decision by the Tax Court of the United States, further adjustments to the taxpayer's income tax liability are barred. The question of the amount of his wages, as defined in section 3121, was not in issue in the Tax Court litigation, but it is subsequently determined (within the period of limitations applicable under the Federal Insurance Contributions Act) that $700 of the $4,200 reported as wages was not for employment as defined in section 3121 (b). Therefore, the taxpayer is entitled to the allowance of a refund of the $14 tax paid on such remuneration under section 3101. The reduction of his wages from $4,200 to $3,500 would result in the determination of $700 self-employment income, the tax on which is $21 for the year. Under section 6521, the overpayment of $14 would be offset by the barred deficiency of $21, thus eliminating the refund otherwise allowable. If the facts were changed so that the taxpayer erroneously paid tax on self-employment income of $700, having been taxed on only $3,500 as wages, and within the period of limitations applicable under the Federal Insurance Contributions Act, it is determined that his wages were $4,200, the tax of $14 under section 3101, otherwise collectible, would be eliminated by offsetting under section 6521 the barred overpayment of $21. The balance of the barred overpayment, $7, cannot be credited or refunded.

(f) Another illustration of the operation of section 6521 is the case of a taxpayer who, for 1955, is erroneously taxed on $2,500 as wages, the tax on which is $50, and who reports no self-employment income. After the period of limitations has run on the refund of the tax under the Federal Insurance Contributions Act, it is determined that the amount treated as wages should have been reported as net earnings from self-employment. The taxpayer's self-employment income would then be $2,500 and the tax thereon would be $75. Assume that the period of limitations applicable to subtitle A has not expired, and that a notice of deficiency may properly be issued. Under section 6521, the amount of the deficiency of $75 must be reduced by the barred overpayment of $50.

§ 301.6521–2 *Law applicable in determination of error.* The question of whether there was an erroneous treatment of self-employment income or of wages is determined under the provisions of law and regulations applicable with respect to the year or other taxable period as to which the error was made. The fact that the error was in pursu-

ance of an interpretation, either judicial or administrative, accorded such provisions of law and regulations at the time the action involved was taken is not necessarily determinative of this question. For example, if a later judicial decision authoritatively alters such interpretation so that such action is contrary to the applicable provisions of the law and regulations as later interpreted, the error comes within the scope of section 6521.

PERIODS OF LIMITATION IN JUDICIAL PROCEEDINGS

§ 301.6531 *Statutory provisions; periods of limitation on criminal prosecutions.*

SEC. 6531. *Periods of limitation on criminal prosecutions.* No person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws unless the indictment is found or the information instituted within 3 years next after the commission of the offense, except that the period of limitation shall be 6 years—

(1) For offenses involving the defrauding or attempting to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner;

(2) For the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof;

(3) For the offense of willfully aiding or assisting in, or procuring, counseling, or advising, the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document);

(4) For the offense of willfully failing to pay any tax, or make any return (other than a return required under authority of part III of subchapter A of chapter 61) at the time or times required by law or regulations;

(5) For offenses described in sections 7206 (1) and 7207 (relating to false statements and fraudulent documents);

(6) For the offense described in section 7212 (a) (relating to intimidation of officers and employees of the United States);

(7) For offenses described in section 7214 (a) committed by officers and employees of the United States; and

(8) For offenses arising under section 371 of Title 18 of the United States Code, where the object of the conspiracy is to attempt in any manner to evade or defeat any tax or the payment thereof.

The time during which the person committing any of the various offenses arising under the internal revenue laws is outside the United States or is a fugitive from justice within the meaning of section 3290 of Title 18 of the United States Code, shall not be taken as any part of the time limited by law for the commencement of such proceedings. (The preceding sentence shall also be deemed an amendment to section 3748 (a) of the Internal Revenue Code of 1939, and shall apply in lieu of the sentence in section 3748 (a) which relates to the time during which a person committing an offense is absent from the district wherein the same is committed, except that such amendment shall apply only if the period of limitations under section 3748 would, without the application of such amendment, expire more than 3 years after the date of enactment of this title, and except that such period shall not, with the application of this amendment, expire prior to the date which is 3 years after the date of enactment of this title.) Where a complaint is instituted before a commissioner of the United States within the period above limited, the time shall be extended until the date which is 9 months after the date of the making of the complaint before the commissioner of the United States. For the purpose of determining the periods of limitation on criminal prosecutions, the rules of section 6513 shall be applicable.

§ 301.6532 *Statutory provisions; periods of limitation on suits.*

SEC. 6532. *Periods of limitation on suits.*—(a) *Suits by taxpayers for refund.*—(1) *General rule.* No suit or proceeding under section 7422 (a) for the recovery of any internal revenue tax, penalty, or other sum, shall be begun before the expiration of 6 months from the date of filing the claim required under such section unless the Secretary or his delegate renders a decision thereon within that time, nor after the expiration of 2 years from the date of mailing by registered mail by the Secretary or his delegate to the taxpayer of a notice of the disallowance of the part of the claim to which the suit or proceeding relates.

(2) *Extension of time.* The 2-year period prescribed in paragraph (1) shall be extended for such period as may be agreed upon in writing between the taxpayer and the Secretary or his delegate.

(3) *Waiver of notice of disallowance.* If any person files a written waiver of the requirement that he be mailed a notice of disallowance, the 2-year period prescribed in paragraph (1) shall begin on the date such waiver is filed.

(4) *Reconsideration after mailing of notice.* Any consideration, reconsideration, or action by the Secretary or his delegate with respect to such claim following the mailing of a notice by registered mail of disallowance shall not operate to extend the period within which suit may be begun.

(b) *Suits by United States for recovery of erroneous refunds.* Recovery of an erroneous refund by suit under section 7405 shall be allowed only if such suit is begun within 2 years after the making of such refund, except that such suit may be brought at any time within 5 years from the making of the refund if it appears that any part of the refund was induced by fraud or misrepresentation of a material fact.

§ 301.6532–1 *Periods of limitation on suits by taxpayers.* (a) No suit or proceeding under section 7422 (a) for the recovery of any internal revenue tax, penalty, or other sum shall be begun until whichever of the following first occurs:

(1) The expiration of 6 months from the date of the filing of the claim for credit or refund, or

(2) A decision is rendered on such claim prior to the expiration of 6 months after the filing thereof.

Except as provided in paragraph (b) of this section, no suit or proceeding for the recovery of any internal revenue tax, penalty, or other sum may be brought after the expiration of 2 years from the date of mailing by registered mail by a district director or an assistant regional commissioner to a taxpayer of a notice of disallowance of the part of the claim to which the suit or proceeding relates.

(b) The 2-year period described in paragraph (a) of this section may be extended if an agreement to extend the running of the period of limitations is executed. The agreement must be signed by the taxpayer or by an attorney, agent, trustee, or other fiduciary on behalf of the taxpayer. If the agreement is signed by a person other than the taxpayer, it shall be accompanied by an authenticated copy of the power of attorney or other legal evidence of the authority of such person to act on behalf of the taxpayer. If the taxpayer is a corporation, the agreement should be signed with the corporate name followed by the signature of a duly authorized officer of the corporation. The agreement will not be effective until signed by a district director or an assistant regional commissioner.

(c) The taxpayer may sign a waiver of the requirement that he be mailed a notice of disallowance. Such waiver is irrevocable and will commence the running of the 2-year period described in paragraph (a) of this section on the date the waiver is filed. The waiver shall set forth:

(1) The type of tax and the taxable period covered by the taxpayer's claim for refund;

(2) The amount of the claim;

(3) The amount of the claim disallowed;

(4) A statement that the taxpayer agrees the filing of the waiver will commence the running of the 2-year period provided for in section 6532 (a) (1) as if a notice of disallowance had been sent the taxpayer by registered mail.

The filing of such a waiver prior to the expiration of 6 months from the date the claim was filed does not permit the filing of a suit for refund prior to the time specified in section 6532 (a) (1) and paragraph (a) of this section.

(d) Any consideration, reconsideration, or other action with respect to a claim after the mailing by registered mail of a notice of disallowance or after the execution of a waiver referred to in paragraph (c) of this section, shall not extend the period for bringing suit or other proceeding under section 7422 (a).

§ 301.6532–2 *Periods of limitation on suits by the United States.* The United States may not recover any erroneous refund by civil action under section 7405 unless such action is begun within 2 years after the making of such refund. However, if any part of the refund was induced by fraud or misrepresentation of a material fact, the action to recover the erroneous refund may be brought at any time within 5 years from the date the refund was made.

§ 301.6533 *Statutory provisions; cross references.*

SEC. 6533. *Cross references.* (1) For period of limitation in respect of civil actions for fines, penalties, and forfeitures, see section 2462 of Title 28 of the United States Code.

(2) For extensions of time by reason of armed service in a combat zone, see section 7508.

(3) For suspension of running of statute until 3 years after termination of hostilities, see section 3287 of Title 18.

GENERAL RULES

EFFECTIVE DATE AND RELATED PROVISIONS

§ 301.7851 *Statutory provisions; applicability of revenue laws.*

SEC. 7851. *Applicability of revenue laws*—(a) *General rules.* Except as otherwise provided in any section of this title—

* * * * *

(6) *Subtitle F*—(A) *General rule.* The provisions of subtitle F [inc. chapter 66, relating to limitations] shall take effect on the day after the date of enactment of this title and shall be applicable with respect to any tax imposed by this title. * * *

NOTE: Chapter 66 of the Internal Revenue Code of 1954, relating to limitations, is applicable only with respect to the taxes imposed by the 1954 Code. The provisions of the Internal Revenue Code of 1939 relating to limitations are applicable with respect to the taxes imposed by the 1939 Code.

[SEAL] RUSSELL C. HARRINGTON,
Commissioner of Internal Revenue.

Approved: April 30, 1956.

DAN THROOP SMITH,
Special Assistant to the Secretary in Charge of Tax Policy.

[F. R. Doc. 56-3484; Filed, May 2, 1956; 8:54 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 780—AGRICULTURE, PROCESSING OF AGRICULTURAL COMMODITIES AND RELATED SUBJECTS

MISCELLANEOUS AMENDMENTS

Pursuant to General Order No. 45–A (15 F. R. 3290), and under its authority, Part 780 of Title 29, Code of Federal Regulations is amended as follows:

1. Subpart C—Farmers' Cooperative Associations, is hereby revoked.

2. Subpart B—Forestry or Lumbering Operations Incident to or in Conjunction With Farming Operations, is hereby revoked.

3. Subpart A—General, and Processing Agricultural Commodities, is hereby redesignated as Subpart E.

4. A new subpart to be known as Subpart A—Agriculture, is hereby added to read as follows:

SUBPART A—AGRICULTURE

Sec.

AUTHORITY: 780.0 to 780.23 issued under 52 Stat. 1060, as amended; 29 U. S. C. 201–219.

§ 780.0 *Introductory statement*—(a) *Significance of subpart.* (1) The Fair Labor Standards Act of 1938[1] (hereinafter referred to as the act) applies to employees who are engaged in interstate or foreign commerce or in the production of goods for such commerce, including occupations closely related and directly essential thereto. It provides for minimum rates of pay for straight time and overtime pay at a rate not less than one and one-half times the regular rate of pay for overtime hours worked. Section 13 (a) (6) of the act exempts from its minimum wage and overtime provisions "any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes". The act also contains prohibitions directed against the employment of oppressive child labor. Section 13 (c) provides an exemption from the act's child labor provisions for "any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed". The term "agriculture", as used in these exemptions is defined in section 3 (f) of the act.

(2) This subpart contains the interpretations of the Department of Labor[2] as to what constitutes "agriculture" for purposes of sections 13 (a) (6) and 13 (c) and the scope and meaning of the terms used in the section 13 (a) (6) exemption relating to irrigation activities. These interpretations of the law are set forth herein to provide "a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it."[3] These interpretations indicate the construction of the law which the Secretary of Labor and the Administrator believe to be correct and which will guide them in the performance of their duties under the act unless and until they are otherwise directed by authoritative decisions of the courts or conclude upon reexamination of an interpretation, that it is incorrect.

(3) The interpretations contained in this subpart are interpretations on which reliance may be placed as provided in section 10 of the Portal-to-Portal Act,[4] so long as they remain effective and are not modified, amended, rescinded, or determined by judicial authority to be incorrect.

(b) *Scope of subpart.* As indicated, this subpart deals with sections 3 (f) and 13 (a) (6) of the act. To the extent that the term "agriculture" as defined in section 3 (f) is involved in the section 13 (c) child labor exemption, the discussion contained in this subpart is applicable. The meaning and scope of the child labor coverage and exemption provisions are discussed in Subpart G of Part 4 of this title. Included in this subpart is a discussion of that portion of section 3 (f) which refers to forestry or lumbering operations.[5] Also included is a discussion of the application of the definition in section 3 (f) to the employees of farmers' cooperative associations.[6] This subpart, however, does not include a discussion of the exemptions provided by sections 13 (a) (10) 13 (b) (5), 7 (c) and 7 (b) (3) which deal with various operations and practices performed with respect to certain agricultural and farm commodities. These exemptions will be discussed in separate subparts. Neither does this subpart deal with the general coverage of the wage and hour provisions of the act. The problem of general coverage is dealt with in Part 776 of this chapter.

(c) *Earlier interpretations superseded.* This subpart supersedes all rulings, interpretations, or enforcement policies that are inconsistent with any portion hereof.[7]

§ 780.1 *Statutory provisions*—(a) *Exemptions for agriculture and certain irrigation activities.* (1) Section 13 (a) (6) of the act exempts from the minimum wage requirements of section 6 and the maximum hours provisions of section 7 "any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes".

(2) Section 13 (c) exempts from the child labor requirements of section 12 "any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed" (see sec. 4.123 of the interpretative bulletin on child labor, Subpart G of Part 4 of this title).

(b) *Definition of "agriculture".* Section 3 (f) defines "agriculture" as follows:

"Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairy-

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[1] 29 U. S. C. 201–219, 251–262.

[2] Under Reorganization Plan No. 6 of 1950 and pursuant to General Order No. 45A issued by the Secretary of Labor on May 24, 1950, interpretations of the provisions (other than the child labor provisions) of the act are issued by the Administrator of the Wage and Hour Division. See 15 F. R. 3290.

Under Reorganization Plan No. 2 of 1946 (11 F. R. 7873) effective July 16, 1946, and pursuant to General Order No. 42, issued by the Secretary of Labor on July 1, 1949, interpretations of the child labor provisions of the act are issued by the Secretary of Labor.

[3] Skidmore v. Swift & Co., 323 U. S. 134.

[4] 29 U. S. C. 251–262 discussed in Part 790 (general statement on effect of Portal-to-Portal Act of 1947) of this chapter.

[5] 17 F. R. 2712.

[6] 12 F. R. 5961.

[7] See § 780.0 (a).

ing, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15 (g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

§ 780.2 *Method of construing the 13 (a) (6) exemption.* Like other exemptions provided by the act, the section 13 (a) (6) exemption is narrowly construed.[8] Accordingly, an employee is considered an exempt agricultural or irrigation employee if, but only if, his work falls clearly within the specific language of section 3 (f) or section 13 (a) (6).

§ 780.3 *Employee basis of exemption under 13 (a) (6).* (a) Section 13 (a) (6) exempts "any employee employed in * * *". It is clear from this language that it is the activities of the employee rather than those of his employer which ultimately determine the application of the exemption. Thus the exemption may not apply to some employees of an employer engaged almost exclusively in activities within the exemption, and it may apply to some employees of an employer engaged almost exclusively in other activities. But the burden of effecting segregation between exempt and non-exempt work as between different groups of employees is upon the employer.

(b) Although the activities of the individual employee, as distinguished from those of his employer, constitute the ultimate test for applying the exemption,[9] it is necessary in some instances to examine the activities of the employer. For example, in resolving the status of the employees of an irrigation company for purposes of the agriculture exemption, the United States Supreme Court found it necessary to consider the nature of the employer's activities.[9]

§ 780.4 *Workweek standard under 13 (a) (6).* The workweek is the unit of time to be taken as the standard in determining the applicability of section 13 (a) (6). An employee's workweek is a fixed and regularly recurring period of 168 hours—seven consecutive 24-hour periods. It need not coincide with the calendar week. If in any workweek an employee does only exempt work he is exempt from the wage and hour provisions of the act during that workweek, irrespective of the nature of his work in any other workweek or workweeks. An employee may thus be exempt in one workweek and not in the next. But the burden of effecting segregation between exempt and nonexempt work as between particular workweeks is upon the employer.

[8] Phillips, Inc. v. Walling, 334 U. S. 490; Bowie v. Gonzales, 117 F. 2d 11; Calaf v. Gonzales, 227 F. 2d 934; Fleming v. Hawkeye Pearl Button Co., 113 F. 2d 52; Fleming v. Swift, 41 F. Supp. 825; Miller Hatcheries v. Boyer, 131 F. 2d 283; Walling v. Friend, 156 F. 2d 429.

[9] Farmers Irrigation Co. v. McComb, 337 U. S. 755.

§ 780.5 *Exempt, nonexempt and noncovered work during a workweek under 13 (a) (6).* (a) The wage and hour requirements of the act do not apply to an employee during any workweek in which a portion of his activities fall within section 13 (a) (6) if all of the remainder of his activities are not covered by the act.

(b) Where exempt and nonexempt work is involved, the general rule is that if in any workweek an employee performs exempt work and other work which is covered and not exempt, the wage and hour requirements do apply to him during that workweek.[10]

(c) The combination ("tacking") of exempt work under section 13 (a) (6) with exempt work under another section is permitted. The wage and hour requirements are not considered applicable to an employee who does work within section 13 (a) (6) for only part of a workweek if all of the covered work done by him during the remainder of the workweek is within one or more equivalent exemptions under other provisions of the act. If the scope of such exemptions is not the same, however, the exemption applicable to the employee is equivalent to that provided by whichever exemption provision is more limited in scope. For instance, an employee who devotes part of a workweek to work within section 13 (a) (6) and the remainder to work exempt under section 7 (c) must receive the minimum wage but is not required to be paid time and one-half for his overtime work during that week. Each activity is tested separately under the applicable exemption as though it were the sole activity of the employee for the whole workweek in question. The availability of a combination exemption depends on whether the employee meets all the requirements of each exemption which it is sought to combine.

§ 780.6 *How modern specialization affects the scope of agriculture.*

The effect of modern specialization on agriculture has been discussed by the United States Supreme Court as follows:

> Whether a particular type of activity is agricultural depends, in large measure, upon the way in which that activity is organized in a particular society. The determination cannot be made in the abstract. In less advanced societies the agricultural function includes many types of activity which, in others, are not agricultural. The fashioning of tools, the provision of fertilizer, the processing of the product, to mention only a few examples, are functions which, in some societies, are performed on the farm by farmers as part of their normal agricultural routine. Economic progress, however, is characterized by a progressive division of labor and separation of function. Tools are made by a tool manufacturer, who specializes in that kind of work and supplies them to the farmer. The compost heap is replaced by factory produced fertilizers. Power is derived from electricity and gasoline rather than supplied by the farmer's mules. Wheat is ground at the mill. In this way functions which are necessary to the total economic process of supplying an agricultural product, become, in the process of economic development and specialization, separate and independent productive functions operated in conjunction with the agricultural function but no longer a part of it. Thus the question as to whether a particular type of activity is agricultural is not determined by the necessity of the activity to agriculture nor by the physical similarity of the activity to that done by farmers in other situations. The question is whether the activity in the particular case is carried on as part of the agricultural function or is separately organized as an independent productive activity. The farmhand who cares for the farmer's mules or prepares his fertilizer is engaged in agriculture. But the maintenance man in a power plant and the packer in a fertilizer factory are not employed in agriculture, even if their activity is necessary to farmers and replaces work previously done by farmers. The production of power and the manufacture of fertilizer are independent productive functions, not agriculture.[11]

[10] Jordan v. Stark Bros. Nurseries, 45 F. Supp. 769; McComb v. Puerto Rico Tobacco Marketing Co-op Ass'n, 80 F. Supp. 953, affirmed 181 F. 2d 697; Walling v. Peacock Corp., 58 F. Supp. 880–883.

§ 780.7 *The section 3 (f) definition.* (a) Section 3 (f) of the act contains a very comprehensive definition of the term "agriculture." The definition has two distinct branches. First, there is the primary meaning. This includes farming in all its branches. Listed as being included "among other things" in the primary meaning are certain specific farming operations such as cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural or horticultural commodities and the raising of livestock, bees, fur-bearing animals or poultry. If an employee is employed in any of these activities, he is exempt regardless of whether he is employed by a farmer or on a farm.

(b) Then there is the secondary meaning of the term. The second branch includes operations other than those which fall within the primary meaning of the term. It includes any practices, whether or not they are themselves farming practices, which are performed either by a farmer or on a farm as an incident to or in conjunction with "such" farming operations.[12]

§ 780.8 *General statement on primary agriculture.* The discussion in §§ 780.8 to 780.13 relates to the activities which exempt an employee who is employed in "agriculture" within its "primary" meaning.[13] Within this meaning of "agriculture," employees employed in the listed activities, generally characterizable as direct farming operations, are exempt without qualification from both the minimum wage and overtime pay provisions. Thus when an employee is engaged in direct farming operations included in the primary definition of "agriculture", the purpose of the employer in performing the operations is immaterial. For example, where an employer owns a factory and a farm and operates the farm only for experimental purposes in connection with the factory, those employees who devote all their time during a particular workweek to

[11] Farmers Irrigation Co. v. McComb, 337 U. S. 755 cf. Manaja v. Walalua Agricultural Co., 349 U. S. 254.

[12] Farmers' Irrigation Co. v. McComb, 337 U. S. 755.

[13] See § 780.7 as to the "primary" branch of the definition of "agriculture" under section 3 (f).

the direct farming operations, such as the growing and harvesting of agricultural commodities, are nevertheless exempt from the act's wage and hour requirements during that workweek. It is also immaterial whether the agricultural or horticultural commodities are grown in enclosed houses, as in green houses or mushroom cellars, or in an open field. Similarly, the mere fact that production takes place in a city or on industrial premises, such as in hatcheries, rather than in the country or on premises possessing the normal characteristics of a farm makes no difference.[14]

§ 780.9 *Farming in all its branches.* The language "farming in all its branches" includes all activities, whether listed in the definition or not, which constitute farming or a branch thereof under the facts and circumstances. Unlike the specifically enumerated operations, the phrase "farming in all its branches" does not clearly indicate its scope. In determining whether an operation constitutes "farming in all its branches", it may be necessary to consider various circumstances such as the nature and purpose of the operations of the employer, the character of the place where the employee performs his duties, the general types of activities there conducted, and the purpose and function of such activities with respect to the operations carried on by the employer. The determination may involve a consideration of the principles contained in § 780.6. For example, based on the facts and circumstances, it is reasonable to regard the raising or cultivation of angleworms or earthworms for sale to farmers for use in improving the physical condition of the soil as within the term "farming in all its branches". On the other hand, the raising of crickets for fish bait is not a branch of "farming", and is not exempt. So-called "bird dog" operations of the citrus fruit industry consisting of the purchase of fruit unsuitable for packing and of the transportation and sale of the fruit to canning plants do not qualify as "farming". Consequently, employees engaged in such operations are not exempt.[15] However, employees gathering the fruit at the groves are exempt because they are engaged in harvesting operations.

§ 780.10 *Cultivation and tillage of the soil.* "Cultivation and tillage of the soil" includes all the operations necessary to prepare a suitable seedbed, eliminate weed growth and improve the physical condition of the soil. Thus, grading or leveling land or removing rock or other matter to prepare the ground for a proper seed bed, or building terraces on farmland to check soil erosion are included. The application of water,[16] fertilizer or limestone to farmland is also included. Employees engaged in the commercial production and distribution of fertilizer are not exempt.[17]

§ 780.11 *Dairying.* "Dairying" includes the work of caring for and milking cows or goats. It also includes putting the milk in containers, cooling it, and storing it where done on the farm. The handling of milk and cream at receiving stations is not included. Such operations as separating cream from milk, bottling milk and cream, or making butter and cheese may be exempt when performed by a farmer or on a farm if they are not performed on milk produced by other farmers or produced on other farms.[18]

§ 780.12 *Production, cultivation, growing, and harvesting of any agricultural or horticultural commodities*—(a) *Production, cultivation, and growing.* (1) The word "production" was added to the definition of "agriculture" in order to take care of a special situation—the production of turpentine and gum rosins by a process involving the tapping of living trees.[19] To insure the inclusion of this process within the definition, the word "production" was added to section 3 (f) in conjunction with the words "including commodities defined as agricultural commodities in section 15 (g) of the Agricultural Marketing Act, as amended."[20] It is clear, therefore, that "production" is not used in section 3 (f) in the artificial and special sense in which it is defined in section 3 (j). It does not exempt an employee merely because he is engaged in a closely related process or occupation directly essential to the production of agricultural or horticultural commodities. To so construe the term would render unnecessary the remainder of what Congress clearly intended to be a very elaborate and comprehensive definition of "agriculture".[21] The words "production, cultivation, growing" describe actual raising operations which are normally intended or expected to produce specific agricultural or horticultural commodities. The raising of such commodities is included even though done for purely experimental purposes. The "growing" may take place in growing media other than soil as in the case of hydroponics.

(2) The words do not include operations performed subsequent to actual harvesting operations. Neither do they include operations undertaken or conducted for purposes not concerned with obtaining any specific agricultural or horticultural commodity. Thus operations which are merely preliminary, preparatory or incidental to the operations whereby such commodities are actually produced are not within the terms "production, cultivation, growing". For example, employees of a processor of vegetables who are engaged in buying vegetable plants and distributing them to farmers with whom their employer has acreage contracts are not engaged in the "production, cultivation, growing" of agricultural or horticultural commodities. The furnishing of mushroom spawn by a canner of mushrooms to growers who supply the canner with mushrooms grown from such spawn does not constitute the "growing" of mushrooms. Similarly, employees of an employer who is engaged in servicing insecticide sprayers in the farmer's orchard and employees engaged in such operations as the testing of soil or genetics research are not included within the terms.[22]

(b) *Harvesting.* The term "harvesting" as used in section 3 (f) includes all operations customarily performed in connection with the removal of the crops by the farmer from their growing position.[23] Examples include the cutting of grain,[24] the picking of fruit, the stripping of bluegrass seed, and the digging up of shrubs and trees grown in a nursery. "Harvesting" does not extend to operations subsequent to and unconnected with the actual process whereby agricultural or horticultural commodities are severed from their attachment to the soil or otherwise reduced to possession. For example, the processing of sugar cane into raw sugar[25] or the vining of peas[26] are not included. While transportation to a concentration point on the farm may be included, "harvesting" never extends to transportation or other operations off the farm.[27]

(c) *Agricultural or horticultural commodities.* (1) "Agricultural or horticultural commodities" refers to commodities resulting from the application of agricultural or horticultural techniques. Insofar as the term refers to products of the soil, it means commodities that are planted and cultivated by man. Among such commodities are the following: grains, forage crops, fruits, vegetables, nuts, sugar crops, fibre crops, tobacco, and nursery products. Thus, employees engaged in growing wheat, corn, hay, onions, carrots, sugarcane, seed, or any other agricultural or horti-

[14] Jordan v. Stark Brothers Nurseries & Orchards Co., 45 F. Supp. 769; Miller Hatcheries v. Boyer, 131 F. 2d 283; Damutz v. Pinchback, Inc., 158 F. 2d 882.

[15] Chapman v. Durkin, 214 F. 2d 360; Fort Mason Fruit Co. v. Durkin, 214 F. 2d 363.

[16] Irrigation employees not exempt on this ground may be exempt under other provisions. See in this connection § 778.14 of this chapter and § 780.21. Also see Farmers Irrigation Co. v. McComb, 337 U. S. 755.

[17] McComb v. Super-A Fertilizer Works, 155 F. 2d 824.

[18] See §§ 780.14 to 780.20.

[19] See S. Rep. No. 230, 71st Cong., 2 Sess. (1930); H. R. Rep. No. 2738, 75th Cong., 3d Sess. p. 29 (1938).

[20] The legislative history of this part of the definition was considered by the United States Supreme Court in Farmers Irrigation Co. v. McComb, 337 U. S. 755.

[21] Farmers Irrigation Co. v. McComb, 337 U. S. 755; Walling v. Friend, 156 F. 2d 429.

[22] However, see §§ 780.14 to 780.20 for possible exemption on other grounds.

[23] Vives v. Serralles, 145 F. 2d 552, quoted this definition with approval and held that employees engaged on a plantation in gathering sugar cane as soon as it had been cut, loading it, and transporting the cane to a concentration point on the farm are engaged in "harvesting."

[24] The combining of grain is exempt either as harvesting or as practice performed on a farm in conjunction with or as an incident to farming operations. See in this connection, Wyatt v. Holtville Alfalfa Mills, 12 W. H. Cases 635; 28 Labor Cases, par. 69, 437 (C. A. 9).

[25] Bowie v. Gonzales, 117 F. 2d 11.

[26] For a further discussion on the exempt status of vining employees, see § 780.17.

[27] Chapman v. Durkin, 214 F. 2d 360; Fort Mason Fruit Co. v. Durkin, 214 F. 2d 363—off-the-farm transportation can only be "agriculture" when performed by the farmer as an incident to his farming operations. For a further discussion of this point, see §§ 780.19, 780.20 (e) and (f).

cultural commodity are engaged in "agriculture". In addition to such products of the soil, however, the term includes domesticated animals and some of their products such as milk, wool, eggs, and honey. The term does not include commodities produced by industrial techniques, by exploitation of mineral wealth or other natural resources, or by uncultivated natural growth. Accordingly, employees engaged in the gathering or harvesting of wild commodities such as mosses, wild rice, burls and laurel plants, the trapping of wild animals, or the appropriation of minerals and other uncultivated products from the soil are not employed in "the production, cultivation, growing, and harvesting of agricultural or horticultural commodities". However, the fact that plants or other commodities actually cultivated by man are of a species which ordinarily grows wild without being cultivated does not preclude them from being classed as "agricultural or horticultural commodities". Transplanted branches which were cut from plants growing wild in the field or forest are included within the term. Cultivated blueberries are also included.

(2) Seeds and seedlings of agricultural and horticultural plants are also considered "agricultural or horticultural commodities". Thus, since mushrooms and beans are considered "agricultural or horticultural commodities", the spawn of mushrooms and bean sprouts are also so considered and the production, cultivation, growing and harvesting of mushroom spawn or bean sprouts is within the meaning of section 3 (f).

(3) Trees grown in forests and the lumber derived therefrom are not "agricultural or horticultural commodities". Christmas trees, whether wild or planted, are also not so considered.[28] It follows that employment in the production, cultivation, growing, and harvesting of such trees or timber products is not sufficient to bring an employee within section 3 (f) unless the operation is performed by a farmer or on a farm as an incident to or in conjunction with farming operations. On the latter point, see § 780.20 (b) which discusses the question of when forestry or lumbering operations are incident to or in conjunction with farming operations so as to constitute "agriculture".

(d) *Commodities included by reference to the Agricultural Marketing Act.* (1) Section 3 (f) expressly provides that the term "agricultural or horticultural commodities" shall include the commodities defined as agricultural commodities in section 15 (g) of the Agricultural Marketing Act, as amended.[29] Section 15 (g) of that act provides: "As used in this act, the term 'agricultural commodity' includes, in addition to other agricultural commodities, crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum spirits of turpentine, and gum resin, as defined in the Naval Stores Act, approved March 3, 1923."[30] As defined in the Naval Stores Act, "'gum spirits of turpentine' means spirits of turpentine made from gum (oleoresin) from a living tree" and "'gum rosin' means rosin remaining after the distillation of gum spirits of turpentine". The production of these commodities is therefore within the definition of "agriculture".

(2) Since the only oleoresin included within section 15 (g) of the Agricultural Marketing Act is that derived from a living tree, the production of oleoresin from stumps or any sources other than living trees is not within section 3 (f). If turpentine or rosin is produced in any manner other than the processing of crude gum from living trees, as by digging up pine stumps and grinding them or by distilling the turpentine with steam from the oleoresin within or extracted from the wood, the production of the turpentine or rosin is not included in section 3 (f). Similarly, the production of gum turpentine or gum rosin is not included when these are produced by anyone other than the original producer of the crude gum from which they are derived. Thus, if a producer of turpentine or rosin from oleoresin from living trees makes such products not only from oleoresin produced by him but also from oleoresin delivered to him by others, he is not producing a product defined as an agricultural commodity and employees engaged in his production operations are not exempt.[31] It is to be noted, however, that the production of gum turpentine and gum rosin from crude gum (oleoresin) derived from a living tree is exempt when performed at a central still for and on account of the producer of the crude gum. But where central stills buy the crude gum they process and are the owners of the gum turpentine and gum rosin that are derived from such crude gum and which they market for their own account, the production of such gum turpentine and gum rosin is not exempt.

§ 780.13 *The raising of livestock, bees, fur-bearing animals or poultry*—(a) *General statement.* Employees are employed in the raising of livestock, bees, fur-bearing animals or poultry only if their operations relate to animals of the type named and constitute the "raising" of such animals. If these two requirements are met, it makes no difference for what purpose the animals are raised or where the operations are performed. For example, the fact that the cattle are raised to obtain serum or virus or chicks are hatched in a commercial hatchery does not affect the exempt status of the operations.

(b) *Raising of livestock*—(1) *General.* (i) The meaning of the term "livestock" as used in section 3 (f) is confined to the ordinary use of the word and includes only domestic animals ordinarily raised or used on farms.[32] The term includes the following animals, among others: cattle (both dairy and beef cattle), sheep, swine, horses, mules, jackasses, and goats. It does not include such animals as albino and other rats, mice, guinea pigs and hamsters, which are ordinarily used by laboratories for research purposes.

(ii) The term "raising" employed with reference to livestock in section 3 (f) includes such operations as the breeding, fattening, feeding and general care of livestock.[33] Thus, employees exclusively engaged in feeding and fattening livestock in stock pens where the livestock remains for a substantial period of time are engaged in the "raising" of livestock. The fact that the livestock is purchased to be fattened and is not bred on the premises does not characterize the fattening as something other than the "raising" of livestock. The feeding and care of livestock does not necessarily or under all circumstances constitute the "raising" of such livestock, however. It is clear, for example, that animals are not being "raised" in the pens of stockyards or the corrals of meat packing plants where they are confined for a period of a few days while en route to slaughter or pending their sale or shipment. Therefore, employees employed in these places in feeding and caring for the constantly changing group of animals cannot reasonably be regarded as "raising" livestock.[34]

(2) *Race horses.* Employees engaged in the breeding, raising and training of horses on farms for racing purposes are exempt. Included are such employees as grooms, attendants, exercise boys, and watchmen employed at the breeding or training farm. On the other hand, employees engaged in the racing, training and care of horses and other activities performed off the farm in connection with commercial racing are not exempt. For this purpose, a training track at a race track is not a farm. Where a farmer is engaged in both the raising and commercial racing of race horses, the activities performed off the farm by his employees as an incident to racing, such as the training and care of the horses, are not practices performed by the farmer in his capacity as a farmer or breeder as an incident to his raising operations. Employees engaged in the feeding, care and training of horses which have been used in commercial racing and returned to a breeding or training farm for such care pending entry in subsequent races are exempt.

(c) *Raising of bees.* The term "raising of * * * bees" refers to all of those activities customarily performed in connection with the handling and keeping of bees, including the treatment of disease and the raising of queens.

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[28] See Part 788 (on exemption for forestry or logging operations in which not more than 12 employees are employed).

[29] 12 U. S. C. 1141–1141j.

[30] 7 U. S. C. 91–99.

[31] For an explanation of the inclusion of the word "production" in section 3 (f), see paragraph (a) of this section.

[32] That Congress did not use this term in its generic sense is supported by the specific enumeration of activities, such as the raising of fur-bearing animals, which would be included in the generic meaning of the word.

[33] Employees of a cattle raisers' association engaged in the publication of a magazine about cattle, the detection of cattle thefts, the location of stolen cattle, and apprehension of cattle thieves, are not exempt.

[34] National Labor Relations Board v. Tovrea Packing Co., 111 F. 2d 626 (C. A. 9), cert. denied 311 U. S. 668. Walling v. Friend, 156 F. 2d 429.

(d) *Raising of fur-bearing animals.* (1) The term "fur-bearing animals" has reference to animals which bear fur of marketable value and includes, among other animals, rabbits, silver foxes, minks, squirrels, and muskrats. Animals whose fur lacks marketable value, such as albino and other rats, mice, guinea pigs, and hamsters, are not "fur-bearing animals" within the meaning of section 3 (f).

(2) The term "raising" of fur-bearing animals includes all those activities customarily performed in connection with breeding, feeding and caring for fur-bearing animals, including the treatment of disease. Such treatment of disease has reference only to disease of the animals being bred and does not refer to the use of such animals or their fur in experimenting with disease or treating diseases in others. The fact that muskrats or other fur-bearing animals are propagated in open water or marsh areas rather than in pens does not prevent the raising of such animals from constituting the "raising of fur-bearing animals". Where wild fur-bearing animals propagate in their native habitat and are not raised as above described, the trapping or hunting of such animals and activities incidental thereto are not exempt.

(e) *Raising of poultry*—(1) *General.* (i) The term "poultry" includes domesticated fowl and game birds. Ducks and pigeons are included. Canaries and parakeets are not included.

(ii) The "raising" of poultry includes the breeding, hatching, propagating, feeding and general care of poultry. Slaughtering, which is the antithesis of "raising", is not included. To constitute "agriculture", slaughtering must come within the secondary meaning of the term "agriculture". The temporary feeding and care of chickens and other poultry for a few days pending sale, shipment or slaughter is not the "raising" of poultry. However, feeding, fattening and caring for poultry over a substantial period may constitute the "raising" of poultry.

(2) *Feed stores.* Feed dealers and processors sometimes enter into contractual arrangements with farmers under which the latter agree to raise to marketable size baby chicks supplied by the former who also undertake to furnish all the required feed and possibly additional items. Typically, the feed dealer or processor retains title to the chickens until they are sold. Under such an arrangement, the activities of the farmers are clearly exempt. The activities of the feed dealer or processor, on the other hand, are not exempt.

(3) *Hatcheries.* Hatchery operations incident to the breeding of poultry, whether performed in a rural or urban location, are the "raising of poultry".[35] The exemption for employees of hatcheries is further discussed in § 780.23.

§ 780.14 *General statement on secondary agriculture.* (a) The discussion in §§ 780.8 to 780.13 relates to the direct farming operations which come within the "primary" meaning of the definition of "agriculture". As defined in section 3 (f) "agriculture" includes not only the distinctively farming activities described in the "primary" meaning but also includes, in its "secondary" meaning, "any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market."

(b) To come within this secondary meaning, a practice must be performed either by a farmer or on a farm. It must also be performed either in connection with the farmer's own farming operations or in connection with farming operation conducted on the farm where the practice is performed. In addition, the practice must be performed "as an incident to or in conjunction with" the farming operations. No matter how closely related it may be to farming operations, a practice performed neither by a farmer nor on a farm is not within the scope of the "secondary" meaning of "agriculture". Thus, employees employed by commission brokers in the typical activities conducted at their establishments; warehouse employees at the typical tobacco warehouses; shop employees of an employer engaged in the business of servicing machinery and equipment for farmers; plant employees of a company dealing in eggs or poultry produced by others; employees of an irrigation company engaged in the general distribution of water to farmers; and other employees similarly situated do not generally come within the secondary meaning of "agriculture".

§ 780.15 *Performance by a farmer.* (a) "By a farmer":

(1) Among other things, a practice must be performed by a farmer or on a farm in order to come within the secondary portion of the definition of "agriculture". No precise lines can be drawn which will serve to delimit the term "farmer" in all cases. Essentially, however, the term is an occupational title and the employer must be engaged in activities of a type and to the extent that the person ordinarily regarded as a "farmer" is engaged in order to qualify for the title. If this test is met, it is immaterial for what purpose he engages in farming or whether farming is his sole occupation. Thus, an employer's status as a "farmer" is not altered by the fact that his only purpose is to obtain products useful to him in a non-farming enterprise which he conducts. For example, an employer engaged in raising nursery stock is a "farmer" for purposes of section 3 (f) even though his purpose is to supply goods for a separate enterprise where he engages in the retail distribution of nursery products.

(2) "Farmer" includes the employees of a farmer. It does not include an employer merely because he employs a farmer or appoints a farmer as his agent to do the actual work. Thus, the stripping of tobacco, i. e., removing leaves from the stalk, by the employees of an independent warehouse is not a practice performed "by a farmer" even though the warehouse acts as agent for the tobacco farmer or employs the farmer in the stripping operations. One who engages merely in practices which are incidental to farming is not a "farmer." For example, a company which merely prepares for market, sells, and ships flowers and plants grown and cultivated on farms by affiliated corporations is not a "farmer." The mere fact, however, that one has suspended actual farming operations during a period in which he performs only practices incidental to his past or prospective farming operations does not preclude him from qualifying as a "farmer."

(3) The term "farmer" as used in section 3 (f) is not confined to individual persons. Thus, a farmers' cooperative[36] or a corporation which engages in actual farming operations may be a "farmer." It does not necessarily follow, however, that any employer is a "farmer" simply because he engages in some actual farming operations of the type specified in section 3 (f). Thus, one who merely harvests a crop of agricultural commodities is not a "farmer" although his employees who actually do the harvesting are employed in "agriculture" and are exempt in those weeks when exclusively so engaged.

(4) Generally, an employer must undertake farming operations of such scope and significance as to constitute a distinct activity, for the purpose of yielding a farm product, in order to be regarded as a "farmer". One who merely performs services or supplies materials for farmers in return for compensation in money or farm products is not a "farmer". Thus, a person who provides credit and management services to farmers cannot qualify as a "farmer" on that account. Neither can a repairman who repairs and services farm machinery qualify as a "farmer" on that basis.

(5) As a general rule, a farmer performs his farming operations on land owned, leased, or controlled by him and devoted to his own use.[37] The mere fact, therefore, that an employer harvests a growing crop, even under a partnership agreement pursuant to which he provides credit, advisory or other services, is not generally considered to be sufficient to qualify the employer so engaged as a "farmer". Such an employer would stand, in packing or handling the product, in the same relationship to the produce as if it were from the fields or groves of an independent grower.

(b) Farmers' cooperative as a "farmer":

(1) The phrase "by a farmer" covers practices performed either by the farmer himself or by the farmer through his employees. Employees of a farmers' cooperative association, however, are employed not by the individual farmers who compose its membership or who are its stockholders, but by the cooperative association itself. Cooperative associations, whether in the corporate form or not, are distinct, separate entities from the farmers who own or compose them.

[35] Miller Hatcheries v. Boyer, 131 F. 2d 283.

[36] See § 780.15 (b).

[37] This does not mean, however, that a cattleman using public lands for grazing is not a farmer.

The work performed by a farmers' cooperative association is not work performed by a farmer but for farmers.[38] Therefore, employees of a farmers' cooperative association are not generally engaged in any practices performed "by a farmer" within the meaning of section 3 (f) and are not ordinarily exempt.[39]

(2) It is possible that some farmers' cooperative associations may themselves engage in actual farming operations to an extent and under circumstances sufficient to qualify as a "farmer". In such case, any of their employees who performs practices as an incident to or in conjunction with such farming operations are employed in "agriculture".

§ 780.16 *Performance on a farm.* (a) If a practice is not performed by a farmer, it must, among other things, be performed "on a farm" to come within the secondary meaning of "agriculture" in section 3 (f). Any practice which cannot be performed on a farm, such as "delivery to market", is necessarily excluded, therefore, when performed by someone other than a farmer. Thus, employees of an alfalfa dehydrator engaged in hauling chopped or unchopped alfalfa away from the farms to the dehydrating plant are not employed in a practice performed "on a farm". A "farm" is a tract of land devoted to the actual farming activities included in the first part of section 3 (f). The total area of a tract operated as a unit for farming purposes is included in the "farm", irrespective of the fact that some of this area may not be utilized for actual farming operations. It is immaterial whether a farm is situated in the city or in the country.

(b) Even though an employee may work on several farms during a workweek, he is regarded as employed "on a farm" for the entire workweek if his work on each farm pertains solely to farming operations on that farm. Employees engaged in building terraces or threshing wheat and other grain; employees engaged in the erection of silos and granaries; employees engaged in digging wells or building dams for farm ponds; employees engaged in inspecting and culling flocks of poultry; and pilots and flagmen engaged in the aerial dusting and spraying of crops are examples of the types of employees of independent contractors who may be considered employed in practices performed "on a farm". The fact that a minor and incidental part of the work of such an employee occurs off the farm will not defeat the exemption. Thus, a small amount of time within the workweek spent in transporting necessary equipment for work to be done on farms will not defeat the exemption. Other employees of the above employers employed away from the farm would not come within the exemption. For example, airport employees such as mechanics, loaders, and office workers employed by a crop dusting firm would not be exempt.

(c) The gathering of wild plants in the woods for transplantation in a nursery is not an operation performed "on a farm." [40] Field employees of a canner or processor of farm products who work on farms during the planting and growing season where they supervise the planting operations and consult with the grower on problems of cultivation are employed in practices performed "on a farm" so long as such work is done entirely on farms save for an incidental amount of reporting to their employer's plant.

§ 780.17 *Operations of the farmer who performs the practices.* (a) "Practices * * * performed by a farmer" must be performed as an incident to or in conjunction with "such farming operations" in order to constitute "agriculture" within the secondary meaning of the term. Practices performed by a farmer in connection with his non-farming operations do not satisfy this requirement. Furthermore, practices performed by a farmer can meet the above requirement only in the event that they are performed in connection with the farming operations of the same farmer who performs the practices. Thus, the requirement is not met with respect to employees engaged in any practices performed by their employer in connection with farming operations that are not his own.[41] Some examples will serve to illustrate the above principle. Employees of a fruit grower who dry or pack fruit not grown by their employer are not exempt. Storage operations conducted by a farmer in connection with products grown by someone other than the farmer are not exempt. Employees of a grower-operator of a sugar cane mill who transport cane from fields to the mill are not exempt where such cane is grown by independent farmers on their land as well as by the mill operator.[42] Employees of a tobacco grower who strip tobacco (i. e. remove the leaves from the stalk) are not exempt when performing this operation on tobacco not grown by their employer. On the other hand, where a farmer rents some space in a warehouse or packing house located off the farm and the farmer's own employees there engage in handling or packing only his own products for market, such operations by the farmer are exempt if performed as an incident to or in conjunction with his farming operations.[43] The fact that a packing shed is conducted by a family partnership, packing products exclusively grown on lands owned and operated by individuals constituting the partnership, does not alter the status of the packing activity.[44] Thus, if in a particular case, an individual farmer is exempt, a family partnership which performs the same operations would also be exempt.

(b) Vining employees of a pea vinery located on a farm, who vine only the peas grown on that particular farm, are exempt. If they also vine peas grown on other farms, the exemption does not apply unless the farmer-employer owns or operates the other farms and vines his own peas exclusively. However, the work of vining station employees in weeks in which the stations vine only peas grown by a canner on farms owned or leased by him is considered part of the canning operations. As such, the cannery operations, including the vining operations, are exempt only if the canner cans crops which he grows himself and if the canning operations are subordinate to the farming operations.

(c) So long as the farming operations to which a farmer's practice pertains are performed by him in his capacity as a farmer, the exempt status of the practice is not necessarily altered by the fact that the farming operations take place on more than one farm or by the fact that some of the operations are performed off his farm. Thus, where the practice is performed with respect to products of farming operations, the controlling consideration is whether the products were produced by the farming operations of the farmer who performs the practice rather than at what place or on whose land he produced them. Ordinarily, a practice performed by a farmer in connection with farming operations conducted on land which he owns or leases will be considered as performed in connection with the farming operations of such farmer in the absence of facts indicating that the farming operations are actually those of someone else. Conversely, a contrary conclusion will ordinarily be justified if such farmer is not the owner or a bona fide lessee of such land during the period when the farming operations take place. The question of whose farming operations are actually being conducted in cases where they are performed pursuant to an agreement or arrangement, not amounting to a bona fide lease, between the farmer who performs the practice and the landowner necessarily involves a careful scrutiny of the facts and circumstances surrounding the arrangement.

§ 780.18 *Operations on the farm where the practices are performed.* (a) "Practices * * * performed * * * on a farm" must be performed as an incident to or in conjunction with "such farming operations" in order to constitute "agriculture" within the secondary meaning of the term. Practices performed on a farm in connection with nonfarming operations performed on or off such farm do not meet this requirement. For example, if a farmer operates a gravel pit on his farm, none of the practices performed in connection with the operation of such gravel pit would be exempt. Nor is the requirement met with respect to employees engaged in any practices performed on a farm, but not by a farmer, in connection with farming operations that are not conducted on that particular farm. The

[38] The legislative history of the Act supports this interpretation. Statutes usually exempt farmers' cooperative associations in express terms if an exemption is intended. The omission of an express exemption from the Fair Labor Standards Act is significant since many unsuccessful attempts were made on the floor of Congress to secure special treatment for such cooperatives.

[39] Puerto Rico Tobacco Marketing Coop. Ass'n. v. McComb, 181 F. (2d) 697.

[40] For a further discussion, see § 780.22.

[41] Such employees may be exempt, however, on the basis of their engagement in practices on a farm in connection with farming operations on that farm. See § 780.18.

[42] Bowie v. Gonzales, 117 F. 2d 11.

[43] Such arrangements are distinguished from those where the employees are not actually employed by the farmer.

[44] Dofflemeyer v. NLRB, 206 F. 2d 813.

fact that such a practice pertains to farming operations generally or to those performed on a number of farms rather than to those performed on the same farm only is sufficient to take it outside the scope of the statutory language. Area soil surveys and genetics research activities, results of which are made available to a number of farmers, are typical of the practices to which this principle applies.

(b) In the case of some practices, their connection with farming operations conducted on the farm where they are performed must be determined with reference to the purpose of the farmer for whom the practice is performed. Thus, land clearing operations may or may not be connected with such farming operations depending on whether the farmer intends to devote the cleared land to farm use. The construction by an independent contractor of a granary on a farm is not connected with such farming operations if the farmer for whom it is built intends to use the structure for storing grain produced on other farms.

(c) No practice performed with respect to farm commodities is within the language under discussion by reason of its performance on a farm unless all of such commodities are the products of that farm. Thus, the performance on a farm of any practice, such as packing or storing, which may be incidental to farming operations cannot constitute a basis for exempting employees engaged in such practice if the practice is performed upon any commodities that have been produced elsewhere than on such farm.

(d) The fact that a practice, which is performed on a farm by an employer other than the farmer who operates such farm, is not performed for the farmer is a strong indication that it is not performed in connection with the farming operations there conducted. Thus, if such an employer performs it solely for himself in furtherance of his own enterprise, the practice cannot ordinarily be regarded as performed in connection with farming operations conducted on the farm. For example, it is clear that the work of employees of a utility company in trimming and cutting trees for power and communication lines is part of a non-farming enterprise outside the exemption. When a packer of vegetables or dehydrator of alfalfa buys the standing crop from the farmer, harvests it with his own crew of employees, and transports the harvested crop to his off-the-farm packing or dehydrating plant, the transporting and plant employees are clearly not exempt.[45] Such an employer cannot automatically gain the exemption for the plant employees by merely transferring the operations to the farm so as to meet the "on a farm" requirement. They will continue outside the exemption if the packing or dehydrating is not in reality done for the farmer. The question of for whom the practices are performed is one of fact. In determining the question, however, the fact that prior to the performance of the packing or dehydrating operations, the farmer has relinquished title and divested himself of further responsibility with respect to the product, is highly significant.

§ 780.19 *Performance "as an incident to or in conjunction with" farming operations.* (a) In order for practices other than actual farming operations to constitute "agriculture" within the meaning of section 3 (f) of the act, it is not enough that they be performed by a farmer or on a farm in connection with the farming operations conducted by such farmer or on such farm.[46] They must also be performed "as an incident to or in conjunction with" the farming operations. The line between practices that are and those that are not performed as an incident to or in conjunction with farming operations is not susceptible of precise definition. Generally, a practice performed in connection with farming operations is within the statutory language only if it constitutes an established part of agriculture, is subordinate to the farming operations involved, and does not amount to an independent enterprise.[47] The factors to be considered, among others, in determining whether a practice may properly be regarded as incidental to or in conjunction with farming operations are the size of the operations and respective sums invested in land, buildings and equipment for the regular farming operations and in plant and equipment for performance of the practice, the amount of the payroll for each type of work, the number of employees and the amount of time they spend in each of the activities, the extent to which the practice is performed by ordinary farm employees and the amount of interchange of employees between the operations, the amount of revenue derived from each activity, the degree of industrialization involved, the degree of separation established between the activities, and what is ordinarily done by farmers with regard to the practice.[48] With respect to practices performed on farm products, it is also necessary to consider the type of product resulting from the practice—as whether the raw or natural state of the commodity has been changed.[49] Consideration should also be given to the value added to the product as a result of the practice and whether a sales organization is maintained for the disposal of the product.

(b) With respect to the practice of transporting farm products from farms to a processing establishment by employees of a person who owns both the farms and the establishment, such practice may or may not be incident to or in conjunction with the employer's farming operations depending on all the pertinent facts. The transportation is clearly incidental to milling operations rather than to farming where the employees engaged in it are hired by the mill, carried on its payroll, do no agricultural work on the farms, and report for and end their daily duties at the mill where the transportation vehicles are kept.[50]

(c) On the other hand, a different result is reached where the facts show that the transportation workers are farm employees whose work is closely integrated with harvesting and other direct farming operations. The method by which the transportation is accomplished is not material.[50]

(d) The character of a practice as a part of the agricultural activity or as a distinct business activity must be determined by examination and evaluation of all the relevant facts and circumstances. The result will not depend on any mechanical application of isolated factors or tests. Rather, the total situation will control. For example, seasonality of canning operations would not be very helpful as a test to distinguish between operations incident to agriculture and operations of commercial canners who handle a similar volume of the same seasonal crop. But the length of the canning period might cast some light on whether the operations are conducted as a part of agriculture or as a separate undertaking when considered together with the amount of investment, payroll, and other factors. Whether the practice was included or omitted from section 13 (a) (10) of the act is also considered a significant factor in resolving the problem.[51] In some cases, the fact that canned goods are sold under the canner's own label rather than under that of the purchaser may furnish an indication that the canning is conducted

[45] The harvesting employees are exempt. See § 780.12 (b).

[46] These requirements are discussed in §§ 780.15 to 780.18.

[47] Maneja v. Waialua Agricultural Co., 349 U. S. 254.

[48] In explaining the inclusion of this test, the United States Supreme Court said that "while the word 'ordinarily' appeared in an earlier version of the exemption and was subsequently stricken, the inquiry is nonetheless a pertinent one". Maneja v. Waialua Agricultural Co., 349 U. S. 254. Such an inquiry would appear to have a direct bearing on whether a practice is an "established" part of agriculture. See also Mitchell v. Budd, (March 26, 1956) 24 Law Week 4144; 12 WH Cases 805, where the United States Supreme Court found that the following two factors tipped the scales so as to take the employees of tobacco bulking plants outside the scope of the agriculture exemption: Tobacco farmers do not ordinarily perform the bulking operation; the bulking operation is a process which changes tobacco leaf in many ways and turns it into an industrial product.

[49] Calaf v. Gonzales, 127 F. 2d 934.

[50] See Maneja v. Waialua Agricultural Co., 349 U. S. 254, where the United States Supreme Court distinguished Waialua's transportation employees from the transportation employees considered by the First Circuit Court of Appeals in the Bowie and Calaf cases.

[51] This was considered highly significant by the United States Supreme Court in deciding that sugar milling is not within section 13 (a) (6) of the act. The Court cited the legislative history of section 13 (a) (10) to show that it was intended to equalize the position of the small farmer who did not have his own processing facilities with that of the large farmer who did, by providing an exemption for independent processors who processed the crop of small farmers. It concluded that "Congress would not have omitted sugar milling from the 'area of production' exemption if it had not concluded that it also fell outside the agricultural exemption". Maneja v. Waialua Agricultural Co., 349 U. S. 254.

as a separate business activity rather than as a part of agriculture.

(e) The following are examples of practices which will normally qualify for exemption when done on a farm, whether done by a farmer or by a contractor for the farmer: The operation of a cook camp for the sole purpose of feeding persons engaged exclusively in agriculture on that farm; artificial insemination; custom corn shelling and grinding of feed; the packing of apples by portable packing machines which are moved from farm to farm packing only apples grown on the particular farm where the packing is being performed; the culling, catching, cooping, and loading of poultry; the threshing of wheat; the shearing of sheep; the gathering and baling of straw. When on-the-farm practices are performed for a farmer, they are tested as though performed by the farmer himself in that no practice which would amount to a principal undertaking when performed by him can be incident to or in conjunction with his farming operations when performed for him by someone else.[51]

§ 780.20 *Named and other included practices*—(a) *General statement.* Section 3 (f) of the act names certain specific practices which come within the secondary meaning of agriculture if performed by a farmer or on a farm as an incident to or in conjunction with such farming operations. The broad language of the definition clearly includes all practices thus performed and not merely those named.

(b) *Forestry or lumbering operations.* (1) Employment in forestry or lumbering operations is expressly included in agriculture if the operations are performed "by a farmer or on a farm as an incident to or in conjunction with such farming operations". While "agriculture" is sometimes used in a broad sense as including the science and art of cultivating forests, the language quoted in the preceding sentence is a limitation on the forestry and lumbering operations which will be considered agricultural for purposes of section 3 (f). It follows that employees of an employer engaged exclusively in forestry or lumbering operations are not within the agricultural exemption.

(2) The term "forestry or lumbering operations" refers to the cultivation and management of forests, the felling and trimming of timber, the cutting, hauling, and transportation of timber, logs, pulpwood, cordwood, lumber, and like products, the sawing of logs into lumber or the conversion of logs into ties, posts, and similar products, and similar operations. It also includes the piling, stacking, and storing of all such products. The gathering of wild plants and of wild or planted Christmas trees are included.[52] "Wood working" as such is not included. The manufacture of charcoal under modern methods is neither a "forestry" nor "lumbering" operation and cannot be regarded as "agriculture".

(3) While section 3 (f) speaks of practices performed "in conjunction with" as well as "incident to" farming operations, it would be an unreasonable construction of the act to hold that all practices were to be regarded as agricultural if the person performing the practice did any farming, no matter how little, or resorted to tilling a small acreage for the purpose of qualifying for exemption.[54] To illustrate, where an employer owns several thousand acres of timberland on which he carries on lumbering operations and cultivates about 100 acres of farm land which are contiguous to such timberland, he would not be entitled to the benefit of the exemption so far as his forestry or lumbering operations are concerned. In such case, the forestry or lumbering operations would clearly not be subordinate to the farming operations but rather the principal or a separate business of the "farmer".

(4) Logging or sawmill operations on a farm undertaken on behalf of the farmer or on behalf of the buyer of the logs or the resulting lumber by a contract logger or sawmill owner are not within the exemption, unless it can be shown that these logging or sawmill operations are clearly incidental to farming operations on the farm on which the logging or sawmill operations are being conducted. For example, the clearing of additional land for cultivation by the farmer or the preparation of timber for construction of his farm buildings would appear to constitute operations incidental to "such farming operations".

(5) The fact that the employer employs fewer than a certain number of employees in forestry and lumbering operations does not provide a basis for their exemption as agricultural employees. This exemption is thus to be distinguished from the exemption provided by section 13 (a) (15) (discussed in Part 788 of this chapter) which is limited to employers employing not more than 12 employees in the forestry or logging operations described therein.

(c) *Preparation for market.* "Preparation for market" is also named as one of the practices which may be included in "agriculture". The term includes the operations normally performed upon farm commodities to prepare them for the farmer's market. The farmer's market normally means the wholesaler, processor, or distributing agency to which the farmer delivers his products. "Preparation for market" clearly has reference to activities which precede "delivery to market". It is not, however, synonymous with "preparation for sale". The term must be treated differently with respect to various commodities. It is emphasized that "preparation for market", like other practices, must be performed "by a farmer or on a farm as an incident to or in conjunction with such farming operations" in order to be exempt. Subject to the rules heretofore discussed, the following activities are, among others, within the exemption:

(1) *Grain, seed, and forage crops.* Weighing, binning, stacking, drying, cleaning, grading, shelling, sorting, packing, and storing.

(2) *Fruits and vegetables.* Assembling, ripening, cleaning, grading, sorting, drying, preserving, packing,[55] and storing.

(3) *Peanuts and nuts (pecans, walnuts, etc.).* Grading, cracking, shelling, cleaning, sorting, packing, and storing.

(4) *Eggs.* Handling, cooling, grading, candling, and packing.

(5) *Wool.* Grading and packing.

(6) *Dairy products.* Separating, cooling, packing, and storing.

(7) *Cotton.* Weighing, ginning, and storing cotton; hulling, delinting, cleaning, sacking, and storing cottonseed.

(8) *Nursery stock.* Handling, sorting, grading, trimming, bundling, storing, wrapping, and packaging.[56]

(9) *Tobacco.* Handling, grading, drying, stripping from stalk, tying, sorting, storing, and loading.

(10) *Livestock.* Handling and loading.

(11) *Poultry.* Culling, grading, cooping, and loading.

(12) *Honey.* Assembling, extracting, heating, ripening, straining, cleaning, grading, weighing, blending, packing, and storing.

(13) *Fur.* Removing the pelt, scraping, drying, putting on boards, and packing.

(d) *Delivery to storage.* The term "delivery to storage" includes taking agricultural or horticultural commodities, dairy products, livestock, bees or their honey, fur-bearing animals or their pelts, or poultry to the places where they are to be stored or held pending preparation for or delivery to market. The fact that the commodities have been subjected to some other practice "by a farmer or on a farm as an incident to or in conjunction with such farming operations" does not preclude application of the exemption to "delivery to storage". The same is true with respect to "delivery to market" and "delivery to carriers for transportation to market."

(e) *Delivery * * * to market.* The term "delivery * * * to market" includes taking agricultural or horticultural commodities, dairy products, livestock, bees or their honey, fur-bearing animals or their pelts, or poultry to market. It ordinarily refers to the initial journey of the farmer's products from the farm to the market. The market referred to is the farmer's market which normally means the distributing agency, cooperative marketing agency, wholesaler, or processor to which the farmer delivers his products. When it involves travel off the farm (which would normally be the case) the delivery must be

[51] As to when practices may be regarded as performed for a farmer, see § 780.18.

[52] See § 780.22 on nursery operations. Also see Part 788 (on exemption for forestry or logging operations in which not more than 12 employees are employed) of this chapter.

[54] Ridgeway v. Warren, 60 F. Supp. 363 (M. D. Tenn.); 5 WH Iases 450; In re Combs, 5 WH Cases 595 (M. D. Ga.) 10 Labor Cases (CCH) par. 62, 802.

[55] See In the Matter of J J. Crosetti, 29 LRRM 1353, 98 NLRB 268; In the Matter of Imperial Garden Growers, 91 NLRB 1034, 26 LRRM 1632; Lenroot v. Hazelhurst Mercantile Co., 59 F. Supp. 595; North Whittier Heights Citrus Assn. v. NLRB, 109 F. (2d) 76; Dofflemeyer v. NLRB, 206 F. (2d) 813.

[56] See Jordan v. Stark Brothers Nurseries and Orchards Co., 45 F. Supp. 769.

performed by the farmer in order to constitute an exempt practice. Delivery by an independent contractor for the farmer or a group of farmers is not an exempt agricultural practice.

(f) *Delivery * * * to carriers for transportation to market.* The term "delivery * * * to carriers for transportation to market" includes taking agricultural or horticultural commodities, dairy products, livestock, bees or their honey, fur-bearing animals or their pelts, and poultry to any carrier (including carriers by truck, rail, water, etc.) for transportation by such carrier to market. The market referred to is the farmer's market which normally means the distributing agency, cooperative marketing agency, wholesaler, or processor to which the farmer delivers his products. As in the case of "delivery to market", when it involves travel off the farm (as would normally be the case) the delivery must be performed by the farmer in order to constitute an exempt practice.

(g) *Other practices.* As has been noted above, the term "agriculture" includes other practices performed by a farmer or on a farm as an incident to or in conjunction with the farming operations conducted by such farmer or on such farm in addition to the practices listed in section 3 (f). The selling (including selling at roadside stands or by mail order and house to house selling) by a farmer and his employees of his agricultural commodities, dairy products, etc., is such a practice provided it does not amount to a separate enterprise. Another is the transportation to the farm by the farmer of materials and supplies for use in his farming operations, such as seed, animal or poultry feed, farm machinery or equipment, etc. Thus, truck drivers employed by a farmer to haul feed to the farm for feeding pigs are engaged in "agriculture". Other such practices are office work and maintenance and protective work. The exemption applies, for example, to secretaries, clerks, bookkeepers, night watchmen, maintenance workers, engineers, and others who are employed by a farmer or on a farm if their work is part of the agricultural activity and is subordinate to the farming operations of such farmer or on such farm.[47] It must be emphasized with respect to all practices performed on products for which exemption is claimed that they must be performed only on the products produced or raised by the particular farmer or on the particular farm.[48] If exempt at all, practices on farm products which fail to qualify under section 13 (a) (6) must qualify under section 13 (a) (10) or other exemptions for certain operations and practices on farm commodities.

§ 780.21 *Employees employed in irrigation activities under section 13 (a) (6)*—(a) *General statement.* (1) In addition to exempting employees employed in agriculture, section 13 (a) (6) also exempts from the wage and hour provisions of the act "any employee employed * * * in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes".

(2) It should be noted at the outset that this exemption applies only to the minimum wage and overtime provisions of the act and does not affect the child labor, record-keeping and other requirements of the act.

(3) This exemption was added by an amendment to section 13 (a) (6) in 1949 to alter the effect of the decision of the United States Supreme Court in Farmers Reservoir & Irrigation Company v. McComb, 337 U. S. 755, so as to exclude the type of employees involved in that case from certain requirements of the act. Congress chose to accomplish this result, not by expanding the definition of agriculture in section 3 (f), but by adding a further exemption. In view of this approach, it can well be said that Congress agreed with the Supreme Court's holding that such workers are not employed in agriculture, but nevertheless wished to exclude them from the minimum wage and overtime requirements of the act.

(b) *Meaning and scope of exemption language.* (a) The employer is paid on a share-crop basis when he receives, as his total compensation, a share of the crop of the farmers serviced.

(b) The fact that a small amount of the water furnished for use in his farming operations is in fact used for incidental domestic purposes by the farmer on the farm does not require the conclusion that the water supplied was not exclusively "for agricultural purposes" within the meaning of the irrigation exemption in section 13 (a) (6). Accordingly, if otherwise applicable, the exemption is not defeated merely because the water stored and supplied through the ditches, canals, reservoirs, or waterways of the irrigation company includes a small amount which is used for domestic purposes on the farms to which it is supplied. On the other hand, if the water company should maintain separate facilities for storing and supplying water for domestic use, it is clear that employees employed in connection with the maintenance or operation of such facilities would not be employed in activities to which the exemption applies. Similarly, if the water company supplied water for other than "agricultural purposes," the exemption would not apply. For example, the exemption would not apply where a portion of its water is delivered by the company to a municipality to be used for general, domestic and commercial purposes. Water used for watering livestock raised by a farmer is "for agricultural purposes."

(c) The exemption may apply to employees engaged in insect, rodent, and weed control along the canals and waterways of the irrigation company.

§ 780.22. *Nurseries and landscaping activities.* (a) The employees of a nursery who are engaged in the following activities are employed in "agriculture":

(1) Sowing seeds and otherwise propagating fruit, nut, shade, vegetable and ornamental plants or trees (but not Christmas trees), and shrubs, vines and flowers;

(2) Handling such plants from propagating frames to the field;

(3) Planting, cultivating, watering, spraying, fertilizing, pruning, bracing, and feeding the growing crop.

(b) The planting of trees and bushes is exempt where it constitutes a step in the production, cultivation, growing, and harvesting of agricultural or horticultural commodities, or where it constitutes a practice performed by a farmer or on a farm as an incident to or in conjunction with farming operations (as where it is part of the subordinate marketing operations of the grower of such trees or bushes). Thus, employees of the nurseryman who raised such nursery stock are doing exempt work when they plant the stock on private or public property, trim, spray, brace and treat the planted stock, or perform other duties incidental to its care and preservation. Similarly, employees who plant fruit trees and berry stock not raised by their employer would qualify for exemption if the planting is done on a farm as an incident to or in conjunction with the farming operation on that farm. On the other hand, the planting of trees and bushes on residential, business or public property is not exempt when it is done by employees of an employer who has not grown the trees and bushes, or who, if he has grown them, engages in the planting operations as an incident, not to his farming operations, but to landscaping operations which include principally the laying of sod and the construction of pools, walks, drives, and the like. The mowing of lawns, except where it can be considered incidental to farming operations, is not exempt work.

(c) Nurseries frequently obtain plants growing wild in the woods or fields which are to be further cultivated by the nursery before they are sold by it. Obtaining such plants is a practice which is incidental to farming operations. It is therefore exempt if performed by a farmer or on a farm. Thus, if performed by employees of the nursery, it is exempt. On the other hand, if performed off the farm by employees of an independent contractor, it is not exempt. The transplanting of such wild plants in the nursery is performed "on a farm" and is exempt whether performed by employees of an independent contractor or by employees of the nursery.

(d) Operations in a forest tree nursery such as seeding new beds and growing and transplanting forest seedlings are not farming operations. The planting, tending, and cutting of Christmas trees do not constitute farming operations. If such operations on forest products are within section 3 (f) they must qualify under the second part of the definition dealing with incidental practices.[49]

(e) Employees of a grower of nursery stock who work in packing and storage sheds sorting the stock, grading and trimming it, racking it in bins, and packing it for shipment are employed in

[47] Damutz v. Pinchbeck, 66 F. Supp. 667, aff'd. 158 F. (2d) 882.

[48] Walling v. Peacock Corp., 58 F. Supp. 880; Lenroot v. Hazlehurst Mercantile Co., 153 F. 2d 153; Jordan v. Stark Bros. Nurseries and Orchards Co., 45 F. Supp. 769.

[49] See § 780.20 (b).

"agriculture" provided they handle only products grown by their employer and their activities constitute an established part of their employer's agricultural activities and are subordinate to his farming operations.[80] The same is true of employees engaged in the balling and storing of shrubs and trees grown in the nursery. Where a grower of nursery stock operates, as a separate enterprise, an establishment for the distribution of such commodities at wholesale or retail, or a processing establishment, the employees in such separate enterprise are not exempt.[81] Although the handling and the sale of nursery commodities by the grower at or near the place where they were grown may be incidental to his farm operations, the character of these operations changes when they are performed in an establishment set up as a marketing point to aid in the distribution of those products.

§ 780.23 *Hatcheries.* (a) As stated in § 780.13 (e) (3), the typical hatchery is engaged in "agriculture", whether in a rural or city location. Where the hatchery is engaged solely in procuring eggs for hatching, performing the hatching operations and selling the chicks, all the employees including office and maintenance workers are exempt.

(b) It is common practice for hatcherymen to enter into arrangements with farmer poultry raisers for the production of hatching eggs which the hatchery agrees to buy. Ordinarily, the farmer furnishes the facilities, feed and labor and the hatchery furnishes the basic stock of poultry. The farmer undertakes a specialized program of care and improvement of the flock in cooperation with the hatchery. The hatchery may at times have a surplus of eggs, including those suitable for hatching and culled eggs, which it sells. Activities performed by the hatchery employees in connection with the disposal of these eggs, such as grading and packing, are an incident to the breeding of poultry by the hatchery and are exempt. The work of hatchery employees in connection with the maintenance of the quality of the poultry flock on farms is also part of the "raising" operations. This includes testing for disease, culling, weighing, cooping, loading, and transporting the culled birds.

(c) In some instances, hatcheries also engage in the produce business as such and commingle with the culled eggs and chickens other eggs and chickens which they buy for resale. Employees are not exempt in any workweek in which their work relates to both the hatchery and produce types of activities.

(d) In some situations, the hatchery also operates a feed store and furnishes feed to the growers. As in the case of the produce business operated by a hatchery, this is not an exempt activity and employees engaged therein, such as truck drivers hauling feed to growers, are not exempt. Office workers and other employees lose the exemption in any workweek in which their duties relate to both exempt and non-exempt activities. The catching and loading of broilers on farms by hatchery employees for transportation to market are exempt operations.

This amendment shall become effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 26th day of April 1956.

[SEAL] NEWELL BROWN,
Administrator,
Wage and Hour Division.

[F. R. Doc. 56-3444; Filed, May 2, 1956; 8:45 a. m.]

[80] See Jordan v. Stark Bros. Nurseries & Orchards Co., 45 F. Supp. 769.

[81] See Walling v. Rocklin, 132 F. 2d 13.

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter C—Military Education

PART 543—PROMOTION OF RIFLE PRACTICE COMPETITION IN SCHOOLS AND COLLEGES

Section 543.5 is revised to read as follows:

§ 543.5 *Rifle and pistol competitions in schools and colleges.* (a) *General.* Educational institutions maintaining units of the Reserve Officers' Training Corps (ROTC) and other schools and colleges conducting military training under the supervision of the Department of the Army will conduct instruction with the rifle and the pistol in accordance with the prescribed programs of training.

(b) *Rifle clubs and local matches.* (1) ROTC units and the cadet corps of other schools and colleges should form rifle clubs and affiliate with the National Rifle Association of America (NRA) and enter its competitions.

(2) Competitive rifle and pistol matches will be arranged to inspire a wholesome spirit of rivalry between individuals, organizations, units, and institutions. Local matches should be frequent and so organized as to give them the same standing and recognition accorded athletic competitions.

(3) The allowances of ammunition for schools and colleges are prescribed in tables of allowances. Ammunition for matches other than those approved by the Department of the Army will be provided by the institution.

(c) *Annual indoor rifle matches*—(1) *General.* (i) A series of indoor smallbore rifle matches will be conducted each year, so far as practicable, among those institutions conducting military training under the supervision of the Departments of the Army, Navy, and Air Force (ROTC and sec. 55c National Defense Act units) which have the proper facilities and where conditions are otherwise favorable. For this purpose the institutions will be grouped as follows:

(*a*) Units in universities, colleges, and junior colleges.

(*b*) Units in essentially military schools (high school-level students only).

(*c*) Units in high schools not in the category of (*b*) of this subdivision.

(ii) For the purpose of this competition, units (Army, Navy, and Air Force) in the Military District of Washington will compete with like units of the Second Army; units (Army, Navy, and Air Force) located in the Territory of Hawaii and in Alaska will compete with like units of the Sixth Army; and the units of Panama and of the University of Puerto Rico will compete with like units of the Third Army.

(2) *Intramural and intermural matches.* From October 1 to December 31, annually, the institutions will conduct intramural matches to determine the relative standing of individual students, organizations, units, other groups, etc., as the officer-in-charge may deem advisable. The regulations for the matches, the awarding of prizes, etc., will be arranged by the officer-in-charge. Approximately the first two-thirds of the period should be devoted to individual instruction and competitions and the last one-third to team matches. From December 1 to March 1, annually, institutions will be encouraged to fire separate matches with other institutions under such conditions as may be agreed upon.

(3) *Other matches.* During the period in which the national intercollegiate matches are being held, institutions will be encouraged to fire separate matches with institutions in other sections of the country.

(d) *Annual outdoor matches.* Outdoor rifle and pistol firing will be conducted at favorable seasons of the year, so far as may be practicable. Army commanders will arrange matches for those institutions having suitable range facilities. Institutions will be encouraged to place such competitions on a par with other athletic competitions and develop individuals for membership in Army area teams selected to compete in the National Matches.

(e) *Approved competitions.* The Department of the Army has approved and encourages participation in the following annual events by eligible students enrolled in the ROTC, and section 55c National Defense Act school units:

(1) Army Area ROTC Intercollegiate and Interscholastic Indoor Smallbore Rifle Matches.

(2) National ROTC Intercollegiate and Interscholastic Matches.

(3) William Randolph Hearst Army ROTC Rifle Competition.

(4) William Randolph Hearst National Defense Trophy Match.

(5) Warrior of the Pacific Team Competition.

(6) Society of American Military Engineers Rifle Competition.

[AR 145-395, April 5, 1956] (R. S. 161; 5 U. S. C. 22. Interprets or applies sec. 2, 45 Stat. 786, as amended; 32 U. S. C. 181b)

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

[F. R. Doc. 56-3447; Filed, May 2, 1956; 8:46 a. m.]

Chapter XIV—The Renegotiation Board

Subchapter B—Renegotiation Board Regulations Under the 1951 Act

PART 1453—MANDATORY EXEMPTIONS FROM RENEGOTIATION

EXEMPTION OF COMMON CARRIERS BY WATER

Paragraph (d) *Common carriers by water* of § 1453.3 is amended by deleting paragraph (d) in its entirety and inserting in lieu thereof the following:

(d) *Common carriers by water*—(1) *Fiscal years ending before December 31, 1953.* With respect to fiscal years ending before December 31, 1953, a contract with a common carrier for transportation by water is exempt only if the sale or furnishing of such transportation is subject to the jurisdiction of the Interstate Commerce Commission under Part III of the Interstate Commerce Act or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933. Rates for passenger or cargo transportation to foreign ports are not fixed by these agencies under the statutes referred to in the last sentence of section 106 (a) (4) of the act, and thus contracts for such transportation are not within the exemption.

(2) *Fiscal years ending on or after December 31, 1953.* (i) With respect to fiscal years ending on or after December 31, 1953, a contract with a common carrier for transportation by water is exempt if it meets the conditions set forth in subparagraph (1) of this paragraph or if the Board finds that the regulatory aspects of rates for the sale or furnishing of such transportation, or the type and nature of the contract for such furnishing or sale, are such as to indicate, in the opinion of the Board, that excessive profits are improbable. Pursuant to the foregoing authority, the Board has exempted from the provisions of the act, to the extent of amounts received or accrued before January 1, 1956, in any fiscal year ending on or after December 31, 1953:

(*a*) All prime contracts for transportation by common carrier by water at, or at rates below, rates or charges filed with, fixed, approved or regulated by the Federal Maritime Board.

(*b*) All prime contracts with the Military Sea Transportation Service for transportation of cargo at rates or charges based upon the manifest measurement or manifest weight of the cargo.

(ii) This exemption does not apply to time, voyage or bareboat charters.

(3) *Exemption of individual prime contracts.* The Board will exempt any individual prime contract with a common carrier for transportation by water when the Board finds, upon application of the contractor, that the regulatory aspects of rates for the sale or furnishing of such transportation, or the type and nature of the contract for such furnishing or sale, are such as to indicate, in the opinion of the Board, that excessive profits are improbable. Any application for such a finding shall be filed with the Board not later than the date when the contractor files the financial statement prescribed in section 105 (e) (1) of the act (see § 1470.3 (a) of this subchapter) for the fiscal year in which the contractor received or accrued the amounts with respect to which the exemption is claimed. In any financial statement so filed, receipts or accruals under any contract with respect to which the Board is requested to make such a finding shall be included initially in computing the aggregate renegotiable receipts or accruals of the contractor for the fiscal year to which such statement relates.

(Sec. 109, 65 Stat. 22; 50 U. S. C. App. Sup. 1219)

Dated: April 30, 1956.

THOMAS COGGESHALL,
Chairman.

[F. R. Doc. 56-3470; Filed, May 2, 1956; 8:51 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Defense Mobilization

[ODM Reg. 3]

ODM REG. 3—PRESERVATION OF WAGE AND SALARY RECORDS UNDER DEFENSE PRODUCTION ACT

By virtue of the authority vested in me pursuant to Executive Order 10494, dated October 14, 1953, and Office of Defense Mobilization General Administrative Order I–2 (Revised), and in accordance with the provisions of section 705 (a) of the Defense Production Act of 1950, as amended, it is hereby ordered:

SECTION 1. Any record relating to compliance with wage and salary regulations issued by the Wage Stabilization Board, the Salary Stabilization Board, the Railroad and Airline Wage Board, and the Construction Industry Stabilization Commission under Title IV of the Defense Production Act of 1950, as amended, need not be preserved after April 30, 1955, or an earlier date when previously specified by general regulation.

SEC. 2. This shall not apply to records required to be kept by persons currently in litigation or who are still under investigation for violation of stabilization regulations.

SEC. 3. This order shall be effective upon publication in the FEDERAL REGISTER.

Statement of consideration. Under section 705 (a) of the Defense Production Act of 1950, as amended, the President is authorized to require the keeping of relevant records for two years after the expiration of that act. In General Overriding Regulation 44, as amended on March 12, 1953, the Office of Price Stabilization established April 30, 1953, as the final cut-off date for the preservation of price control records. With respect to records required to be kept dealing with wages and salaries, the agencies involved established various cut-off dates in different regulations for the maintenance of such records.

It is the judgment of the Office of Defense Mobilization that the cut-off date employed by the Office of Price Stabilization in General Overriding Regulation 44, as amended, also is appropriate with respect to wage and salary regulations issued during the Korean emergency. This does not apply, of course, with respect to records kept by those few employers in litigation or who are still under investigation for violations during that period.

(Sec. 705, 64 Stat. 816, as amended; 50 U. S. C. App. 2155. E. O. 10494, 18 F. R. 6585, 3 CFR, 1953 Supp.)

OFFICE OF DEFENSE MOBILIZATION,
CHARLES H. KENDALL,
Assistant Director.

[F. R. Doc. 56-3465; Filed, May 2, 1956; 8:50 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

Subchapter K—Security of Vessels

[CGFR 56-12]

PART 121—SPECIAL VALIDATION ENDORSEMENT FOR EMERGENCY SERVICE FOR MERCHANT MARINE PERSONNEL

Correction

In F. R. Doc. 56-3329, appearing at page 2814 of the issue for Tuesday, May 1, 1956, the filing date at the end of the document should read "Apr. 30, 1956".

Subchapter L—Security of Waterfront Facilities

[CGFR 56-15]

PART 125—IDENTIFICATION CREDENTIALS FOR PERSONS REQUIRING ACCESS TO WATERFRONT FACILITIES OR VESSELS

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Executive Order 10173, as amended, Part 125 is amended to read as follows:

Sec.

Sec.
125.45 Action by Commandant.
125.47 Appeals.
125.49 Action by Commandant after appeal.
125.51 Replacement of lost Coast Guard Port Security Card.
125.53 Requirements for credentials; certain vessels operating on navigable waters of the United States (including the Great Lakes and Western Rivers).
125.55 Outstanding Coast Guard Port Security Cards and Applications.
125.57 Applications previously denied.

AUTHORITY: §§ 125.01 to 125.57 issued under 40 Stat. 220, as amended; 50 U. S. C. 191; E. O. 10173, 15 F. R. 7005, 3 CFR, 1950 Supp., as amended by E. O. 10277, 16 F. R. 7537, 3 CFR, 1951 Supp., E. O. 10352, 17 F. R. 4607, 3 CFR, 1952 Supp. Interpret or apply: R. S. 4517, as amended, 4518, as amended, sec. 19, 23 Stat. 58, as amended, sec. 2, 23 Stat. 118, as amended, sec. 7, 49 Stat. 1936, as amended; 46 U. S. C. 570, 571, 572, 2, 689.

§ 125.01 *Commandant.* The term "Commandant" means Commandant of the Coast Guard.

§ 125.03 *District Commander.* The term "District Commander" means the officer of the Coast Guard designated by the Commandant to command a Coast Guard District.

§ 125.05 *Captain of the Port.* The term "Captain of the Port" means the officer of the Coast Guard, under the command of a District Commander, so designated by the Commandant for the purpose of giving immediate direction to Coast Guard law enforcement activities within the general proximity of the port in which he is situated.

§ 125.07 *Waterfront facility.* The term "waterfront facility," as used in this subchapter, means all piers, wharves, docks, and similar structures to which vessels may be secured, buildings on such structures or contiguous to them, and equipment and materials on such structures or in such buildings.

§ 125.09 *Identification credentials.* The term "Identification credentials," as used in this subchapter, means any of the following:

(a) Coast Guard Port Security Card (Form CG 2514).

(b) Merchant Mariner's Document bearing special validation endorsement for emergency service.

(c) Armed Forces Identification Card.

(d) Identification credentials issued by Federal Law enforcement and intelligence agencies to their officers and employees (e. g., Department of the Treasury, Department of Justice, Federal Communications Commission).

(e) Identification credentials issued to public safety officials (e. g., police, firemen) when acting within the scope of their employment.

(f) Such other identification as may be approved by the Commandant from time to time.

§ 125.11 *Form of Coast Guard Port Security Card.* The Coast Guard Port Security Card issued by the Coast Guard under the provisions of this subchapter shall be a laminated card bearing photograph, signature, fingerprint, and personal description of the holder, and other pertinent data.

§ 125.13 *Captain of the Port Identification Cards.* Captain of the Port Identification Cards issued under the form designation "Form CG 2514" prior to the revision of August 1950 were declared invalid by a notice published in the FEDERAL REGISTER on September 11, 1946 (11 F. R. 10103), which declaration is hereby reaffirmed.

§ 125.15 *Access to waterfront facilities, and port and harbor areas, including vessels and harbor craft therein.* (a) The Commandant will, from time to time, direct Captains of the Port of certain ports to prevent access of persons who do not possess one or more of the identification credentials listed in § 125.09 to those waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, where the following shipping activities are conducted:

(1) Those vital to the Military Defense Assistance Program.

(2) Those pertaining to the support of U. S. military operations.

(3) Those pertaining to loading and unloading explosives and other dangerous cargo.

(b) No person who does not possess one of the identification credentials aforesaid shall enter or remain in such facilities, or port or harbor areas, including vessels and harbor craft therein.

(c) The Captain of the port shall give local public notice of the restriction of access to waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, as far in advance as practicable, and shall cause such facilities and areas to be suitably marked as to such restriction.

§ 125.17 *Persons eligible for Coast Guard Port Security Cards.* Only the following persons may be issued Coast Guard Port Security Cards:

(a) Persons regularly employed on vessels or on waterfront facilities.

(b) Persons having regular public or private business connected with the operation, maintenance, or administration of vessels, their cargoes, or waterfront facilities.

§ 125.19 *Standards.* Information concerning an applicant for a Coast Guard Port Security Card, or a holder of such card, which may preclude a determination that his character and habits of life are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, shall relate to the following:

(a) Advocacy of the overthrow or alteration of the Government of the United States by unconstitutional means.

(b) Commission of, or attempts or preparations to commit, an act of espionage, sabotage, sedition or treason, or conspiring with, or aiding or abetting another to commit such an act.

(c) Performing, or attempting to perform, duties or otherwise acting so as to serve the interests of another government to the detriment of the United States.

(d) Deliberate unauthorized disclosure of classified defense information.

(e) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons designated by the Attorney General pursuant to Executive Order 10450, as amended.

(f) Having been adjudged insane, having been legally committed to an insane asylum, or treated for serious mental or neurological disorder, without evidence of cure.

(g) Having been convicted of any of the following offenses, indicative of a criminal tendency potentially dangerous to the security of such waterfront facilities and port and harbor areas, including vessels and harbor craft therein; arson, unlawful trafficking in drugs, espionage, sabotage, or treason.

(h) Drunkenness on the job or addiction to the use of narcotic drugs, without adequate evidence of rehabilitation.

(i) Illegal presence in the United States, its territories or possessions; having been found finally subject to deportation order by the United States Immigration and Naturalization Service.

§ 125.21 *Applications.* (a) Applications for a Coast Guard Port Security Card shall be made under oath upon a form prescribed by the Commandant.

(b) In addition to the information required by the form prescribed by the Commandant, the form shall require applicant's complete identification, citizenship record, personal description, military record, if any, and a statement of the applicant's sponsor certifying the applicant's employment or union membership and that applicant's statements are true and correct to the best of sponsor's knowledge.

(c) The application shall be accompanied by two unmounted, dull finish photographs, 1 inch x 1 1/16 inches, of passport type, taken within one year of the date of application. The photograph shall show the full face with the head uncovered and shall be a clear and satisfactory likeness of the applicant. It shall portray the largest image of the head and upper shoulders possible within the dimensions specified.

(d) Fingerprint records on each applicant shall be taken by the Coast Guard at the time application is submitted.

(e) The applicant shall present satisfactory proof of his citizenship.

(f) The applicant shall indicate the address to which his Coast Guard Port Security Card can be delivered to him by mail. Under special circumstances the applicant may arrange to call in person for the Coast Guard Port Security Card.

(g) The applicant shall present his application, in person, to a Coast Guard Port Security Unit designated to receive such applications. Such units will be located in or near each port where Coast Guard Port Security Cards are required. Each Captain of the Port shall forward promptly to the Commandant each application for a Coast Guard Port Security Card received by him.

§ 125.23 *United States citizens.* Acceptable evidence of United States citizenship is described in this section in the order of its desirability; however, the Coast Guard will reject any evidence not believed to be authentic;

(a) Birth certificate or certified copy thereof.

(b) Certificate of naturalization. This shall be presented by all persons claiming citizenship through naturalization.

(c) Baptismal certificate or parish record recorded within one year after birth.

(d) Statement of a practicing physician certifying that he attended the birth and that he has a record in his possession showing the date and place of birth.

(e) United States passport.

(f) A commission in one of the armed forces of the United States, either regular or reserve; or satisfactory documentary evidence of having been commissioned in one of the armed forces subsequent to January 1, 1936, provided such commission or evidence shows the holder to be a citizen.

(g) A continuous discharge book, or Merchant Mariner's Document issued by the Coast Guard which shows the holder to be a citizen of the United States.

(h) If an applicant claiming to be a citizen of the United States submits a delayed certificate of birth issued under a State's seal, it may be accepted as prima facie evidence of citizenship if no one of the requirements in paragraphs (a) to (g) of this section can be met by the applicant and in the absence of any collateral facts indicating fraud in its procurement.

(i) If no one of the requirements in paragraphs (a) to (h) of this section can be met by the applicant, he should make a statement to that effect, and in an attempt to establish citizenship, he may submit for consideration data of the following character:

(1) Report of the Census Bureau showing the earliest record of age or birth available. Request for such information should be addressed to the Director of the Census, Washington 25, D. C. In making such request, definite information must be furnished the Census Bureau as to the place of residence when the first census was taken after the birth of the applicant, giving the name of the street and the number of the house, or other identification of place where living, etc.; also names of parents or the names of other persons with whom residing on the date specified.

(2) School records, immigration records, or insurance policies (the latter must be at least 10 years old).

§ 125.25 *Aliens.* Alien registration records together with other papers and documents which indicate the country of which the applicant is a citizen shall be accepted as evidence of citizenship in a foreign nation.

§ 125.27 *Sponsorship of applicant.* Applications for a Coast Guard Port Security Card shall not be accepted unless sponsored. The applicant shall be sponsored by an authorized official of applicant's employer or by an authorized official of applicant's labor union. Each company and each labor union concerned shall file with the appropriate Captain of the Port a list of officials of the company or union who are authorized to sponsor applicants. Other sponsorship may be accepted where the circumstances warrant.

§ 125.29 *Insufficient information.* (a) If an application received by the Commandant does not contain replies sufficiently complete in his judgment for a determination whether the character and habits of life of the applicant are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, the Commandant, in an effort to avoid additional proceedings through credible explanation or to confine further inquiry to matters tending to prove or disprove unfavorable information, shall notify the applicant to submit under oath in writing or orally such further information as may be required for such determination.

(b) Upon receipt of a complete application and such further information as the Commandant may have required in those cases where the application as first submitted, was not deemed sufficient, a committee composed of a representative of the Legal Division, of the Merchant Vessel Personnel Division, and of the Intelligence Division, Coast Guard Headquarters, shall prepare an analysis of the information available to the Commandant and make recommendations for action by the Commandant.

§ 125.31 *Approval of applicant by Commandant.* (a) If the Commandant is satisfied that the character and habits of life of the applicant are not such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would be inimical to the security of the United States, he will direct that a Coast Guard Port Security Card be issued to the applicant.

(b) If the Commandant is not satisfied that the character and habits of life of the applicant are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he will notify the applicant in writing as provided for in § 125.35.

§ 125.33 *Holders of Coast Guard Port Security Card.* (a) Whenever the Commandant is not satisfied that the character and habits of life of a holder of a Coast Guard Port Security Card are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he will request from the holder under the procedures provided for in § 125.29 (a), replies under oath to such questions as he deems necessary to reach a determination on this issue.

(b) If the holder does not submit complete replies within 30 days after receipt of the request, the Commandant shall revoke and require the surrender of his Coast Guard Port Security Card.

(c) Upon receipt of complete replies and such other information as the Commandant may have required, the procedure prescribed in § 125.29 (b) shall be followed.

(d) If the Commandant is satisfied that the character and habits of life of the holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he shall notify the holder accordingly.

(e) If the Commandant is not satisfied that the character and habits of life of the holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he shall notify the holder in writing as provided for in § 125.35.

§ 125.35 *Notice by Commandant.* (a) The notice provided for in §§ 125.31 and 125.33 shall contain a statement of the reasons why the Commandant is not satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States. Such notice shall be as specific and detailed as the interests of national security shall permit and shall include pertinent information such as names, dates, and places in such detail as to permit reasonable answer.

(b) The applicant or holder shall have 20 days from the date of receipt of the notice of reasons to file written answer thereto. Such answer may include statements or affidavits by third parties or such other documents or evidence as the applicant or holder deems pertinent to the matters in question.

(c) Upon receipt of such answer the procedure prescribed in § 125.29 (b) shall be followed.

(d) If the Commandant is satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he shall, in the case of an applicant, direct that a Coast Guard Port Security Card be issued to the applicant, or, in the case of a holder, notify him accordingly.

(e) If the Commandant is not satisfied that the applicant's or holder's character and habits of life are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, the Commandant shall refer the matter to a Hearing Board for hearing and recommendation in accordance with the provisions of this part.

§ 125.37 *Hearing Boards.* The Commandant may establish a Hearing Board in each Coast Guard District. The Commandant shall designate for each Hearing Board a Chairman, who shall be, so far as practicable, an officer of the Coast Guard. The Commandant shall designate, so far as practicable, a second member from a panel of persons representing labor named by the Secretary of Labor, and a third member from a panel of persons representing management named by the Secretary of Labor.

§ 125.39 *Notice by Hearing Board.* Whenever the Commandant refers a matter to a Hearing Board, the Chairman shall:

(a) Fix the time and place of the hearing;

(b) Inform the applicant or holder of the names of the members of the Hearing Board, their occupations, and the businesses or organizations with which they are affiliated, of his privilege of challenge, and of the time and place of the hearing;

(c) Inform the applicant or holder of his privilege to appear before the Hearing Board in person or by counsel or representative of his choice, and to present testimonial and documentary evidence in his behalf, and to cross-examine any witnesses appearing before the Board; and

(d) Inform the applicant or holder that if within 10 days after receipt of the notice he does not request an opportunity to appear before the Hearing Board, either in person or by counsel or representative, the Hearing Board will proceed without further notice to him.

§ 125.41 *Challenges.* Within five days after receipt of the notice described in § 125.39 the applicant or holder may request disqualification of any member of the Hearing Board on the grounds of personal bias or other cause. The request shall be accompanied by an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification. The affidavit may be supplemented by an oral presentation if desired. If after due consideration the Chairman believes a challenged member is qualified notwithstanding the challenge, he shall notify the person who made the challenge and arrange to proceed with the hearing. If the person who made the challenge takes exception to the ruling of the Chairman, the exception and data relating to the claim of disqualification shall be made a matter of record. If the Chairman finds that there is reasonable ground for disqualification he shall furnish the person who made the challenge with the name of an alternate in lieu of the challenged member and arrange to proceed with the hearing. In the event the Chairman is challenged, he shall forthwith notify the Commandant, furnishing the grounds for the claim of disqualification, and the Commandant shall act upon the challenge in accordance with the foregoing procedure. In addition to the right to challenge for cause, a person who has requested a hearing shall have two peremptory challenges, one challenge for the management member and one challenge for the labor member of the Hearing Board. Should the management member be so challenged, the person who made the challenge may elect to have the management member replaced by another management member or by a member not representing either management or labor; if the member peremptorily challenged represents labor, the person who made the challenge may elect to have the labor member replaced by another labor member or by a member not representing either management or labor.

§ 125.43 *Hearing procedure.* (a) Hearings shall be conducted in an orderly manner and in a serious, business-like atmosphere of dignity and decorum and shall be expedited as much as possible.

(b) The hearing shall be in open or closed session at the option of the applicant or holder.

(c) Testimony before the Hearing Board shall be given under oath or affirmation.

(d) The Chairman of the Hearing Board shall inform the applicant or holder of his right to:

(1) Participate in the hearing;

(2) Be represented by counsel of his choice;

(3) Present witnesses and offer other evidence in his own behalf and in refutation of the reasons set forth in the Notice of the Commandant; and

(4) Cross-examine any witnesses offered in support of such reasons.

(e) Hearings shall be opened by the reading of the Notice of the Commandant and the answer thereto. Any statement and affidavits filed by the applicant or holder may be incorporated in the record by reference.

(f) The Hearing Board may, in its discretion, invite any person to appear at the hearing and testify. However, the Board shall not be bound by the testimony of such witness by reason of having called him and shall have full right to cross-examine the witness. Every effort shall be made to produce material witnesses to testify in support of the reasons set forth in the Notice of the Commandant, in order that such witnesses may be confronted and cross-examined by the applicant or holder.

(g) The applicant or holder may introduce such evidence as may be relevant and pertinent. Rules of evidence shall not be binding on the Hearing Board, but reasonable restrictions may be imposed as to the relevancy, competency and materiality of matters considered. If the applicant or holder is, or may be, handicapped by the non-disclosure to him of confidential sources, or by the failure of witnesses to appear, the Hearing Board shall take the fact into consideration.

(h) The applicant or holder or his counsel or representative shall have the right to control the sequence of witnesses called by him.

(i) The Hearing Board shall give due consideration to documentary evidence developed by investigation, including membership cards, petitions bearing the applicant's or holder's signature, books, treatises or articles written by the applicant or holder and testimony by the applicant or holder before duly constituted authority.

(j) Complete verbatim stenographic transcription shall be made of the hearing by qualified reporters and the transcript shall constitute a permanent part of the record. Upon request, the applicant or holder or his counsel or representative shall be furnished, without cost, a copy of the transcript of the hearing.

(k) The Board shall reach its conclusion and base its determination on information presented at the hearing, together with such other information as may have been developed through investigation and inquiries or made available by the applicant or holder.

(l) If the applicant or holder fails, without good cause shown to the satisfaction of the chairman, to appear personally or to be represented before the Hearing Board, the Board shall proceed with consideration of the matter.

(m) The recommendation of the Hearing Board shall be in writing and shall be signed by all members of the Board. The Board shall forward to the Commandant, with its recommendation, a memorandum of reasons in support thereof. Should any member be in disagreement with the majority a dissent should be noted setting forth the reasons therefor. The recommendation of the Board, together with the complete record of the case, shall be sent to the Commandant as expeditiously as possible.

§ 125.45 *Action by Commandant.* (a) If, upon receipt of the Board's recommendation, the Commandant is satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he shall, in the case of an applicant, direct that a Coast Guard Port Security Card be issued to the applicant, or, in the case of a holder, notify him accordingly.

(b) If, upon receipt of the Board's recommendation, the Commandant is not satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, the Commandant shall:

(1) In the case of an applicant, notify him that a Coast Guard Port Security Card will not be issued to the applicant, or,

(2) In the case of a holder, revoke and require the surrender of his Coast Guard Port Security Card.

(c) Such applicant or holder shall be notified of his right, and shall have 20 days from the receipt of such notice within which, to appeal under this part.

§ 125.47 *Appeals.* (a) The Commandant shall establish at Coast Guard Headquarters, Washington, D. C., an Appeal Board to hear appeals provided for in this part. The Commandant shall designate for the Appeal Board a Chairman, who shall be, so far as practicable, an officer of the Coast Guard. The Com-

mandant shall designate, so far as practicable, a member from a panel of persons representing management nominated by the Secretary of Labor, and a member from a panel of persons representing labor nominated by the Secretary of Labor. The Commandant shall insure that persons designated as Appeal Board members have suitable security clearance. The Chairman of the Appeal Board shall make all arrangements incident to the business of the Appeal Board.

(b) If an applicant or holder appeals to the Appeal Board within 20 days after receipt of notice of his right to appeal under this part, his appeal shall be handled under the same procedure as that specified in § 125.39, and the privilege of challenge may be exercised through the same procedure as that specified in § 125.41.

(c) Appeal Board proceedings shall be conducted in the same manner as that specified in § 125.43.

§ 125.49 *Action by Commandant after appeal.* (a) If, upon receipt of the Appeal Board's recommendation, the Commandant is satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he shall, in the case of an applicant, direct that a Coast Guard Port Security Card be issued to the applicant, or in the case of a holder, notify him accordingly.

(b) If, upon receipt of the Appeal Board's recommendation, the Commandant is not satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, the Commandant shall notify the applicant or holder that his appeal is denied.

§ 125.51 *Replacement of lost Coast Guard Port Security Card.* (a) Any person whose Coast Guard Port Security Card has been stolen, lost or destroyed shall report that fact to a Coast Guard Port Security Unit or Captain of the Port as soon thereafter as possible.

(b) A person who has lost a Coast Guard Port Security Card may apply for a replacement card by submitting "An Application for Replacement of Lost Port Security Card" (Form CG 2685A) to a Coast Guard Port Security Unit. A replacement will be issued only after a full explanation of the loss of the Coast Guard Port Security Card is made in writing to the Coast Guard and after a full check is made and authorization is granted by the Commandant.

(c) Any person to whom a Coast Guard Port Security Card has been issued as a replacement for a lost card, shall immediately surrender the original card to the nearest Coast Guard Port Security Unit or Captain of the Port if the original card should be recovered.

§ 125.53 *Requirements for credentials; certain vessels operating on navigable waters of the United States (including the Great Lakes and Western Rivers).* (a) Every person desiring access to vessels, except public vessels, falling within any of the categories listed below, as a master, person in charge, or member of the crew thereof, shall be required to be in possession of one of the identification credentials listed in § 125.09.

(1) Towing vessels, barges, and lighters operating in the navigable waters of the continental United States (including the Great Lakes and Western Rivers).

(2) Harbor craft, such as water taxis, junk boats, garbage disposal boats, bum boats, supply boats, repair boats, and ship cleaning boats, which in the course of their normal operations service or contact vessels, foreign or domestic, public or merchant, in the navigable waters of the continental United States (including the Great Lakes and Western Rivers).

(b) The term "master, person in charge, or member of the crew" shall be deemed to include any person who serves on board in any capacity concerned with the operation, maintenance, or administration of the vessel or its cargo.

(c) Where the Coast Guard Port Security Card (Form CG 2514) is to be used as the identification required by paragraph (a) of this section, application for such card may be made immediately by the persons concerned. The issuance of the Coast Guard Port Security Card shall be in the form and manner prescribed by § 125.11.

(d) At the discretion of the District Commander any person desiring access to vessels of the categories named in this section, who may be required by the provisions hereof to possess identification credentials, may be furnished a letter signed by the District Commander or the Captain of the Port and this letter shall serve in lieu of a Coast Guard Port Security Card and will authorize such access for a period not to exceed 60 days, and such a letter issued shall be deemed to be satisfactory identification within the meaning of § 125.09. The issuance of the letter shall be subject to the following conditions:

(1) The services of the person are necessary to avoid delay in the operation of the vessel;

(2) The person does not possess one of the identification credentials listed in § 125.09.

(3) The person has filed his application for a Coast Guard Port Security Card or submits his application before the letter is issued; and,

(4) The person has been screened by the District Commander or Captain of the Port and such officer is satisfied concerning the eligibility of the applicant to receive a temporary letter.

§ 125.55 *Outstanding Coast Guard Port Security Cards and applications.* (a) Coast Guard Port Security Cards will be accepted as valid until cancelled, revoked, or suspended by proper authority.

(b) A person who has filed an application for a Coast Guard Port Security Card and who has not received such a document prior to May 1, 1956, shall submit a new application in accordance with the requirements of this part.

§ 125.57 *Applications previously denied.* A person who has been denied a Coast Guard Port Security Card before May 1, 1956, may file a new application for such a document in accordance with the requirements of this part.

It is hereby found that compliance with the notice of proposed rule making, public rule making procedures thereon, and effective date requirements of the Administrative Procedure Act is contrary to the public interest since this revision of 33 CFR Part 125 is to implement more effectively Executive Order 10173, as amended, and in the public interest should be placed in operation as soon as possible. This amendatory regulation shall become effective May 1, 1956.

Dated: April 27, 1956.

[SEAL] A. C. RICHMOND,
Vice Admiral, U. S. Coast Guard Commandant.

[F. R. Doc. 56-3462; Filed, May 1, 1956; 12:30 p. m.]

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

GULF OF MEXICO SOUTH OF APALACHEE BAY, FLORIDA

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), § 204.111 is hereby prescribed to govern the use and navigation of a danger zone in the waters of the Gulf of Mexico in the vicinity of Apalachee Bay, Florida, comprising an aerial rocket firing range, as follows:

§ 204.111 *Gulf of Mexico south of Apalachee Bay, Fla.; Air Force rocket firing range*—(a) *The danger zone.* An area about 45 statute miles wide and 60 statute miles long, approximately parallel to and about 30 miles off the west coast of Florida, south of Apalachee Bay. The area is bounded as follows: Beginning at latitude 29°42'30", longitude 84°40'00"; thence east along latitude 29°42'30" to longitude 84°00'00"; thence southeast to latitude 28°56'00", longitude 83°31'00"; thence southwest to latitude 28°37'00", longitude 84°11'00"; thence northwest to latitude 29°17'30", longitude 84°40'00"; thence northwest to latitude 29°32'00", longitude 85°00'00"; thence northeast along a line three miles off the meanderings of the shore to the point of beginning.

(b) *The regulations.* (1) The fact that aerial rocket firing will be conducted over the danger zone will be advertised to the public through the usual media for the dissemination of information. Inasmuch as such firing is likely to be conducted during the day or night throughout the year without regard to season, such advertising of firing will be repeated at intervals not exceeding three months and at more frequent intervals when in the opinion of the enforcing

agency, repetition is necessary in the interest of public safety.

(2) Prior to the conduct of rocket firing the area will be patrolled by aircraft to insure that no watercraft are within the danger zone and to warn any such watercraft seen in the vicinity that rocket firing is about to take place in the area. Low flight of aircraft across the bow will be used as a signal or warning.

(3) Any such watercraft shall, upon being so warned, immediately leave the area, and, until the conclusion of the firing, shall remain at such a distance that it will be safe from the fallout resulting from such rocket firing.

(4) The regulations in this section shall not deny access to or egress from harbors contiguous to the danger zone in the case of regular passenger or cargo carrying vessels proceeding to or from such harbors. In the case of the presence of any such vessel in the danger zone the officer in charge shall cause the cessation or postponement of fire until the vessel shall have cleared that part of the area in which it might be endangered by the fallout. The vessel shall proceed on its normal course and shall not delay its progress unnecessarily. Masters are requested to avoid the danger zone whenever possible so that interference with firing training may be minimized.

(c) The regulations in this section shall be enforced by the Commander, Moody Air Force Base, Valdosta, Georgia, and such agencies as he may designate.

[Regs., April 16, 1956, 800.2121 (Mexico, Gulf of)-ENCWO] (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. 56-3448; Filed, May 2, 1956; 8:46 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 1295]

UTAH, COLORADO, AND NEW MEXICO

PARTIALLY REVOKING PUBLIC LAND ORDERS NOS. 494, 779, 964, AND 1011, WHICH RESERVED PUBLIC LANDS AND MINERALS IN PATENTED LANDS FOR USE OF UNITED STATES ATOMIC ENERGY COMMISSION; REVOKING PUBLIC LAND ORDERS NOS. 745 AND 911

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:

1. Public Land Orders No. 494 of July 7, 1948, No. 779 of December 29, 1951 (as amended by Public Land Order No. 825 of May 13, 1952), No. 964 of May 13, 1954, and No. 1011 of September 21, 1954, withdrawing public lands and reserved minerals in patented lands for use of the United States Atomic Energy Commission, are hereby revoked so far as they affect the following-described lands:

UTAH

[38753]

In Public Land Order No. 494

SALT LAKE MERIDIAN

T. 24 S., R. 25 E.,
Secs. 24 to 27, inclusive;
Sec. 34, except lots 4 and 5;
Secs. 35 and 36.
T. 25 S., R. 25 E.,
Secs. 1, 2, and 3, unsurveyed;
Secs. 10, 11, and 12, unsurveyed.

The areas described aggregate 8,199.18 acres, of which surveyed section 36, containing 640 acres, is a State school section.

[Utah 08463]

In Public Land Order No. 1011

T. 36 S., R. 24 E.,
Secs. 33 and 34;
Sec. 35, W½.
T. 37 S., R. 24 E.,
Secs. 3, 4, 5, 8, and 9;
Sec. 10, N½.
T. 28 S., R. 26 E.,
Sec. 28;
Sec. 29, W½, SE¼, N½NE¼;
Sec. 30.

The areas described aggregate 6,622.76 acres.

COLORADO

[38753]

In Public Land Order No. 779 as amended by Public Land Order No. 825

NEW MEXICO PRINCIPAL MERIDIAN

T. 46 N., R. 17 W.,
Sec. 7, lots 3, 4, E½SW¼.
T. 46 N., R. 18 W.,
Sec. 1, lots 3, 4, S½NW¼, SW¼;
Secs. 2 to 18, inclusive;
Sec. 19, lots 1, 2, E½NW¼, E½;
Secs. 20 to 24, inclusive;
Sec. 30, E½.
T. 47 N., R. 18 W.,
Secs. 33 and 34;
Sec. 35, S½.
T. 46 N., R. 19 W.,
Secs. 1, 12, and 13, unsurveyed;
Sec. 24, N½, unsurveyed.

The areas described aggregate 19,192.38 acres, of which lot 3, sec. 1, containing 39.98 acres, is patented land with no mineral reservation to the United States.

NEW MEXICO

[New Mexico 010206]

In Public Land Order No. 964

NEW MEXICO PRINCIPAL MERIDIAN

T. 12 N., R. 9 W.,
Secs. 3 and 4;
Sec. 8, lots 5, 6, 11, and 12;
Secs. 10, 14, and 15;
Sec. 20, E½;
Secs. 22 and 27;
Sec. 28, N½, SW¼;
Sec. 34, NE¼NW¼, N½NE¼, S½, and SE¼NE¼.
T. 13 N., R. 9 W.,
Sec. 20;
Sec. 22, SE¼, S½SW¼, and NE¼SW¼;
Sec. 27;
Sec. 28, E½E½;
Sec. 30, lots 1, 2, E½NW¼, N½NE¼, and S½SE¼;
Sec. 32, SW¼;
Sec. 34.
T. 13 N., R. 10 W.,
Sec. 14, E½;
Sec. 18, lots 1, 2, E½NW¼;
Sec. 24.
T. 14 N., R. 11 W.,
Secs. 6 and 8;
Sec. 18, lots 3, 4, E½SW¼, and SE¼;
Sec. 20, NW¼;
Sec. 28.

The areas described, including both public and non-public lands, aggregate 11,875.81 acres, of which 2,111.23 acres are patented lands with minerals reserved to the United States.

COLORADO

[Colorado 06823]

2. Public Land Order No. 911 of August 7, 1953, as amended by Public Land Order No. 915 of September 23, 1953, withdrawing the following-described public lands in Colorado for use of the Atomic Energy Commission, is hereby revoked:

NEW MEXICO PRINCIPAL MERIDIAN

T. 47 N., R. 20 W.,
Sec. 1;
Secs. 2, 10, and 11, unsurveyed.

The areas described aggregate 2,560.96 acres.

UTAH

[38753]

3. Public Land Order No. 745 of August 16, 1951, which was partially revoked by Public Land Order No. 1223 of September 13, 1955, is hereby revoked in its entirety. The following-described lands are hereby released from the withdrawal made by that order:

SALT LAKE MERIDIAN

T. 22 S., R. 21 E.,
Secs. 25 to 28, inclusive;
Secs. 31 to 36, inclusive.
T. 23 S., R. 21 E.,
Secs. 1 to 6, inclusive.
T. 22 S., R. 22 E.,
Secs. 19, 20, 29, 30, 31, and 32.

The areas described aggregate 12,517.74 acres, of which 2,317.76 acres in sections 2, 32, and 36 are State lands.

4. The following lands in the areas described in paragraph 1 of this order have been patented with a reservation of the minerals to the United States:

NEW MEXICO

NEW MEXICO PRINCIPAL MERIDIAN

T. 12 N., R. 9 W.,
Sec. 4, lots 5, 6, 11, 12, 13, 14, 18, and 20;
Sec. 8, lots 5, 6, 11, 12;
Sec. 20, E½;
Sec. 28, NE¼, SW¼.
T. 13 N., R. 9 W.,
Sec. 32, SW¼.
T. 14 N., R. 11 W.,
Sec. 6;
Sec. 18, lots 3, 4, E½SW¼, and SE¼.

The areas described aggregate 2,111.23 acres.

5. The following lands in the areas described in paragraph 1 of this order, which comprise a part of the national forests hereinafter designated, shall be opened, subject to any valid existing rights and the requirements of applicable law, to such applications, selection, and locations as are permitted on national forest lands effective at 10:00 a. m. on

UTAH

SALT LAKE MERIDIAN

MANTI-LASAL NATIONAL FOREST

T. 25 S., R. 25 E.,
Secs. 2, 3, 10, and 11, unsurveyed.

T. 28 S., R. 26 E.,
Sec. 28, lots 1, 2, and W½NW¼;
Sec. 29, N½;
Sec. 30.

The areas described aggregate approximately 3,680 acres.

NEW MEXICO

NEW MEXICO PRINCIPAL MERIDIAN

CIBOLA NATIONAL FOREST

T. 12 N., R. 9 W.,
Sec. 3;
Secs. 10, 14, 15, 22, and 27;
Sec. 34, NE¼NW¼, N½NE¼, S½, and SE¼NE¼.
T. 13 N., R. 9 W.,
Secs. 27 and 34.

The areas described aggregate 5,600 acres.

6. The lands covered by Public Land Orders No. 494, No. 745, and No. 1011, are grazing lands within Utah Grazing Districts No. 6 and 9. Vegetation consists of grasses and desert shrubs. The lands covered by Public Land Order No. 964 are located in Valencia and McKinley Counties, New Mexico. The topography ranges from rolling to steep hills and the vegetative cover consists of grasses and desert shrubs. The lands covered by Public Land Orders No. 779, No. 825, and No. 911, are located in Montrose County, Colorado, and are valuable for grazing.

7. No application for the restored 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.

8. Subject to any valid existing rights and the requirements of applicable law, the public lands released from withdrawal by this order, are hereby opened to filing of applications, selections, and locations in accordance with the following; the unsurveyed lands being opened to such applications, selections, and locations as are allowable on unsurveyed lands.

a. Applications and selections under the nonmineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications for surveyed lands under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284) as amended, presented prior to 10:00 a. m. on June 1, 1956, will be considered as simultaneously filed at that hour. Rights under such preference-right applications filed after that hour and before 10:00 a. m. on August 31, 1956, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs 8 (a) (1) and 8 (a) (2) above, presented prior to 10:00 a. m. on August 31, 1956, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands have been open to applications and offers under the mineral-leasing laws. They will be open to location under the United States mining laws beginning at 10:00 a. m. on August 31, 1956.

9. Persons claiming veterans preference rights under paragraph 8 (a) (2) above, must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

10. Initial exploration of the withdrawn lands was in the nature of a preliminary appraisal by widespaced investigative drilling, which, while not conclusive, has led to a determination that more extensive exploration of the areas is not justified. Over large areas no physical exploration at all has been done due to the negative aspect of the preliminary appraisal.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Salt Lake City, Utah, Denver, Colorado, or Santa Fe, New Mexico, depending upon the State where the lands are located.

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

[F. R. Doc. 56-3449; Filed, May 2, 1956; 8:46 a. m.]

[Public Land Order 1296]

[Anchorage 012686]

ALASKA

REVOKING EXECUTIVE ORDER NO. 1133 OF OCTOBER 19, 1909, WITHDRAWING PORTIONS OF RELEASED LANDS FOR USE OF CIVIL AERONAUTICS ADMINISTRATION AND UNITED STATES COAST GUARD

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, and section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U. S. C. 214), it is ordered as follows:

1. Executive Order No. 1133 of October 19, 1909, which reserved the following-described lands for naval purposes for use as a wireless telegraph station, is hereby revoked:

Biorka Island, identified by U. S. Survey No. 406, situate in Sitka Sound in approximate latitude 56°51' North, longitude 135° 33' West from Greenwich.

The area described contains 1,631.89 acres of public lands and 44.50 acres of non-public lands.

2. Subject to valid existing rights, the following-described public lands, which are a portion of the lands released from the withdrawal by paragraph 1 of this order, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and the mineral-leasing laws, and reserved as indicated:

(a) For use of the Civil Aeronautics Administration in connection with the operation and maintenance of air navigation facilities:

Beginning at M. C. No. 1 of U. S. Survey No. 406 of the U. S. Naval Reserve at Biorka Island, Territory of Alaska, on the shoreline of Symonds Bay, thence

West 1,242.12 feet (18.82 chs.) to Corner No. 2;
South 682.44 feet (10.34 chs.) to Corner No. 3;
East 1,176.78 feet (17.83 chs.) to M. C. No. 4 of Survey 406;
S. 23° 55' W. 1,090.98 feet (16.53 chs.);
S. 13° 14' W. 450.12 feet (6.82 chs.);
N. 68° 23' W. 2,900.04 feet (44.00 chs.);
North 1,859.88 feet (28.18 chs.);
East 3,186.48 feet (48.27 chs.);
S. 5° 22' W. 430.98 feet (6.53 chs.);
S. 22° 48' E. 413.82 feet (6.27 chs.) to the point of beginning.

The area described contains 155.51 acres.

(b) For use of the United States Coast Guard in connection with the operation and maintenance of a loran transmitting station:

Beginning at a point on the west shore of Rocky Cove from which M. C. No. 4, U. S. Survey No. 406 bears N. 13° 14' E., 450.12 feet and N. 23° 55' E., 1,090.98 feet, thence

N. 68° 23' W. 2,900.04 feet (44.00 chs);
North 1,859.88 feet (28.181 chs);
N. 62° 40' W. 2,099.988 feet (31,818 chs.);
West to line of mean hide tide on west shore of Biorka Island.
Southerly, easterly, and northerly along line of mean high tide of Biorka Island to point of beginning.

The tract described contains 784 acres.

3. The remaining lands aggregating 692.38 acres, which comprise a part of the Tongass National Forest, subject to any valid existing rights and the requirements of applicable law, shall be opened to such applications, selections, and locations as are permitted on national forest lands effective at 10:00 a. m. on June 2, 1956.

The withdrawals made by paragraph 2 of this order shall take precedence over but not otherwise affect the existing withdrawal of the lands for national forest purposes.

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

APRIL 27, 1956.

[F. R. Doc. 56-3450; Filed, May 2, 1956; 8:47 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 11550; FCC 56-384]

[Rules Amdt. 2-18]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

TABLE OF FREQUENCY ALLOCATIONS

In the matter of amendment of a portion of the Commission's Table of Frequency Allocations in § 2.104 of its rules covering the frequencies between 9800 and 13225 Mc.

1. At a session of the Federal Communications Commission held at its Offices in Washington, D. C., on the 25th day of April 1956;

2. The Commission having under consideration its proposal in the above entitled matter; and

3. It appearing that in accordance with the requirements of section 4 (a) of the Administrative Procedure Act, notice of proposed rule making in this matter which made provision for the submission of written comments by interested parties, was duly published in the FEDERAL REGISTER on November 30, 1955 (20 F. R. 8778), and that the period for the filing of comments has now expired; and

4. It further appearing that none of the six respondents in this proceeding objected to the proposed rule amendment; and

5. It further appearing that the American Telephone and Telegraph Company (AT&T) made certain specific recommendations relating to the manner in which the non-Government space under consideration should be utilized and that the National Committee for Utilities Radio made other though less detailed suggestions, and that such recommendations, regardless of their merit, are considered beyond the scope of the present proceeding, which was limited primarily to the matter of readjustment of certain spectrum space as between Government and non-Government radio services, and therefore such comments are considered more appropriate for submission to the Commission at such time as some readjustment in the allocation or suballocation of the non-Government bands among the several non-Government services is undertaken in a subsequent proceeding as indicated in paragraph 6 of the Notice of Proposed Rule Making; and

6. It further appearing that AT&T also recommended that the Commission's proposed designation of the band 10550–10700 Mc for fixed and mobile services be limited to fixed service, but that adoption of this recommendation at this time would tend to limit the Commission's flexibility in the above mentioned further allocation proceedings involving this part of the spectrum, and that an immediate decision on the point is not necessary; and

7. It further appearing that the public interest, convenience and necessity will be served by the amendments herein ordered, the authority for which is contained in sections 4 (i), 303 (c), (f) and (r) of the Communications Act of 1934, as amended;

8. *It is ordered*, That effective May 31, 1956, Part 2 of the Commission's rules is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 1954. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: April 30, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Amend Part 2 of the rules in the following particulars:

1. Amend § 2.104 (a) (5), *Table of frequency allocations*, to read as follows between 9800 and 10700 Mc.

Band (Mc) (5)	Allocation (6)	Band (Mc) (7)	Service (8)	Class of station (9)	Frequency (Mc) (10)	Nature of services of stations (11)
9,800-10,000 (US17)	G					
10,000-10,500	Amateur	10,000-10,500	Amateur	Amateur		Amateur.
10,500-10,550 (US1)	G, NG	10,500-10,550	Radio location.	Radio location (CW emission only).		Radio location.
10,550-10,700	NG	10,550-10,700 (NG1).	a. Fixed b. Mobile.			

2. Amend § 2.104 (a) (5), *Table of frequency allocations*, to read as follows between 13,200 and 16,000 Mc.

(5)	(6)	(7)	(8)	(9)	(10)	(11)
13,200-13,225	NG	13,200-13,225 (NG1).	a. Fixed b. Mobile			
13,225-16,000 US17	G					

3. Delete footnote US15 from the list of US Footnotes following the table of frequency allocations.

[F. R. Doc. 56-3476; Filed, May 2, 1956; 8:52 a. m.]

[Rules Amdt. 3-12]

PART 3—RADIO BROADCAST SERVICES

MISCELLANEOUS AMENDMENTS

Correction

In F. R. Doc. 56-3184, appearing at page 2659 of the issue for Wednesday, April 25, 1956, the last word of item 2 should read: "Leitfahigkeit."

[Docket No. 10887; FCC 56-373]

[Rules Amdts. 7-9, 8-14]

PART 7—STATIONS ON LAND IN THE MARITIME SERVICES

PART 8—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

TYPE ACCEPTANCE AND SPECIFIC LIMITATIONS FOR SPURIOUS EMISSIONS

1. On January 28, 1954, the Commission issued a notice of proposed rule making in the above-entitled matter. Announcement of the proposed rules appeared in the FEDERAL REGISTER, February 3, 1954. Comments were to be filed by April 2, 1954, and replies within ten days thereafter.

2. Comments were received from Aero Marine Radio Corporation, Aeronautical Radio, Inc., American Merchant Marine Institute, Inc., The American Waterways Operators, Inc., Applied Electronics Company, Inc., Bludworth Marine, Brunswick Navigation Company, Central Committee on Radio Facilities of the American Petroleum Institute, General Electric Company, The Joint Technical Advisory Committee, Lake Carriers' Association, Lorain County Radio Corporation, Mackay Radio and Telegraph Company, Inc., Port of San Diego Marine Radio Committee, Radiomarine Corporation of America, Ray Jefferson, Inc., Wm. C. Ryder, Southern California Marine Radio Council, and United States Power Squadrons.

3. One of the principal subjects of comment was with respect to the proposal to establish requirements for suppression of spurious emission in shipboard transmitters operating on frequencies below 30 Mc. The comments were directed generally toward two classes of spurious emission, one class (non-harmonic) relating to the sideband components distributed in the spectrum rather closely to and about the carrier frequency and the other class to the remaining harmonic and non-harmonic emission in the spectrum which for purposes of convenience will be referred to hereinafter as harmonic emission. Foremost among the objections relating to the proposed requirements for suppression of harmonic emission was that which asserted that application of the requirements would unnecessarily obsolete existing equipment. Other objections asserted that there was no reason to apply these requirements to certain categories of transmitters such as high frequency ship telegraph transmitters, medium frequency main and emergency ship telegraph transmitters, high frequency ship telephone transmitters, radiotelephone transmitters of lower power, and radiotelephone transmitters used on certain vessels navigating the Great Lakes. Related to these comments were those which questioned the

feasibility or necessity for the specific degree of harmonic suppression which would be required by the proposed rule. It was the consensus that the transmitters now in use should not be required to comply with the proposed rule; rather, interference should be handled on a case-to-case basis.

4. The Commission is of the opinion that it should exercise its regulatory authority so as to encourage and ensure the use of shipboard equipments which reflect the advancement of the radio art. Under this approach the absence at the moment of a specific interference evil requiring a specific remedy is no reason for not establishing and applying higher equipment standards. Section 8.108 of the rules now embodies such an approach by requiring that "* * * spurious emissions * * * be maintained at the lowest practicable level." However, if there is no specific problem requiring drastic measures, it is considered to be unreasonable to force the premature replacement of existing equipment. Since it now appears that the interference to the aviation services from harmonics of ship radiotelephone transmitters operating in the 2 Mc band has been substantially alleviated by the application of the certification requirement of § 8.351 (d) of the rules, and since there is no presently urgent problem concerning other categories of transmitters, the spurious emission requirements set forth in the finalized rule are not made applicable for some time to existing equipment. While under these circumstances it appears reasonable that existing equipment should be continued in service until it is no longer useful, it would appear equally reasonable that at some future date all equipment whether new or old should comply. This "cutoff" date has been set at 1963 or at least 7 years hence.

5. The remaining question as to harmonic suppression is that of determining, with respect to new equipment, what degree of harmonic suppression is practicable and consistent with the current and foreseeable future state of the radio art. Most of the comments adverted to a 40 db suppression value either without regard to the power of the transmitter or for transmitters with power less than certain specified levels. Radiomarine Corporation of America proposed attenuation values which, starting at 40 db for maximum authorized transmitter power of up to 5 watts, increased 3 db with each doubling of power. When expressed as a formula, the table is approximately equal to $35+10 \log_{10}$ (power in watts) db.

6. It is the Commission's view that the formula method of determining the required degree of suppression is preferable to the table method since abrupt changes in suppression between slightly different power values are avoided. The closest expression of the table of attenuation values proposed by the Commission in terms of a formula is the expression $40+10 \log_{10}$ (power in watts) db. On a comparative basis this formula generally requires less attenuation than the table method for powers up to 10 kilowatts. The difference in degree of required suppression, at power values where the formula does exceed the table method, is not regarded as being of practical significance and inasmuch as the maximum transmitter powers authorized under Part 8 of the Commission's rules are considerably less than 10 kilowatts the formula attenuation has not been limited to the 80 db maximum of the table method. The Commission is of the opinion that the suppression of harmonic emissions to the degree expressed by the formula is consistent with the state of the art and that new radiotelephone and radiotelegraph transmitters can be manufactured so as to provide the necessary degree of harmonic suppression. This opinion would appear to be substantiated to a considerable extent by the appearance on the market of multi-channel shipboard radiotelephone transmitters which are represented by the manufacturers to be capable of meeting the harmonic emission limitations adopted herein by the Commission. The development of equipment capable of meeting the proposed emission limitations has apparently been inspired by the availability of target standards and represents the careful application of heretofore available design techniques for the specific purpose of reducing the level of spurious emission. Taking into account the developments in radiotelephone equipment and the similarity of radiotelephone and telegraph transmitters insofar as the application of techniques for reducing harmonic emission is concerned, it is considered that multi-channel radiotelegraph transmitters capable of meeting the harmonic emission limitations will become available for installation in the two-year period before the harmonic emission limitations become applicable. Therefore, § 8.136 is ordered finalized herein in accordance with the foregoing.

7. The American Merchant Marine Institute, Inc., requested a hearing if these rules are to be made applicable to the radiotelegraph service. This request of the American Merchant Marine Institute, Inc., has been given due consideration. Its comments do not, however, show that a hearing would provide any additional relevant information not available for submission in writing; accordingly, the request of American Merchant Marine Institute, Inc., for a hearing is denied. For the same reason, and in consideration of the amortization period allowed for existing equipment in the finalized rules, the request of Aero Marine Radio Corporation for a hearing in these proceedings is denied.

8. With respect to attenuation of sideband components Mackay Radio and Telegraph Company commented in regard to radiotelephone equipments specifically that the emitted bandwidth requirements proposed by the Commission did not seem compatible with the extent of distortion normally encountered in a modulated stage. Radiomarine Corporation of America proposed attenuation levels for sideband components as a function of transmitter power similar to its proposals for harmonic emission. The Commission recognizes the problems associated with the limitations of emissions which are produced in the vicinity of the carrier during modulation. These problems involve not only transmitters operating aboard ship but transmitters operating in other services as well. A separate proceeding (Docket No. 11654) has been instituted for the purpose, among other matters, of establishing suitable attenuation standards for such non-harmonic emissions generally. Therefore, no substantive changes in Part 8 are being made in this respect in the instant proceeding. The limitations for equipment operating on frequencies under 30 Mc do not become applicable until June 1, 1958. The separate rule making proceeding on the general subject of limitation of non-harmonic spurious emissions (Docket No. 11654) is expected to be concluded sufficiently in advance of that date so as to provide appropriate advance notice of such limitations.

9. Various comments were filed regarding the proposed amendment of § 8.137 concerning automatic modulation limiters. Some of the comments concerned the value or necessity of a requirement for such a device. However, Part 8 of the rules of the Commission now contains a requirement that after 1960, all ship station radiotelephone transmitters (except those of 3 watts or less) incorporate such a device (as a result of Docket 9797, 16 F. R. 6037); the instant rule making was solely with respect to a possible change in date. In this regard, there was some objection to moving the 1960 date to an earlier date because of the effect on existing equipment. The existing 1960 date for the application of the requirement for a modulation limiter has, in effect, been moved to a 1963 date for existing equipment, and to an earlier date for new equipment. By making the emission limitations of § 8.136 and requirement for a modulation limiter coincident with the application of type acceptance, administrative procedures are simplified and the possible need for licensees to make successive equipment modifications is avoided.

10. The proposal to apply a type acceptance requirement to radiotelephone transmitters below 30 Mc elicited some support, particularly for application to new equipment. However, there was objection to the requirement apparently based on an apprehension that existing equipment might be prematurely obsoleted. The rules are finalized in this regard so that, as in the case with the harmonic suppression and modulation limiter requirements, type acceptance for existing equipment does not become compulsory until 1963. Radiotelephone transmitters, however, may be type accepted at any time in the interim period provided they are capable of meeting the requirements which become applicable to new radiotelephone installations beginning June 1, 1958. Other objections to the type acceptance requirement were based on expense because of possible fees in connection with securing type acceptance and because the procedure regarding type acceptance had not been finalized. However, since the date of the latter comment, Docket No. 10798 has been finalized by order adopted January 5, 1955, and a definite type acceptance procedure has thus been specified in Part 2 of the rules. The matter of fees

in connection with type acceptance is the subject of Docket No. 10869 and the determination as to the reasonableness of such fees will be made in those proceedings.

11. Other miscellaneous matters in connection with these proposed rules are as follows:

(a) There was some question raised as to the dates when the requirements concerning spurious emission limitations, modulation limiters and type acceptance should be applied to new equipment. Radiomarine Corporation of America suggested a date at least 9 months after adoption of the rules for type acceptance if no modulation limiter was required, and at least 18 months if such a device was required. The rules as finalized specify the date of June 1, 1958, for type acceptance of newly licensed equipment. This should permit sufficient time for manufacturers and new users to accommodate themselves to the requirements for modulation limiters and emission limitations which become applicable at the same time as type acceptance.

(b) There was a request that type acceptance procedures rather than type approval procedures be applied to ship radar equipments since they were not compulsory equipment and since minor equipment improvements would allegedly be hampered by type approval procedures. However, type approval is, as a matter of Commission policy, not limited to compulsory equipment (e. g., Citizens Radio equipment). Type approval is considered to be more appropriate than type acceptance for ship radar equipment because of its characteristic interference potentialities due to the use of pulse emission. Accordingly, the rules as finalized provide that radar equipment for ship radar stations must be type approved.

(c) There was a recommendation that § 8.108 of the rules be revised so as to delete the reference to emissions "capable of causing harmful interference." This recommendation was made in view of the fact that the rules proposed "definitive technical standards to determine whether or not a transmitter is capable of harmful interference." However, the rules as finalized herein do not apply these standards to all transmitters until 1963, nor do they define interference capability; hence, it is not considered that § 8.108 should now be changed as suggested. For the same reason the revision of the last sentence of § 8.108 as proposed by the Commission in its notice is not adopted.

(d) With regard to the certification as to harmonic attentuation now required by §§ 8.351 (d) and 8.369 for authorization and operation on 2738 kc and 2830 kc, provision is made in the rules so as to dispense with that certification if the equipment is type accepted.

(e) Certain changes have been incorporated in the rules relating to type acceptance and type approval for purposes of consistency with the procedures and requirements now specified in Part 2 of the rules. In this respect § 8.62 has been modified to allow changes in type accepted and type approved equipment of licensed stations which are made in accordance with the applicable provisions of Part 2.

12. In view of the foregoing: *It is ordered*, Under the authority contained in sections 4 (i), 303 (c) (e) (f) and (r) of the Communications Act of 1934, as amended, that Parts 7 and 8 of the Commission's rules are amended, effective June 5, 1956, as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 1954. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Adopted: April 26, 1956.

Released: April 30, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

A. Part 7 is amended as follows:

1. Section 7.8 (e) is amended to read:

(e) *Spurious emission.* Any emission from a station at a frequency or frequencies outside a frequency band of emission authorized for that station.

2. Section 7.8 (j) is deleted and the following new text substituted:

(j) *Frequency band of emission.* A frequency band of emission is a frequency band of which the two designated limiting frequencies are established by an emission-bandwidth referred to a particular carrier frequency. For the purpose of this definition, when a carrier is not present, a frequency normally coinciding with the center of the frequency band occupied by the emission is substituted therefor.

B. Part 8 is amended as follows:

1. Section 8.7 (e) is amended to read:

(e) *Spurious emission.* Any emission from a station at a frequency or frequencies outside a frequency band of emission authorized for that station.

2. Section 8.7 (jj) is deleted and the following new text substituted:

(jj) *Frequency band of emission.* A frequency band of emission is a frequency band of which the two designated limiting frequencies are established by an emission-bandwidth referred to a particular carrier frequency. For the purpose of this definition, when a carrier is not present, a frequency normally coinciding with the center of the frequency band occupied by the emission is substituted therefor.

3. Section 8.62 is amended to read:

§ 8.62 *Changes in equipment of licensed stations.* A licensed transmitter on board ship may be modified without making application to the Commission and without specific authorization from the Commission: *Provided*, (a) the change does not result in operation inconsistent with the rules of the Commission nor with the terms of the outstanding authorization for the station involved; (b) the change does not result in any impairment of the ability of the station licensee or the owner, operating agency, or shipmaster, to comply with any duty or obligation imposed by statute or international treaty or agreement for purposes of safety; (c) a description of the change is incorporated in the next application for renewal or modification of license; and (d) changes in type accepted and type approved equipment are made in accordance with the applicable provisions in Part 2 of these rules.

4. Section 8.136 is deleted and the following new text substituted:

§ 8.136 *Spurious emission limitations.* (a) With the exception of lifeboat transmitters, any spurious emission that may originate in any transmitter authorized in a ship station license or marine utility station license (other than a developmental station license) shall, when the transmitter is operating on any carrier frequency below 500 Mc, be within the following limitations: (The findings in Docket No. 11654 may modify these limitations.)

(1) Any emission appearing on any frequency removed from the actual carrier frequency by at least 50 percent but not more than 100 percent of the authorized emission bandwith, shall be not less than 25 decibels below the power of the carrier. Provided, that this requirement applies to carrier frequencies above 30 Mc only.

(2) Any emission appearing on a frequency removed from the actual carrier frequency by more than 100 percent of the authorized emission bandwidth shall be not less than $40+10 \log_{10}$ (power in watts) db below the power of the carrier where "power in watts" is the maximum "authorized transmitter power" in watts as such power is specifically defined in Section 8.7 (ii) without applying the power tolerance prescribed in § 8.110 (a).

(b) The requirements of subparagraph (2) of paragraph (a) of this section shall be applicable as follows:

(1) To any radio transmitter for which type acceptance is requested.

(2) To radio transmitters when operating on any frequency assignment above 30 Mc;

(3) After June 1, 1958, to radio transmitters when operating on any frequency assignment, including any assignment below 30 Mc. However, until requested to be authorized in a new or renewed station license issued in response to an application filed after June 1, 1963, transmitters licensed under this part prior to June 1, 1958, may (insofar as this requirement is concerned) continue to be authorized for operation on any frequency assignment below 30 Mc if so authorized in a station license issued to the same licensee or for a station on board the same vessel.

(c) Where an emission outside of the authorized emission bandwidth causes harmful interference to an authorized radio service, the Commission may require more attenuation of such emission than specified in the foregoing paragraphs of this section.

5. Section 8.137 (a) is amended to read:

§ 8.137 *Special requirements for radiotelephone transmitters.* (a) In order to be type accepted each radiotelephone transmitter shall automatically precent modulation in excess of 100

percent. This requirement, however, shall not apply to transmitters licensed for an authorized transmitter power not exceeding three watts. In the event the operation of any licensed radiotelephone transmitter causes harmful interference to any authorized radio service by reason of excessive modulation, the Commission may, in its discretion, require that the use of such transmitter be discontinued until it will automatically prevent modulation in excess of 100 per cent.

6. Section 8.137 (b) (4) is amended to read:

(4) The transmitter shall automatically prevent modulation in excess of 100 per cent.

7. Section 8.137 (c) is deleted and the following new text substituted therefor:

(c) The frequency deviation of each radiotelephone transmitter authorized in a ship station or marine utility station license (other than transmitters authorized solely for developmental stations) shall, with 100 per cent modulation applied, not exceed 15 kc when the transmitter is radiating class F1, F2 or F3 emission on any marine radiochannel within the frequency band 35 to 44 Mc, or within the frequency band 156.25 to 157.45 Mc.

8. Section 8.138 is amended to read:

§ 8.138 *Special requirements for ship-radar transmitters.* (a) Each radar transmitter authorized in a ship-radar station (other than in a developmental station) must be type-approved by the Commission, pursuant to the type approval procedure set forth in Part 2 of this chapter. In addition to meeting all other applicable requirements such transmitters shall comply with the limitations and conditions set forth in the following paragraphs.

(b) (1) The design and construction of the radar transmitter shall be such that, when properly installed, its use will not produce harmful interference to any other radiolocation service or any maritime mobile service;

(2) The radar transmitter shall not have means available for any external adjustment which can result in a deviation from the terms of the station authorization or any deviation from the applicable technical requirements for ship-radar stations stipulated in this part.

9. A new § 8.139 is added to read:

§ 8.139 *Acceptability of radiotelephone transmitters for licensing.* (a) Each radiotelephone transmitter authorized in a ship station or marine-utility station license (other than transmitters authorized solely for developmental stations) must be type accepted by the Commission. This requirement shall be applicable as follows:

To transmitters when operating on any frequency assignmnet above 30 Mc;

(2) After June 1, 1958 to transmitters when operating on any frequency assignment, including any assignment below 30 Mc. However, until requested to be authorized in a new or renewal license issued in response to an application filed after June 1, 1963, transmitters licensed under this part prior to June 1, 1958 may (insofar as this requirement is concerned) continue to be authorized for operation on any frequency assignment below 30 Mc if authorized in a station license issued to the same licensee or for a station on board the same vessel.

10. A new § 8.140 is added to read:

§ 8.140 *Type acceptance of equipment.* (a) Any manufacturer of a radio transmitter intended for use or used in ship stations or marine-utility stations may request type acceptance for such transmitters by following the type of acceptance procedure set forth in Part 2 of this chapter.

(b) Type acceptance of a radio transmitter may be requested also by an applicant for a station authorization by following the type acceptance procedure set forth in Part 2 of this chapter. Such transmitters, if type accepted, are not normally included on the Commission's "Radio Equipment List, Part C", but are individually enumerated on the respective authorization.

NOTE: Additional rules with respect to type acceptance are set forth in Part 2 of this chapter. Those rules include information with respect to withdrawal of type acceptance, modification of type accepted equipment and limitations on the finding upon which type acceptance is based.

(c) From time to time, the Commission will make public a list of equipment entitled "Radio Equipment List, Part C". Copies of this list are available for inspection at the Commission's offices in Washington, D. C. and at each of its field offices. This list will, with the exception set forth in paragraph (b) of this section, include equipment type approved and type accepted under this part.

11. Section 8.351 (d) (2) (i) is amended as follows: The table is amended by deleting the footnote designator 1 and by deleting footnote 1.

12. In § 8.351 (d) insert a new subparagraph (3) immediately following subdivision (ii) of subparagraph (2) of paragraph (d) and renumber the present subparagraphs (3) through (11) as (4) through (12). As amended, subparagraphs (3) through (12) read as follows:

(3) The requirements of subparagraphs (1) and (2) of this paragraph shall not apply to any transmitter which is type accepted by the Commission for licensing under this part on the frequency or frequencies concerned.

(4) Except in event of distress, use of the frequency 2206 kc in the Great Lakes area by ship stations of the United States is prohibited.

(5) The frequency 2182 kc is authorized for use on a shared basis primarily by ship stations and secondarily by coast stations.

(6) The frequency 2214 kc is authorized for use exclusively at locations at which interference is not caused to the service of any United States Government station.

(7) The frequency 2738 kc is authorized for use on a shared basis with ship stations of other countries, for the purpose hereinafter prescribed in this subpart.

(8) Use of the frequency 4067 kc in the Mississippi River system is authorized upon the express condition that interference shall not be caused to the service of any station which may have priority on the frequency or frequencies used for the service to which interference is caused.

(9) Use of the frequencies 6240 kc and 6455 kc, is authorized in the Mississippi River system upon the express condition that interference shall not be caused to the service of any station which may have priority on the frequency or frequencies used for the service to which interference is caused. In order to avoid such interference, transmission on these frequencies during the period from 8:00 p. m. until 5:00 a. m., c. s. t., is prohibited.

(10) The frequency 4372.4 kc may be used by ship stations on the Mississippi River and connecting inland waters (except the Great Lakes) which are not licensed to transmit on 6240 kc and/or 6455 kc.

(11) The frequencies 4372.4 kc and 8205.5 kc are authorized for use on the Mississippi River and connecting inland waters (except the Great Lakes), upon the express condition that transmission on these frequencies during the period from 8:00 p. m. until 5:00 a. m., c. s. t., is prohibited.

(12) Each carrier frequency which is not to be used prior to a specified beginning date, may be used under appropriate station authorization for test transmission during a period commencing not more than two months in advance of such specified beginning date; solely to determine whether an existing ship station is capable of proper technical operation on that particular radiochannel preparatory to the conduct of a normal service thereon: *Provided*, That harmful interference is not caused by such test transmission to the service of any other station.

13. Section 8.369 (a) (2) (ii) is amended to read as follows:

(ii) For ship-to-ship communication:

2638 kc and 156.3 Mc: For use in all areas;
2738 kc: For use in all areas except the Great Lakes and the Gulf of Mexico; provided that, unless the transmitter is type accepted under this part for licensing on this frequency or a certification in accordance with § 8.351 (d) has been submitted, use of the frequency is limited to test purposes as set forth in § 8.351 (d);
2830 kc: For use in the Gulf of Mexico; provided, that, unless the transmitter is type accepted under this part for licensing on this frequency or a certification in accordance with § 8.351 (d) has been submitted, use of the frequency is limited to test purposes as set forth in § 8.351 (d);
2003 kc: For use in the Great Lakes area, exclusively.

[F. R. Doc. 56-3477; Filed, May 2, 1956; 8:52 a. m.]

[Docket No. 9892; FCC 56-374]

[Rules Amdt. 13-5]

PART 13—COMMERCIAL RADIO OPERATORS

OPERATING AUTHORITY; AUTHORIZED POWER

In the matter of amendment of § 13.61 of Part 13 of the Commission's rules governing Commercial Radio Operators de-

fining the operating authority of holders of the Restricted Radiotelephone Operator Permit and the Aircraft Radiotelephone Operator Authorization.

1. The Commission, on April 27, 1955, approved a further notice of proposed rule making in the above-entitled matter. The notice was concerned with proposed amendment of Part 13 of the Commission's rules to place a 50-watt limit on the Restricted Radiotelephone Operator Permit and the Aircraft Radiotelephone Operator Authorization, with respect to ship and aircraft radio stations. The principal change introduced in the further notice was a proposal to apply the limitation only to stations having an international impact.

2. Upon considering this matter further, including the comments received, the Commission has decided that the differences in operating conditions between ship stations and aircraft stations are of sufficient significance to warrant separate treatment of the operator requirements heretofore dealt with jointly in this proceeding. *Accordingly, it is ordered,* That Docket 9892 be divided into two parts and that this Report and Order is concerned only with that part of Docket 9892 which relates to operator requirements for aircraft stations. The part of Docket 9892 relating to operator requirements for ship stations will be made the subject of a second further notice of proposed rule making.

3. The Commission has carefully considered all comments submitted but finds no basis for further modifying the proposal in Docket 9892 with respect to operator requirements for aircraft. There has been ample opportunity to file written comments and exhaustive comments have been received. In these circumstances it does not appear that the opportunity for oral argument requested by one of the respondents would be of material assistance to the Commission upon this matter. Accordingly, the request for permission to make oral presentation is denied. Some of the respondents requested that radio-telephone third-class operator permits that may have to be obtained as a result of this proceeding be granted "automatically" to all flight personnel already holding lower grade authorizations in order to minimize inconvenience and expense. The Commission has carefully considered these requests; however, it finds no sound basis on which it can fairly exempt such personnel from the normal procedure for qualifying for the higher grade permit. The Commission is allowing a period of two years in which to meet the new requirement and will facilitate and expedite the necessary licensing procedures within the means available in order that candidates may obtain the higher grade operator permit with as little inconvenience as possible to all parties concerned. Because of differences in the terms of the Restricted Radiotelephone Operator Permit and the Aircraft Radiotelephone Operator Authorization—the former is issued for the lifetime of the holder, the latter for five years—the Commission, in order to afford the same opportunity for all operators affected, will extend individual aircraft authorizations which expire during the two-year transition period to encompass the remainder of the period.

4. Authority for adoption of the amendments herein is contained in sections 4 (i), 303 (l) and 303 (r) of the Communications Act of 1934, as amended.

Accordingly, it is ordered, That effective August 1, 1956, Part 13 of the Commission's rules is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 1954. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Adopted: April 26, 1956.

Released: April 30, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Part 13 of the Commission's rules is amended as shown below:

1. Section 13.61 (h) is amended to read as follows:

(h) *Restricted radiotelephone operator permit.* Any station except: (1) Stations transmitting television, or

(2) Stations transmitting telegraphy by any type of the Morse code, or

(3) Any of the various classes of broadcast stations other than remote pickup, broadcast STL, and FM intercity relay stations, or

(4) Ship stations licensed to use telephony for communication with Class I coast stations on frequencies between 4000 kc and 30 Mc, or

(5) Radio stations provided on board vessels for safety purposes pursuant to statute or treatry, or

(6) Coast stations other than in the territory of Alaska while employing a frequency below 30 Mc: *Provided,* That the holder of this class of license may not operate any coast station at which the power in the antenna of the unmodulated carrier wave is authorized to exceed 250 watts; or

(7) Ship stations or aircraft stations other than those at which the installation is used solely for telephony: *Provided,* That the holder of this class of license may not operate in international service or on any frequency the use of which is shared with a foreign station, any aircraft station at which the authorized power in the antenna of the unmodulated carrier wave exceeds 50 watts;

(8) At a ship radar station the holder of this class of license may not supervise or be responsible for the performance of any adjustments or tests during or coincident with the installation, servicing or maintenance of the radar equipment while it is radiating energy: *Provided,* That nothing in this subparagraph shall be construed to prevent any person holding such a license from making replacements of fuses or of receiving-type tubes.

Provided, That, with respect to any station which the holder of this class of license may operate, (1) such operator is prohibited from making any adjustments that may result in improper transmitter operation, and (2) the equipment is so designed that the stability of the frequencies of the transmitter is maintained by the transmitter itself within the limits of tolerance specified by the station license, and none of the operations necessary to be performed during the course of normal rendition of the service of the station may cause off-frequency operation or result in any unauthorized radiation, and (3) any needed adjustments of the transmitter that may affect the proper operation of the station are regularly made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radiotelegraph, who shall be responsible for the proper functioning of the station equipment. (The 50-watt limit imposed by subparagraph (7) of this paragraph is applicable to all Restricted Radiotelephone Operator Permits issued on or after August 1, 1956, and to all permits of this class in force beginning two years from that date. "International Service" as used in subparagraph (7) is defined as a telecommunication service between any combination of offices or fixed, land or mobile stations which are in different countries or are subject to different countries.)

2. Section 13.61 is amended by adding new paragraph (i) as follows:

(i) *Aircraft radiotelephone operator authorization.* Aircraft stations at which the installation is used solely for telephony: *Provided,* That the holder of this class of license may not operate in international service or on any frequency the use of which is shared with a foreign station, any aircraft station at which the authorized power in the antenna of the unmodulated carrier wave exceeds 50 watts: *Provided,* That, with respect to any station which the holder of this class of license may operate, (1) such operator is prohibited from making any adjustments that may result in improper transmitter operation and (2) the equipment is so designed that the stability of the frequencies of the transmitter is maintained by the transmitter itself within the limits of tolerance specified by the station license, and none of the operations necessary to be performed during the course of normal rendition of the service of the station may cause off-frequency operation or result in any unauthorized radiation, and (3) any needed adjustments of the transmitter that may affect the proper operation of the station are regularly made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radiotelegraph, who shall be responsible for the proper functioning of the station equipment. (The 50-watt limit is applicable to all aircraft radiotelephone operator authorizations in force beginning with August 1, 1958. Aircraft radiotelephone authorizations held by persons affected by this Order, expiring within the two-year period immediately prior to that date, may be extended to encompass the remainder of the two-year period upon proper request made to any engineering

Field Office of the Commission. "International Service" is defined as a telecommunication service between any combination of offices or fixed, land or mobile stations which are in different countries or are subject to different countries.)

3. New § 13.76 is added as follows:

§ 13.76 *Authorized power.* The term "authorized power in the antenna of the unmodulated carrier wave" when used in this part to define operating authority under a particular class of operator license with respect to aircraft stations, means rated carrier power, unmodulated, of the transmitter or transmitters authorized in the aircraft station license.

[F. R. Doc. 56-3478; Filed, May 2, 1956; 8:52 a. m.]

[Docket No. 11306; FCC 56-367]

[Rules Amdt. 17-5]

PART 17—CONSTRUCTION, MARKING AND LIGHTING OF ANTENNA STRUCTURES

MISCELLANEOUS AMENDMENTS

In the matter of amendment of § 17.14 of the Commission's rules concerning certain antenna structures exempt from special aeronautical study.

1. The Commission has under consideration its notice of proposed rule making issued on March 17, 1955 (FCC 55-333), and published in the FEDERAL REGISTER on March 23, 1955 (20 F. R. 1743), proposing to amend § 17.14 of the Commission's rules insofar as this section exempts from special aeronautical study antenna additions of 20 feet or less to existing man-made structures. This amendment excludes existing antenna structures from the classification existing man-made structures.

2. The time for filing comments in this proceeding expired April 15, 1955. One comment supporting the proposed amendment was filed by the Air Transport Association of America. The single comment opposing the amendment is considered irrelevant since it gave no consideration to the increased aeronautical hazard inherent in any addition of 20 feet or less to an existing antenna structure which has been erected to the height which a regional airspace subcommittee had determined to be the maximum height acceptable to aviation interests.

3. Coincident with the adoption of this amendment to § 17.14, the Commission finds it desirable to make changes in § 17.3 *Form to be used to describe proposed antenna structures,* consistent with the amendment to § 17.14. Since these changes to § 17.3 are procedural in nature, the provisions of section 4 of the Administrative Procedure Act are inapplicable.

4. To bring into agreement the definition of an "antenna structure" stated in Part 17 with the over-all antenna height including appurtenances which the regional airspace subcommittees consider an integrated obstruction to air navigation, a change in the definition is ordered herein. Since the change is interpretative in nature the provisions of section 4 of the Administrative Procedure Act with respect to notice do not apply.

5. The authority for the adoption of the proposed rule making is contained in sections 4 (i), 303 (q) and (r) and 309 (b) of the Communications Act of 1934 as amended.

6. In view of the foregoing, *It is ordered,* That effective May 15, 1956, Part 17 is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 1954. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Adopted: April 25, 1956.

Released: April 30, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Amendment of Part 17, Construction, Marking and Lighting of Antenna Structures.

1. Section 17.2 (b) is amended to read as follows:

(b) *Antenna structures.* The term antenna structures includes the radiating system, its supporting structures and any surmounting appurtenances.

2. Section 17.3 is amended to read as follows:

§ 17.3 *Form to be used to describe proposed antenna structures.* Applications for radio facilities shall be accompanied by FCC Form 401-A (revised) for services other than broadcast[1] when:

(a) The antenna structures proposed to be erected will exceed an over-all height of 170 feet above ground level, except that where the antenna is mounted on top of an existing man-made structure other than an antenna structure and does not increase the over-all height of such man-made structure by more than 20 feet, no Form 401-A need be filed, or

(b) The antenna structures proposed to be erected will exceed an over-all height of 1 foot above the established airport (landing area) elevation for each 200 feet of distance, or fraction thereof, from the nearest boundary of such landing area, except that where the antenna does not exceed 20 feet above the ground or if the antenna is mounted on top of an existing man-made structure, other than an antenna structure, or natural formation and does not increase the over-all height of such man-made structure or natural formation by more than 20 feet, no Form 401-A need be filed.

3. Section 17.14 is amended to read as follows:

§ 17.14 *Certain antenna structures exempt from special aeronautical study.* Antenna structures 20' or less in height mounted on top of natural formations, and antenna structures increasing by 20' or less the height of existing man-made structures other than an existing antenna structure will not require special aeronautical study.

[F. R. Doc. 56-3479; Filed, May 2, 1956; 8:53 a. m.]

PROPOSED RULE MAKING

CIVIL AERONAUTICS BOARD

[14 CFR Parts 43, 44, 190]

[Civil Air Regs., Draft Release 56-11]

AIRWORTHINESS CERTIFICATION OF FOREIGN AIRCRAFT OPERATED IN UNITED STATES

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Civil Aeronautics Board has under consideration the adoption of proposed amendments to Parts 43, 44, and 190 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rules, communications must be received by July 2, 1956. Copies of such communications will be available after July 5, 1956, for examination by interested persons at the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

Section 43.10 of Part 43 of the Civil Air Regulations permits the Administrator to exempt foreign aircraft, authorized by him to be flown in the United States, from compliance with certain requirements applicable to domestic civil aircraft. The language of this section of Part 43 was originally predicated on the provisions of section 6 (c) of the Air Commerce Act of 1926 (as amended prior to August 8, 1953) which authorized the Administrator to issue special permits for foreign aircraft to be navigated in the United States. Since the amendment of August 8, 1953, divested the Administrator of such authority and vested it in the Board under section 6 (b) of the Air Commerce Act, it appears advisable to delete the obsolete provisions of § 43.10.

Foreign civil aircraft operated in the United States in accordance with Part 190 of the Civil Air Regulations are required to carry on board currently effective certificates of airworthiness issued

[1] FCC Form 301, Sec. V-G (antenna) shall be submitted with all broadcast applications.

or rendered valid by the country of registry. If the certificate of airworthiness becomes invalid because of damage to the aircraft, or for other reasons, it may be operated within the United States only upon special authorization of the Board in accordance with § 190.70. Normal processing of such authority may on occasion unduly delay the ferrying of an aircraft.

The Civil Air Regulations presently provide that the Administrator may issue special flight permits for civil aircraft of the United States which do not currently meet airworthiness standards but are found to be capable of safe flight. A special flight permit is intended to authorize the flight of an aircraft to a base where repairs or alterations are to be made, or to permit the delivery or export of the aircraft. The Board believes that the Administrator should be authorized under the same conditions to issue special flight permits to ferry foreign civil aircraft which have been damaged or which have had their certificates of airworthiness invalidated by the country of registry because of a change in nationality. Therefore, it is proposed to amend § 190.20 accordingly.

Recently the United States Air Force declared surplus a number of C–82 airplanes and offered them for sale. The Air Force and the Board gave notice to prospective purchasers that these airplanes could not meet the transport category requirements of Part 4b of the Civil Air Regulations without substantial and costly modifications. The airplane may be certificated under Part 8 of the Civil Air Regulations; however, when certificated under this part, the airplane is restricted to agricultural, industrial, or other special purposes, and cannot be used for the carriage of persons or cargo for compensation or hire.

Presently effective Parts 44 and 190 provide that foreign aircraft shall not be operated in the United States at weights in excess of the weights established by the country of manufacture. To preclude any uncertainty as to the eligibility of certain aircraft to qualify under the maximum weight limitations prescribed under United States airworthiness requirements, it is proposed to amend the language of these parts to relate clearly the weight limitations to categories of use. The effect of this change will be that airplanes, like the C–82, which have been manufactured in the United States but have not been certificated in the transport category and, therefore, for which no maximum weight has been established in that category, may not, although presently registered and certificated in foreign countries, qualify for operation in the United States in the transport category until operating weights have been established in accordance with transport category limitations. This policy is consistent with the resolution on aircraft weights adopted at the Council of the International Civil Aviation Organization Meeting on March 8, 1949, which acknowledged the right of the country of manufacture to set the maximum weights applicable to foreign registered and certificated aircraft which may be flown over such country of manufacture.

In view of the foregoing, notice is hereby given that it is proposed to amend Parts 43, 44, and 190 of the Civil Air Regulations.

1. By amending § 43.10 of Part 43 to read as follows:

§ 43.10 *Aircraft requirements.* (a) No aircraft shall be operated unless an appropriate and valid airworthiness certificate or special flight permit and a registration certificate issued to the owner of the aircraft are carried in the aircraft.

(b) No aircraft shall be operated except in accordance with the operating limitations prescribed by the certificating authority.

(c) No civil aircraft of the United States shall be operated unless it is identified in accordance with the requirements of Part 1 of this subchapter.

(d) No civil aircraft of the United States shall be operated unless there are available in the aircraft appropriate aircraft operating limitations set forth in a form and manner approved by the Administrator or a current Aircraft Flight Manual approved by the Administrator.

2. By amending § 44.3 of Part 44 to read as follows:

§ 44.3 *Aircraft airworthiness.* Each air carrier aircraft shall be possessed of a currently effective certificate of airworthiness issued by the country whose nationality it possesses. Foreign aircraft shall not be operated in the United States except in accordance with the restrictions on maximum certificated weights for particular categories of use prescribed or authorized by the country of manufacture of the aircraft type and model involved.

3. By amendng § 190.20 of Part 190 by deleting the period at the end of the section and inserting a comma in lieu thereof, and by adding the following:

§ 190.20 *Airworthiness and registration certificates.* * * * *Provided, however,* That in cases where:

(a) The aircraft has been damaged to the extent that the airworthiness certificate is invalidated, or

(b) The aircraft for which the certificate of airworthiness has been invalidated by the country of registry due to a change in nationality when such aircraft is intended to be navigated in the United States in transit to the country of new registry.

a special flight permit issued by the Administrator in accordance with sections 1.75 and 1.76 of Part 1 of this subchapter may be carried on board the aircraft in lieu of such certificate of airworthiness.

4. By amending § 190.23 to read as follows:

§ 190.23 *Maximum weights and categories of use.* Foreign aircraft shall not be operated in the United States except in accordance with the restrictions on maximum certificated weights for particular categories of use prescribed or authorized by the country of manufacture of the aircraft type and model involved.

These amendments are proposed under the authority of section 6 (b) of the Air Commerce Act of 1926, as amended, and Title VI of the Civil Aeronautics Act of 1938, as amended. The proposal may be changed in light of comments received in response to this notice of proposed rule making.

(Air Commerce Act, 1926, sec. 6 (b) as amended, 52 Stat. 1028, 49 U. S. C. 176; sec. 205 (a), 52 Stat. 984, 49 U. S. C. 425 (a). Interpret or apply secs. 601–610, 52 Stat. 1007–1012, as amended, 49 U. S. C. 551–560)

Dated at Washington, D. C., April 27, 1956.

By the Civil Aeronautics Board.

[SEAL] JOHN B. RUSSELL,
Acting Secretary.

[F. R. Doc. 56-3486; Filed, May 2, 1956; 8:54 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 13]

[Docket No. 9892; FCC 56-375]

COMMERCIAL RADIO OPERATORS

SECOND FURTHER NOTICE OF PROPOSED RULE MAKING

In the matter of amendment of § 13.61 of Part 13 of the Commission's rules governing Commercial Radio Operators defining the operating authority of holders of the Restricted Radiotelephone Operator Permit and the Aircraft Radiotelephone Operator Authorization.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission on April 27, 1955 approved a further notice of proposed rule making in the above-entitled matter. An examination of the various comments received indicated the advisability of processing the part relating to operators of aircraft stations separately from the part relating to operators of ship stations. In accordance with the Commission's concurrent Report and Order in this docket the two matters have been separated and this second further notice of proposed rule making is concerned only with the operating authority of holders of the Restricted Radiotelephone Operator Permit with respect to ship radio stations.

3. The proposal heretofore made with respect to this matter would have limited the operating authority of holders of the restricted permit, in the case of ship radiotelephone stations, to such stations at which the power in the antenna of the unmodulated carrier is not authorized to exceed 50 watts. This limitation would have applied only if the stations were operated in international service [1] or on a frequency shared (intermittent time sharing) with a foreign station. In view of the comments received and the

[1] International Service: A telecommunication service between any combination of offices or fixed, land, or mobile stations which are in different countries or are subject to different countries (as defined in Annex 3 to the International Telecommunications Convention, Buenos Aires, 1952).

Commission's own observations of operating conditions, the Commisson has given further consideration to the operator requirements for ship radiotelephone stations.

4. In general, all frequencies made available by the Commission for ship stations are assigned on a shared basis. Many of the frequencies are also assigned to foreign ship stations which use them from time to time, without notice, on a shared basis with U. S. ships. This would present a practical problem in determining the grade of operator license required. While there are limits on the power that may be authorized, no distinction is made, in assigning frequencies, between stations of less than 50 watts, and those over that value. There is extensive radiotelephone communication between ships as well as between ships and shore and in either case the assignment of common frequencies for the purpose, without distinction as to power facilitates and is usually essential to such operations. Standard operating procedures have been established both domestically and internationally to promote equitable use of shared frequencies for commercial and safety purposes and it is important that these be observed by all stations without regard to the amount of power employed.

5. The growth in recent years in the use of ship radiotelephony has been very substantial with many more stations sharing the available frequencies. Also, there has been made available for general use a frequency designated especially for radiotelephone calling and distress, and procedures have been established to protect it against encroachment and misuse. The importance of conducting the operation of ship stations in a proper and orderly manner has increased accordingly. The Commission has noted with growing concern a widespread disregard of established operating procedures and regulations by ship radiotelephone stations utilizing the medium frequency bands and believes that steps should be taken through the licensing process to improve operating conditions on the ship radiotelephone frequencies.

6. It is proposed to discontinue the operating authority for ship stations presently granted under the restricted radiotelephone operator permit. This would have the effect of requiring operators of such stations in normal service to hold, instead, at least a radiotelephone third-class operator permit. The proposed change would apply to all restricted radiotelephone operator permits issued on or after the effective date of the amendment and to all permits of that class in force two years from that date.

7. Additional information received indicates that certain factors in the conversion tables in the proposed new § 13.76 were too high and not representative of actual conditions. Also, it appears that in view of the broadening of the proposal less detail is required and the new Section may be simplified.

8. In view of the foregoing, the proposal in Docket 9892 (adopted April 27, 1955) insofar as it would affect operators of ship radiotelephone stations, is amended as set forth below. Authority to issue this proposal is contained in sections 4 (i), 303 (l), and 303 (r) of the Communications Act of 1934, as amended.

9. Any interested person who is of the opinion that the proposed amendments should not be adopted or should not be adopted in the form set forth below may file with the Commission on or before June 11, 1956, a written statement or brief setting forth his comments. At the same time, any person who favors the rules as set forth may file a written statement in support thereof. Comments or briefs in reply to the original comments or briefs may be filed within 15 days from the last day for filing said original comments or briefs. The Commission will consider all comments, briefs and statements presented before taking final action in the matter.

10. In accordance with the provisions of § 1.764 of the Commission's rules, an original and fourteen copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: April 26, 1956.

Released: April 30, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

It is proposed to amend Part 13 of the Commission's rules as shown below:

1. Section 13.61 (h) would be amended to read as follows:

(h) *Restricted radiotelephone operator permit.* Any station except:

(1) Stations transmitting television, or

(2) Stations transmitting telegraphy by any type of the Morse code, or

(3) Any of the various classes of broadcast stations other than remote pickup, broadcast STL, and FM intercity relay stations, or

(4) Ship stations, or

(5) Coast stations other than in the territory of Alaska while employing a frequency below 30 Mc: *Provided,* That the holder of this class of license may not operate any coast station at which the power in the antenna of the unmodulated carrier wave is authorized to exceed 250 watts; or

(6) Aircraft stations other than those at which the installation is used solely for telephony: *Provided,* That the holder of this class of license may not operate in International Service or on any frequency the use of which is shared with a foreign station, any aircraft station at which the authorized power in the antenna of the unmodulated carrier wave exceeds 50 watts;

(7) At a ship radar station the holder of this class of license may not supervise or be responsible for the performance of any adjustments or tests during or coincident with the installation, servicing or maintenance of the radar equipment while it is radiating energy: *Provided,* That nothing in this subparagraph shall be construed to prevent any person holding such a license from making replacements of fuses or of receiving-type tubes.

Provided, That, with respect to any station which the holder of this class of license may operate, (i) such operator is prohibited from making any adjustments that may result in improper transmitter operation, and (ii) the equipment is so designed that the stability of the frequencies of the transmitter is maintained by the transmitter itself within the limits of tolerance specified by the station license, and none of the operations necessary to be performed during the course of normal rendition of the service of the station may cause off-frequency operation or result in any unauthorized radiation, and (iii) any needed adjustments of the transmitter that may affect the proper operation of the station are regularly made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radio telephone or radiotelegraph, who shall be responsible for the proper functioning of the station equipment. (The 50-watt limit contained in subparagraph (6) of this paragraph is applicable to all restricted radiotelephone operator permits issued on or after August 1, 1956, and to all permits of this class in force beginning two years from that date. The exception with respect to ship stations contained in paragraph (4) would be applicable to all restricted radiotelephone operator permits issued on and after the effective date of this amendment and to all permits of this class in force beginning two years from the effective date. "International Service" as used in subparagraph (6) of this paragraph is defined as a telecommunication service between any combination of offices or fixed, land, or mobile stations which are in different countries or are subject to different countries.)

2. Section 13.76 would be amended to read as follows:

§ 13.76 *Authorized power.* (a) The term "authorized power in the antenna of the unmodulated carrier wave", when used in this part to define operating authority under a particular class of operator license with respect to aircraft stations, means rated carrier power, unmodulated, of the transmitter or transmitters authorized in the aircraft station license.

(b) The term, "authorized power in the antenna of the unmodulated carrier wave" when used in this part to define operating authority under a particular class of operator license with respect to ship stations, means:

(1) "Maximum operating power", or "operating power", or

(2) "Maximum plate input power to final radio frequency stage" multiplied by an appropriate factor, or

(3) "Authorized transmitter-power" multiplied by an appropriate factor.

The power of a ship station is specified in the station license or in Part 8 of this chapter by one or more of the terms quoted in subparagraphs (1), (2), and (3) of this paragraph. The factor mentioned in subparagraphs (2) and (3) of this paragraph depends upon the class

of radio frequency amplifier used in the last radio stage of the transmitter and shall be in accordance with the following table:

Class of radio-frequency amplifier used in last radio stage of transmitter:	Factor
Class C, plate, or plate and screen-grid modulated	0.50
Class C, control, screen, or suppressor-grid modulated	.25
Class C, cathode modulated	.32
Class B, linear	.25
Class BC, high efficiency	.42

In the case of a transmitter using frequency modulation or using a radio frequency amplifier in its last stage of a class other than those listed herein an appropriate factor will be supplied.

[F. R. Doc. 56-3480; Filed, May 2, 1956; 8:53 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

UTAH (A-2)

SMALL AREA CLASSIFICATION ORDER; REVOCATION

APRIL 25, 1956.

Small Area Classification Order No. 1, dated November 10, 1955, which was published November 17, 1955, 20 F. R. 8523, and which described the following lands, is hereby revoked:

SALT LAKE MERIDIAN

Beginning at a point which bears N. 53° 3' E. 550 feet of the quarter corner common to sections 15 and 16, T. 34 S., R. 14 E., thence N. 6° 5' E. 4,142 feet; thence N. 56° 32' W. 2,760 feet; thence S. 35° 33' W. 2,640 feet; thence S. 58° 34' E. 2,068 feet; thence S. 5° 34' E. 501 feet; thence S. 28° 24' W. 230 feet; thence S. 61° 4' W. 2,530 feet; thence S. 64° 53' W. 445 feet; thence S. 88° 59' W. 1,540 feet; thence S. 9° 55' E. 640 feet; thence N. 83° 35' E. 5,759 feet to point of beginning, containing 383.4 acres.

WM. N. ANDERSEN,
State Supervisor.

[F. R. Doc. 56-3451; Filed, May 2, 1956; 8:47 a. m.]

[Serial No. Idaho 06937]

IDAHO

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS; CANCELLATION

APRIL 26, 1956.

Notice of order providing for opening of public lands, Serial No. Idaho 06937, dated April 17, 1956, as appearing in Volume 21, FEDERAL REGISTER, April 25, 1956, on page 2665, is hereby canceled.

J. R. PENNY,
State Supervisor.

[F. R. Doc. 56-3452; Filed, May 2, 1956; 8:47 a. m.]

[Group 300]

ARIZONA

NOTICE OF FILING OF PLATS OF SURVEY AND ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

APRIL 24, 1956.

Notice is given that the plats of survey accepted November 15, 1955, of T. 3 N., R. 3 W., T. 3 N., R. 8 W., T. 2 S., R. 6 W., and T. 5 S., R. 8 W., G. & S. R. B. & M., Arizona, including lands hereinafter described, will be officially filed in the Land Office at Phoenix, Arizona, effective at 10:00 a. m. on the 35th day after the date of this notice:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 3 N., R. 3 W.,
Lots 1, 2, 3, 4, S½N½, S½, (All), Sec. 1;
Lots 1, 2, 3, 4, S½N½, S½, (All), Sec. 2;
All Sec. 36.
T. 3. N., R. 8 W.,
All Sec. 32.
T. 2 S., R. 6 W.,
Lots 1, 2, 3, 4, S½N½, S½, (All), Sec. 1;
Lots 1, 2, 3, 4, S½N½, S½, (All), Sec. 2;
All Sec. 32.
T. 5 S., R. 8 W.,
Lots 1, 2, 3, 4, N½S½, N½, (All), Sec. 36.

Within the above-described areas are 4,129.94 acres of public lands.

Available data indicates the lands in T. 3 N., R. 3 W. are rough, with rocky soil; the land in T. 3 N., R. 8 W. is low, rolling land, with fairly rocky soil; Secs. 1 and 2, T. 2 S., R. 6 W. are flat, with sandy desert soil, Sec. 32, T. 2 S., R. 6 W. consists of rolling land with sandy soil, and Sec. 36, T. 5 S., R. 8 W. is mountainous, with rocky soil.

Subject to valid existing rights, the State's title will attach to the following lands, upon the official filing of the township plats: SE¼SW¼, Sec. 2, and N½, Sec. 36, T. 3 N., R. 3 W., SE¼SE¼, Sec. 32, T. 3 N., R. 8 W., Lot 4 (NW¼NW¼), Sec. 2, and SW¼NE¼, Sec. 32, T. 2 S., R. 6 W., and the NW¼NW¼, S½NW¼, N½S½, and Lots 1, 2, 3, 4, Sec. 36, T. 5 S., R. 8 W.

No applications for the remainder of these lands, namely, Lots 1, 2, 3, 4, S½N½, S½, (All), Sec. 1, Lots 1, 2, 3, 4, S½N½, N½S½, S½SE¼, SW¼SW¼, Sec. 2, and the S½, Sec. 36, T. 3 N., R. 3 W., N½, SW¼, N½SE¼, SW¼SE¼, Sec. 32, T. 3 N., R. 8 W., Lots 1, 2, 3, 4, 5, 6, 7, S½NW¼, SW¼, SW¼NE¼, W½SE¼, (All), Sec. 1, Lots 1, 2, 3, S½N½, S½, Sec. 2, N½N½, S½, SE¼NE¼, and S½NW¼, Sec. 32, T. 2 S., R. 6 W., and the NE¼, and NE¼NW¼, Sec. 36, T. 5 S., R. 8 W., may be allowed under the homestead, small tract, desert land, or any other non-mineral public land laws, unless the land has already been classified as valuable or suitable for such type of application or shall be so classified upon 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. At the hour and date specified above the said lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the homestead, desert land, and small tract laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284 as amended), presented prior to 10:00 a. m. on May 31, 1956 will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on August 30, 1956, will be governed by the time of filing.

All valid applications and selections under the non-mineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on August 30, 1956, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

The lands will be open to location under the United States mining laws beginning at 10:00 a. m. August 30, 1956.

Persons claiming veterans' preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Phoenix, Arizona.

THOS. F. BRITT,
Manager.

[F. R. Doc. 56-3453; Filed, May 2, 1956; 8:47 a. m.]

[Group 301]

ARIZONA

NOTICE OF FILING OF PLATS OF SURVEY AND ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

APRIL 24, 1956.

Notice is given that the plats of survey accepted December 5, 1955, of T. 2 N., R. 12 W., T. 1 N., R. 13 W., T. 3 N., R. 13 W., and T. 1 S., R. 14 W., G. & S. R. B. & M., Arizona, including lands hereinafter described, will be officially filed in the Land Office at Phoenix, Arizona, effective at 10:00 a. m. on the 35th day after the date of this notice:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 2 N., R. 12 W.,
Lots 1, 2, 3, 4, S½N½, S½ (All), Sec. 2.
T. 1 N., R. 13 W.,
Lots 1, 2, 3, 4, S½N½, S½ (All), Sec. 2;
All Sec. 16;
All Sec. 36.
T. 3 N., R. 13 W.,
All Sec. 36.
T. 1 S., R. 14 W.,
All Sec. 16.

Within the above-described areas are 2,439.42 acres of public lands.

Available data indicates the lands in T. 1 N., R. 13 W., and T. 2 N., R. 12 W. are level, with sandy soil; the lands in T. 3 N., R. 13 W. are level, with gravelly soil, and Sec. 16, T. 1 S., R. 14 W. is rolling with rocky soil.

Subject to valid, existing rights, the State's title will attach to the following lands, upon the official filing of the township plats: Lots 1, 2, 3, 4, S½N½, N½SW¼, SW¼SW¼, Sec. 2 T. 2 N., R. 12 W., Lot 1 (NE¼NE¼), Sec. 2, N½, SW¼, Sec. 16, and N½, Sec. 36, T. 1 N., R. 13 W., E½SE¼, Sec. 36, T. 3 N., R. 13 W., and SE¼SE¼, Sec. 16, T. 1 S., R. 14 W.

No applications for the remainder of these lands, namely, the SE¼, SE¼ SW¼, Sec. 2, T. 2 N., R. 12 W., Lots 2, 3, 4, S½N½, S½, Sec. 2, SE¼, Sec. 16, S½, Sec. 36, T. 1 N., R. 13 W., N½, SW¼, W½SE¼, Sec. 36, T. 3 N., R. 13 W., and N½, SW¼, W½SE¼, NE¼SE¼, Sec. 16, T. 1 S., R. 14 W., may be allowed under the homestead, small tract, desert land, or any other non-mineral public land laws, unless the land has already been classified as valuable or suitable for such type of application or shall be so classified upon 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. At the hour and date specified above the said lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the homestead, desert land, and small tract laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284 as amended), presented prior to 10:00 a. m. on May 31, 1956 will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on August 30, 1956, will be governed by the time of filing.

All valid applications and selections under the non-mineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on August 30, 1956, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

The lands will be open to location under the United States mining laws beginning at 10:00 a. m. August 30, 1956.

Persons claiming veterans' preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Phoenix, Arizona.

THOS. F. BRITT,
Manager.

[F. R. Doc. 56-3454; Filed, May 2, 1956; 8:48 a. m.]

ALASKA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

The Alaska Railroad has filed an application, Serial No. Anchorage 032107, for the withdrawal of the lands described below, from all forms of appropriation under the public land laws including the mining and mineral leasing laws and the Grazing Act.

The applicant desires the land for railroad and shipping purposes.

For a period of 60 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Box 480, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

Beginning at the ¼ corner between Sec. 36, T. 1 N., R. 1 W., Seward Meridian and Sec. 1, T. 1 S., R. 1 W., Seward Meridian; thence S. 20° 36' E. 6,116.88 feet to the witness corner to Corner No. 1, U. S. Survey No. 3294; thence S. 67° 58' E., along the northerly boundary of U. S. Survey 3294, 224.03 feet to Corner No. 2, U. S. Survey No. 3294; thence S. 8° 12' W., along the easterly boundary of U. S. Survey No. 3294, 1,497.94 feet to Corner No. 3, U. S. Survey No. 3294, the true point of beginning.

From the point of beginning: thence East 3,090.81 feet to a point on the North-South center line of Sec. 7, T. 1 S., R. 1 E., S. M.; thence South 4,754.36 feet, along the center line of Sections 7 and 18, to a point on the northerly boundary of U. S. Survey No. 1651, 272.59 feet West of Meander Corner No. 2 of U. S. Survey No. 1651; thence West, along the northerly boundary of U. S. Survey No. 1651, 3,694.67 feet to Meander Corner No. 1; thence, continuing West, 800 feet; thence North 4,879.65 feet; thence East 1,103.79 feet to Corner No. 4 of U. S. Survey No. 3294; thence S. 67° 58' E., along the southerly boundary of U. S. Survey No. 3294, 333.96 feet to Corner No. 3, the point of beginning.

The area described contains approximately 494.71 acres.

ROGER R. ROBINSON,
Operations Supervisor.

[F. R. Doc. 56-3455; Filed, May 2, 1956; 8:48 a. m.]

ALASKA

SMALL TRACT CLASSIFICATION ORDER NO. 33; AMENDMENT

APRIL 27, 1956.

By virtue of the authority contained in the act of June 1, 1938 (52 Stat. 609, 43 U. S. C. 682a), as amended, and pursuant to the Delegation of Authority contained in section 2.9, Order No. 541 of April 21, 1954, Bureau of Land Management, Small Tract Classification Order No. 33 of September 27, 1950, as partially revoked on April 22, 1954, and as amended on June 20, 1955, is hereby further amended as follows:

1. A portion of the land classified as a Business Site and described as T. 12 N., R. 3 W., Seward Meridian, Section 33: NW¼SW¼NW¼SW¼ (now described as lot 177) and containing 2.50 acres is hereby re-classified as a Residence Site.

2. A portion of the land classified as a Home Site and described as T. 12 N., R. 3 W., Seward Meridian, Section 33: NE¼SE¼SE¼SE¼ (now described as lot 221) and containing 2.50 acres is hereby re-classified as a Business Site.

3. This amendment shall take effect immediately.

ROGER R. ROBINSON,
Operations Supervisor.

[F. R. Doc. 56-3456; Filed, May 2, 1956; 8:48 a. m.]

ALASKA

PUBLIC SALE ACT CLASSIFICATION NO. 23

APRIL 27, 1956.

Pursuant to the authority delegated to me under section 2.5 of Order No. 541 of April 21, 1954, Bureau of Land Management, the following described land is classified for disposal under the Alaska Public Sale Act of August 30, 1949 (63 Stat. 679; 48 U. S. C. 364a–364e) for commercial, and/or housing purposes:

GIRDWOOD AREA

UNSURVEYED LAND

Beginning at the intersection of a secondary road and the Crow Mine Road at approximate latitude 60°57'50" N., longitude 149°08'10" W. and the approximate NE corner of U. S. Survey 3044; thence easterly along that secondary road 2,640 feet more or less to the true point of beginning and Corner No. 1 which is marked by a blazed spruce

tree 14" d. b. h. having on it "A. P. S. C 1" and located at approximate latitude 60°57'40" N., longitude 149°07'08" W.; thence south a distance of 2,640 feet more or less to Corner No. 2; thence east a distance of 2,640 feet more or less to Corner No. 3; thence north a distance of 2,640 feet more or less to Corner No. 4 which is a blazed hemlock tree 14" d. b. h. having four notches cut in the blaze; thence west a distance of 2,640 feet more or less to the true point of beginning, containing approximately 160 acres.

The above land will be offered for sale in accordance with regulations contained in Title 43 C. F. R. Part 75.23 to 75.40. If no bid at the minimum acceptable price or above is made, the land may be held for future offering or the classification may be rescinded.

ROGER R. ROBINSON,
Operations Supervisor.

[F. R. Doc. 56-3457; Filed, May 2, 1956; 8:48 a. m.]

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service and Commodity Credit Corporation

DELEGATIONS OF AUTHORITY WITH RESPECT TO CERTAIN COMMODITY CREDIT CORPORATION ACTIVITIES

In order to provide for the performance of certain functions relating to loans and purchase agreement transactions, farm storage facility loans, sales of Commodity Credit Corporation commodities locally, and execution of certain other documents in connection with Commodity Credit Corporation transactions, delegations of authority are provided below pursuant to authority vested in me by the by-laws of Commodity Credit Corporation. The delegations of authority contained herein shall supersede any delegations of authority which are inconsistent therewith.

The authority herein delegated shall be exercised in conformity with the by-laws, regulations, and programs of Commodity Credit Corporation, and the policies adopted by the Board of Directors of the Corporation.

Definitions. The term "CCC" shall mean Commodity Credit Corporation.

The term "CSS" shall mean Commodity Stabilization Service.

The term "ASC" shall mean Agricultural Stabilization and Conservation.

The term "chairman" shall refer to the chairman or acting chairman of any ASC county committee.

The term "manager" shall mean the ASC county office manager or acting manager.

The term "other employee" shall mean any employee of an ASC county office other than the manager or acting manager.

General. The manager or other employee designated by him may execute CCC sight drafts or CCC certificates pursuant to any ASC-administered program in which the use of CCC sight drafts or CCC certificates is prescribed.

Loan and purchase program. Upon payment of the obligation involved, the manager or other employee designated by him may execute releases or otherwise obtain the release of record of chattel mortgages made to or assigned to CCC which secure loans on agricultural commodities.

Farm storage facility loan program. (1) The chairman may (a) approve on behalf of CCC the sale or conveyance by the borrower of farm storage facilities or other property securing a loan made pursuant to the regulations issued by CCC and CSS governing the making of loans, and (b) execute on behalf of CCC assumption agreements under which the borrower remains liable for the balance of the indebtedness and the purchaser assumes the balance of the indebtedness with respect to such sale and conveyance.

(2) The chairman may (a) approve on behalf of CCC the sale of mechanical driers securing a loan made pursuant to the regulations issued by CCC and CSS governing the making of loans, and (b) sign on behalf of CCC assumption agreements under which the borrower remains liable for the balance of the indebtedness and the purchaser assumes the balance of the indebtedness with respect to such sale.

(3) The chairman or manager may, upon payment of the obligation involved, execute releases, conveyances or reconveyances, or otherwise obtain the release of record of security instruments made to or assigned to CCC or under which CCC is beneficiary which secure loans made to purchase or construct farm storage facilities or loans made to finance the purchase of mechanical driers for farm commodities.

(4) The chairman or manager may execute a release on behalf of CCC on any Severence Agreement executed in connection with such loan after a farm storage facility loan has been paid in full.

(5) The chairman or manager may execute statements, certificates, affidavits, or other documents as required by any State statute with regard to the status of any mortgage or deed of trust and with regard to any indebtedness.

(6) Where extension affidavits are required by State statute, the chairman or manager may execute sworn statements showing total payments made on the debt and the amount remaining unpaid and the debt or part thereof still due CCC and certify that CCC does thereby extend the lien and the mortgage for a definite period of time.

(7) The chairman or manager may execute any other instruments which may be required by State statute in connection with maintenance of liens relating to real or personal property mortgages or deeds of trust.

(8) The action of any chairman or manager which has been heretofore taken on behalf of CCC to comply with the provisions of any statute requiring the filing of statements, extension affidavits, or other documents relating to real and personal property mortgages or deeds of trust is hereby ratified.

Sales of CCC commodities locally. (1) The chairman or manager may make local sales of agricultural commodities other than seeds owned by CCC, and execute any documents in connection with such sale.

CCC bin storage operations. (1) The chairman may execute real estate leases on behalf of and in the name of CCC as determined by the ASC county committee to be necessary in connection with the CCC storage program.

(2) The chairman may execute leases of CCC-owned storage structures not currently needed for storage of CCC-owned grain.

(3) The chairman may execute contracts on behalf of and in the name of CCC for site preparation and maintenance work, electrical services, repair and operation of property and equipment, handling, transportation and maintenance of commodities, and procurement of supplies and materials in connection with the CCC storage program.

(4) The chairman may, upon receipt of prior written authorization, sell CCC-owned storage structures, equipment, and materials.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b)

Issued this 27th day of April 1956.

[SEAL] WALTER C. BERGER,
Acting Executive Vice President, Commodity Credit Corporation.

[F. R. Doc. 56-3446; Filed, May 2, 1956; 8:45 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 7762; Order No. E-10250]

ANITA HERMAN

ORDER OF INVESTIGATION

In the matter of the complaint filed by Anita Herman.

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 30th day of April 1956.

Anita Herman, by complaint, petitions the Board to declare Northwest Airlines, Inc. and Capital Airlines, Inc. Local and Joint Passenger Rules Tariff No. PR-1, C. A. B. No. 4, General Rule 5, Claims, issued by M. F. Redfern, in effect on May 4, 1947, void, ab initio, as superfluous, unlawful, past and future, contrary to the provisions of the Civil Aeronautics Act of 1938 and the rules of the CAB and against the public policy of the United States and the States involved. Complainant has alleged that a determination by the Board of unlawfulness of the 30-day notice rule and the one-year limitation rule is a requirement for petitioner to prosecute her claim for relief in the United States courts and that if successful before the Board, she will prosecute her claim in court pursuant to the Rules of Federal Procedure.

The Board, after consideration of the aforementioned complaint, finds such tariff rules may be unlawful for the reasons, among others, that they may be unjust, unreasonable and unjustly discriminatory.

The Board finds that an investigation of the past lawfulness of the aforementioned rules is necessary and appropriate under sections 205 (a) and 1002 in order to carry out the provisions and obligations of the Civil Aeronautics Act of 1938, as amended, particularly sections 2, 403 and 404 thereof: *It is ordered*, That:

1. An investigation be and is hereby instituted to determine whether General Rule 5 of the tariff rules of Northwest Airlines, Inc. and Capital Airlines, Inc., contained in Local and Joint Passenger Rules Tariff No. PR–1, C. A. B. No. 4, issued by M. F. Redfern, agent, in effect on May 4, 1947, was unlawful.

2. The proceeding ordered herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated.

3. A copy of this order be served upon Anita Herman, Northwest Airlines, Inc. and Capital Airlines, Inc. who are hereby made parties to this proceeding.

4. This order shall be published as a notice in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] JOHN B. RUSSELL,
Acting Secretary.

[F. R. Doc. 56–3487; Filed, May 2, 1956; 8:54 a. m.]

[Docket No. 7336]

PAN AMERICAN WORLD AIRWAYS, INC.

NOTICE OF HEARING

In the matter of the application of Pan American World Airways, Inc., under section 401 of the Civil Aeronautics Act, as amended, for amendment of its certificate of public convenience and necessity authorizing air transportation between the United States, Europe, the Middle East and India, so as to include San Juan, Puerto Rico, as a coterminal, and for amendment of said certificate and of its certificate of public convenience and necessity authorizing air transportation between the United States and South Africa so as to authorize service to Madrid, Spain.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 205, 401 and 1001 of said act, that a public hearing in the above-entitled proceeding will be held on June 25, 1956, at 10:00 a. m., e. d. s. t., in Room E–224, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Leslie G. Donahue.

Without limiting the scope of the issues presented by the applications in Docket No. 7336, particular attention will be directed to the following matters:

1. Whether the public convenience and necessity require the amendment of paragraph numbered 1 of Part I of the certificate of public convenience and necessity, as amended, of Pan American World Airways, Inc., issued pursuant to Order No. E–8889, dated December 7, 1954, approved by the President of the United States of America, January 13, 1955, so as to authorize service to Madrid, Spain, as an intermediate point on the segment between Lisbon, Portugal, and Rome, Italy.

2. Whether the public convenience and necessity require the amendment of the certificate of public convenience and necessity of Pan American World Airways, Inc., issued pursuant to Order No. E–8664, dated the 3d day of August 1954, and approved by the President of the United States of America on September 27, 1954, so as to authorize service to Madrid, Spain, as an intermediate point beyond Lisbon, Portugal, on Pan American World Airways, Inc., route from New York, N. Y., to Johannesburg, Union of South Africa.

3. Does the public convenience and necessity require the issuance of a certificate of public convenience and necessity, on a permanent or temporary basis, with respect to persons, property and mail, so as to provide air transportation by Riddle Airlines, Inc. between the coterminal points Miami, Florida, and San Juan, Puerto Rico, the intermediate points Lisbon, Portugal, Madrid, Spain, and the terminal point Rome, Italy, without authority to engage in the local air transportation of persons, property and mail between Miami, Florida, and San Juan, Puerto Rico.

4. Does the public convenience and necessity require the issuance of a certificate of public convenience and necessity, on a temporary or permanent basis, with respect to persons, property and either with or without mail, so as to provide air transportation by Trans Caribbean Airways, Inc. between the coterminal points Miami, Florida, and San Juan, Puerto Rico, the intermediate points Lisbon, Portugal, and Madrid, Spain, and the terminal point Rome, Italy, without authority to engage in the local air transportation of persons, property and mail between Miami, Florida, and San Juan, Puerto Rico.

5. Whether each of the applicants is fit, willing and able to perform the air transportation for which it seeks authority and to conform to the provisions of the act and the regulations of the Board thereunder.

Notice is further given that any interested person, other than the parties and intervenors of record, desiring to be heard in support of or in opposition to the granting of the aforesaid applications must file with the Civil Aeronautics Board on or before June 25, 1956, a statement setting forth the matters of fact or law which he desires to advance. Any person filing such a statement may appear at the hearing in accordance with § 302.14 of the Board's rules of practice in Economic Proceedings.

Dated at Washington, D. C., April 27, 1956.

By the Civil Aeronautics Board.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 56–3488; Filed, May 2, 1956; 8:55 a. m.]

[Docket No. 7876]

ARTHUR VINING DAVIS AND CUTLER CORP.

NOTICE OF PREHEARING CONFERENCE

In the matter of the application of Arthur Vining Davis for approval under section 408 of his acquisition of a controlling stock interest in the Cutler Corporation.

Notice is hereby given pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that a prehearing conference in the above-entitled proceeding is assigned to be held on May 3, 1956, at 10:00 a. m., e. d. s. t., in Room E–210, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Paul N. Pfeiffer.

Dated at Washington, D. C., April 27, 1956.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 56–3489; Filed, May 2, 1956; 8:55 a. m.]

[Docket No. 6515]

REEVE ALASKA AIRMOTIVE AND REEVE ALEUTIAN AIRWAYS, INC.

NOTICE OF POSTPONEMENT OF PREHEARING CONFERENCE

In the matter of interlocking and control relationships involving Reeve Alaska Airmotive and Reeve Aleutian Airways, Inc.

Notice is hereby given that the prehearing conference in the above-entitled matter now assigned to be held on May 3 is postponed to May 11, 1956, 10:00 a. m., e. d. s. t., Room E–224, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Paul N. Pfeiffer.

Dated at Washington, D. C., April 27, 1956.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 56–3490; Filed, May 2, 1956; 8:55 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G–9436]

NEVADA NATURAL GAS PIPE LINE CO.

NOTICE OF APPLICATION AND DATE OF HEARING

APRIL 27, 1956.

Take notice that Nevada Natural Gas Pipe Line Co. (Applicant), a Nevada corporation with principal place of business at 203 East Charleston Boulevard, City of Las Vegas, Nevada, filed, on October 5, 1955, as supplemented October 27, 1955, and December 19, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to construct and operate, as an integral part of its existing natural gas system, certain natural gas facilities as hereinafter described which are necessary to the delivery and sale of natural gas in interstate commerce by Applicant, and, to sell and deliver natural gas in interstate commerce

to Citizens Natural Gas Co., Inc. (Citizens Natural) for resale by said Company in Boulder City, Nevada.

The facilities proposed to be constructed and operated by Applicant consist of a regulating station, metering facilities and other appurtenant equipment on Applicant's existing main line, approximately 15 miles south of Whitney, Nevada.

The estimated cost of construction of the proposed facilities is $4,492 which will be financed from operating funds and inventory.

The estimated gas requirements of Citizens Natural in Mcf at 14.73 psia are as follows:

	1956	1957	1958
Peak day	319	374	770
Annual	72,270	86,140	183,413

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on Monday, June 4, 1956 at 9:30 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 15, 1956. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-3458; Filed, May 2, 1956; 8:49 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11213; FCC 56-345]

GEORGE A. GOTHBERG, JR. (WFPA)

ORDER CONTINUING HEARING

In re application of George A. Gothberg, Jr. (WFPA), Fort Payne, Alabama, Docket No. 11213, File No. BR-2455; for renewal of license.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 25th day of April 1956;

The Commission having under consideration a petition filed on April 17, 1956, by George A. Gothberg, Jr., requesting a continuance of the oral argument on his application now scheduled for May 7, 1956;

It appearing that the Commission's Broadcast Bureau, the only other party to the above-entitled proceeding, does not object to a grant of subject petition, and that in view of the circumstances set out in the petition, a continuance is desirable;

It is ordered, This 25th day of April 1956, That the petition for continuance of oral argument is granted; and that the oral argument in the above-entitled proceeding now scheduled for May 7, 1956, is continued without date.

Released: April 30, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-3481; Filed, May 2, 1956; 8:53 a. m.]

[Docket No. 11672]

CHESAPEAKE AND POTOMAC TELEPHONE COMPANY OF VIRGINIA

ORDER ASSIGNING MATTER FOR PUBLIC HEARING

In the matter of the application of the Chesapeake and Potomac Telephone Company of Virginia, Docket No. 11672, File No. P-C-3742; for a certificate under section 221 (a) of the Communications Act of 1934, as amended, to acquire certain telephone plant and properties of Twin-County Telephone Company.

The Commission having under consideration an application filed by The Chesapeake and Potomac Telephone Company of Virginia for a certificate under section 221 (a) of the Communications Act of 1934, as amended, that the proposed acquisition by The Chesapeake and Potomac Telephone Company of Virginia of certain telephone plant and properties of Twin-County Telephone Company furnishing telephone service in and around Charles City County and a portion of Henrico County, Virginia, will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is ordered, This 27th day of April 1956, that pursuant to the provisions of section 221 (a) of the Communications Act of 1934, as amended, the above application is assigned for public hearing for the purpose of determining whether the proposed acquisition will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is further ordered, That the hearing upon said application be held at the offices of the Commission in Washington, D. C., beginning at 10:00 a. m. on the 25th day of May 1956, and that a copy of this order shall be served upon the Governor of the State of Virginia, Commonwealth of Virginia State Corporation Commission, The Chesapeake and Potomac Telephone Company of Virginia, Twin-County Telephone Company, and the Postmasters of Richmond and Charles City, Virginia.

It is further ordered, That within ten days after the receipt from the Commission of a copy of this order, the applicant herein shall cause a copy hereof to be published in a newspaper or newspapers having general circulation in Charles City and Henrico Counties, Virginia and shall furnish proof of such publication at the hearing herein.

Released: April 27, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-3482; Filed, May 2, 1956; 8:53 a. m.]

[Docket No. 11690; FCC 56-359]

REVISED TENTATIVE ALLOCATION PLAN FOR CLASS B FM BROADCAST STATIONS

NOTICE OF PROPOSED ALLOCATION

In the matter of amendment of the Revised Tentative Allocation Plan for Class B FM Broadcast Station, Docket No. 11690.

1. Notice is hereby given of further proposed rule making in the above-entitled matter.

2. It is proposed to amend the Revised Tentative Allocation Plan for Class B FM Broadcast Stations in the following manner:

General area	Channels	
	Delete	Add
Toledo, Ohio		223
Summit Township, Mich.	222	231

3. The purpose of the proposed amendment is to provide a Class B channel in Toledo, Ohio, to facilitate consideration of a pending application submitted by Hillebrand Electronics for a new Class B FM broadcast station in that city.

4. Authority for the adoption of the proposed amendment is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r), and 307 (b) of the Communications Act of 1934, as amended.

5. Any interested party who is of the opinion that the proposed amendment should not be adopted or should not be adopted in the form set forth herein, may file with the Commission on or before May 25, 1956, a written statement or brief setting forth his comments. Comments in support of the proposed amendment also may be filed on or before that same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments or briefs. The Commission will consider all such comments that are submitted before taking action in this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such

hearing or oral argument will be given.

6. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs or comments shall be furnished the Commission.

Adopted: April 25, 1956.

Released: April 30, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-3483; Filed, May 2, 1956; 8:53 a. m.]

OFFICE OF DEFENSE MOBILIZATION

H. M. BOTKIN

CHANGES IN APPOINTEE'S STATEMENT OF BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

For the period October 24, 1955, through April 23, 1956:

American Telephone and Telegraph Company.

General Electric Company.

This amends statement previously published in the FEDERAL REGISTER December 31, 1955 (20 F. R. 10179).

Dated: April 23, 1956.

H. M. BOTKIN.

[F. R. Doc. 56-3466; Filed, May 2, 1956; 8:50 a. m.]

JOSEPH D. KEENAN

CHANGES IN APPOINTEE'S STATEMENT OF BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No change as of report filed December 19, 1955.

This amends statement previously published in the FEDERAL REGISTER December 31, 1955 (20 F. R. 10185).

Dated: February 1, 1956.

JOSEPH D. KEENAN.

[F. R. Doc. 56-3467; Filed, May 2, 1956; 8:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 24D-1164, 24D-1392]

COLORADO MINING CORP. ET AL.

ORDER MODIFYING ORDER DATED MARCH 30 1956

APRIL 27, 1956.

In the matter of Colorado Mining Corporation, File No. 24D-1164; Colorado Mining Corporation for John M. Schlesinger, Melville Boyd, Azamat Guirey, George E. Roberts, Robert Reed, L. D. Friedman & Co., Inc., selling stockholders, File No. 24D-1392.

The Commission on March 30, 1956, entered its order pursuant to Rule 223 (a) of the general rules and regulations under the Securities Act of 1933, as amended, temporarily suspending exemptions under Regulation A for the offerings by Colorado Mining Corporation and by Colorado Mining Corporation for and on behalf of John M. Schlesinger, Melville Boyd, Azamat Guirey, George E. Roberts, Robert Reed and L. D. Friedman & Co., Inc., selling stockholders, on the grounds that the Commission had been advised that a permanent injunction was issued on December 23, 1955, in the New York Supreme Court, County of New York, against Colorado Mining Corporation permanently enjoining it from directly or indirectly engaging in any business relating to the purchase or sale of securities and that the Commission had reasonable cause to believe that the terms and conditions of Regulation A had not been complied with in that the offering circular filed by and on behalf of the issuer and the notification and offering circular filed by the issuer on behalf of the selling stockholders contained untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to (a) the statement in each offering circular that 1,000,000 shares of common stock of the issuer were issued for property, whereas 500,000 of such shares were turned over to promoters and did not represent consideration for the value of the mining claims; (b) the failure to state in the offering circular on behalf of the selling stockholders that on December 23, 1955, the Supreme Court of the State of New York, County of New York, appointed a receiver of any and all property derived by the issuer by means of fraudulent practices and permanently enjoined the issuer from engaging in any business relating to the purchase or sale of securities within and from the State of New York, and (c) the statement in the notification and offering circular on behalf of the selling stockholders that L. D. Friedman & Co., Inc., was the underwriter of the securities to be offered, whereas L. D. Friedman & Co., Inc., terminated its underwriting agreement with the selling stockholders.

The order of the Commission gave notice that, upon receipt of a written request, the matter would be set down for hearing for the purpose of determining whether the temporary order of suspension should be vacated or made permanent.

It appears from an affidavit filed by Azamat Guirey, one of the selling stockholders, that he has not offered or sold his shares (pursuant to his filing) and in fact has voluntarily returned his shares to the issuer on or about December 23, 1955, without any compensation to him for so doing; that the offering in August 1953 by the issuer was made prior to his association with the issuer; that he had no part in the preparation of the notification or offering circular in connection with the proposed offering by the selling stockholders and had no knowledge that any of the statements therein was false or misleading; and that he never participated in the management of the issuer.

Azamat Guirey having requested a withdrawal of his filing under Regulation A and a vacation of the temporary suspension order as to his filing, based upon said affidavit,

It is ordered, That the filing by Azamat Guirey under Regulation A be withdrawn and that the temporary order of suspension be and is hereby modified to eliminate the name of Azamat Guirey therefrom.

It is further ordered, That this order shall be served upon Colorado Mining Corporation, 424 University Building, Denver 2, Colorado; Baruch & Co., Inc., 44 Wall Street, New York 5, New York; John M. Schlesinger, 400 St. James St., W., Montreal, P. Q., Canada; Melville Boyd, 146 North Grove Street, East Orange, New Jersey; Azamat Guirey, 370 Park Avenue, New York, New York; George E. Roberts, Sherman Plaza Apartments, Denver, Colorado; Robert Reed, 465 St. John Street, Montreal, P. Q., Canada; L. D. Friedman & Co., Inc., 52 Broadway, New York 4, New York; and Registrar and Transfer Company, 15 Exchange Place, Jersey City, New Jersey; personally or by registered mail or confirmed telegraphic notice, and shall be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 56-3460; Filed, May 2, 1956; 8:49 a. m.]

[File Nos. 54-191, 54-173]

STANDARD GAS AND ELECTRIC CO. AND PHILADELPHIA CO.

NOTICE OF FILING OF AMENDMENTS TO PLAN PROPOSING SUBSTITUTION OF NEW TAX AGREEMENT WITH SUBSIDIARY COMPANY AND DIVESTMENTS OF PORTFOLIO SECURITIES

APRIL 27, 1956.

In the matter of Standard Gas and Electric Company and Philadelphia Company, File No. 54-191; Philadelphia Company and Standard Gas and Electric Company, File No. 54-173.

Notice is hereby given that Standard Gas and Electric Company ("Standard Gas"), a registered holding company, has filed an application and certain amendments to Step IV of its plan, dated February 8, 1951 and previously filed with this Commission under section 11 (e) of the Public Utility Holding Company Act of 1935 (the "act"). Such plan ("Standard Plan") has for its stated purpose the effectuation of compliance by Standard Gas and its registered holding company subsidiary, Philadelphia Company ("Philadelphia"), with the provisions of section 11 of the act. Under the instant filing Standard Gas, in substance, proposes to dispose of all of its system's

interest in Pittsburgh Railways Company ("Pittsburgh Railways"), a nonutility subsidiary of Philadelphia, and substantially all of its interest in Duquesne Light Company ("Duquesne"), a public-utility subsidiary of Philadelphia. Consummation of the transactions proposed herein will terminate Duquesne's status under the act as a subsidiary and thereafter neither Standard Gas nor Philadelphia will have a public-utility holding company relationship with any company although they will continue to be subsidiaries of Standard Shares, Inc. ("Standard Shares"), a registered holding company which was formerly named Standard Power and Light Corporation and which is in the process of transformation into an investment company.

Pursuant to section 11 (b) (2) of the act, Standard Gas and Philadelphia have heretofore been ordered by this Commission to liquidate and dissolve. (See Holding Company Act Release Nos. 8242 (June 1, 1948), 8773 (December 31, 1948) and 10717 (August 14, 1951)). In addition to the Standard Plan (File No. 54–191), Standard Gas also filed a plan ("Philadelphia Plan") for the simplification of the corporate structure of the Philadelphia holding company system (File No. 54–173). The two proceedings were consolidated. The Philadelphia Plan has six steps all of which have been approved by the Commission and consummated. The Standard Plan likewise is divided into steps. All of the transactions proposed to be taken by Steps I, IA, II, IIA, III and IIIA of the Standard Plan have been approved by the Commission and consummated. Step IIA is the same as, and also was filed as, Step 6 of the Philadelphia Plan. All of the outstanding securities of Philadelphia except a $1,000,000 bank note are held by Standard Gas. Standard Gas' outstanding securities consist solely of 2,162,607 shares of Common Stock, par value $1 per share, of which Standard Shares owns 986,000 shares or 45.6 percent. Standard Gas owns all of the outstanding Common Stock of Philadelphia and a note of that company in the amount of $2,500,000 due September 10, 1956. In addition to cash and miscellaneous assets, including Government and other bonds, certain real estate, and the capital stock of an inactive subsidiary, the combined assets of Standard Gas and Philadelphia consist of 620,661 shares or 9.4 percent of Duquesne's Common Stock and 24,264 shares of that company's non-voting 4 percent Preferred Stock; 547,678 shares or 50.9 percent of Pittsburgh Railways' Common Stock; 3,576 shares or less than 1 percent of the Common Stock of Oklahoma Gas and Electric Company and 53,525 shares or 2 percent of the Common Stock of Wisconsin Public Service Corporation. Excluding large maximum contingent liabilities for Federal Income Taxes for the years 1942 through 1950, the amount of which is not disclosed in the filing, the only liabilities of Standard Gas and Philadelphia outside the system consist of Philadelphia's $1,000,000 bank loan and miscellaneous liabilities and claims.

Standard Gas and Philadelphia and certain other affiliated companies filed consolidated Federal income tax returns for the years 1942 to 1950, inclusive. At present the Federal income tax liability of Standard Gas and Philadelphia for such years is undetermined. During 1952 Philadelphia on the one hand and Duquesne and its subsidiaries on the other entered into tax agreements ("1952 tax agreements") in respect of the apportionment of Federal income and excess profits taxes, and refunds thereof, if any, for this period in a manner different from that required by this Commission's Rule U-45 (b) (6). The 1952 tax agreements were embodied in Steps I and II of the Standard Plan which were approved by the Commission and approved and ordered enforced by the United States District Court for the District of Delaware and were also embodied in Step 6 of the Philadelphia Plan which was approved by the Commission and ordered enforced by the United States District Court for the District of Western Pennsylvania. The 1952 tax agreements and the situation with respect to the tax liabilities are described by the Commission in its findings on Step I and on Step II of the Standard Plan. (Holding Company Act Release Nos. 11510 and 11765.)

According to the instant filing the 1952 tax agreements, in effect, provide in respect of any additional consolidated Federal taxes based on income which may be assessed for the period 1942 through 1950 that Philadelphia will pay any liabilities of Duquesne and its subsidiaries in excess of approximately $13,334,000 plus the share of Duquesne and its subsidiaries in future refunds, if any, after giving effect to reductions or increases in Federal income and excess profits taxes and any penalties and interest payable thereon for such companies by reason of interest paid or received in respect of such taxes. Philadelphia is entitled to the net refunds and interest resulting if the share of Duquesne and its subsidiaries of the amount finally determined to be payable is less than the amount of such taxes paid by such companies prior to July 3, 1953.

Step IV of the Standard Plan, as now proposed, provides as follows:

(1) The 1952 tax agreements will be cancelled. A new tax agreement is proposed and will become effective upon approval thereof by order of the Commission and the enforcement of such order by the United States District Court for the District of Delaware. Under the new tax agreement Philadelphia's maximum liability would be limited in that Philadelphia would assume to the extent of $1,000,000 and no more, any liabilities of Duquesne and its subsidiaries in excess of $12,334,000 in respect of additional consolidated Federal income and excess profits taxes for the years 1942 through 1950 and any penalties and interest payable thereon. However, under the new tax agreement Philadelphia would not be entitled to any of the refunds payable to Duquesne and its subsidiaries which it would have been entitled to under the 1952 tax agreements.

(2) Philadelphia, in partial liquidation, will distribute to Standard Gas the 547,678 shares of Common Stock of Pittsburgh Railways and 496,000 shares of Common Stock of Duquesne and will renegotiate or pay off its $1,000,000 bank loan. If such loan is renegotiated Standard Gas may guarantee the obligation.

(3) Standard Gas will distribute to its stockholders warrants to purchase 540,651.75 shares of Pittsburgh Railways Common Stock through a rights offering under which each Standard Gas stockholder will be entitled to purchase one share of Pittsburgh Railways Common Stock for each four shares of Standard Gas Common Stock held. The warrants will be transferable and will expire not less than 21 days after their date of issuance. Subject to the approval of the Commission, Standard Shares has agreed to exercise the warrants issued to it and will purchase all the shares of Pittsburgh Railways Common Stock not purchased by other stockholders plus the remaining 7,026.25 shares of such stock held by Standard Gas and not offered to its stockholders. Subject to the Commission's approval and prior to the issuance of the warrants the purchase price of the Pittsburgh Railways Common Stock will be fixed by the Board of Directors of Standard Gas upon the basis of market and other factors. According to the instant filing, it is expected that such purchase price will be about $6. The Chase Manhattan Bank will be appointed Agent in connection with this rights offering, and will have the right to buy and sell warrants for the purpose of eliminating fractional shares. Such buying and selling will be at then current market prices as determined by the Agent and without charge to the Standard Gas stockholders.

(4) After the completion of the proposed sale of the Pittsburgh Railways Common Stock, the Certificate of Incorporation of Standard Gas will be amended so that the par value of the Standard Gas Common Stock will be $0.10 instead of $1 per share. This amendment which will reduce Standard Gas' capital from $2,162,607 to $216,260.70 will become effective without a vote of stockholders but only pursuant to an order of the United States District Court for the District of Delaware as provided in section 245 of the Delaware Corporation Law.

(5) Upon the reduction of its capital as described above, Standard Gas, in partial liquidation, will distribute to its stockholders of record 540,651.75 shares of Duquesne Common Stock on the basis of ¼ of a share of Duquesne Common Stock for each share of Standard Gas Common Stock held but no fractional shares of Duquesne Common Stock will be distributed. Chemical Corn Exchange Bank will be appointed by Standard Gas as the Distribution Agent to distribute the Duquesne Common Stock. Standard Gas will deposit with the Distribution Agent a certificate or certificates in transferable form for the Duquesne Common Stock to be distributed and upon the receipt of such certificate or certificates by the Distribution Agent, Standard Gas will cease to be the holder of, or have any rights or incidents of ownership in respect of, such Duquesne Common Stock and the Distribution Agent will deliver to each known holder of Standard Gas Common Stock a certificate for the full shares of Duquesne

Common Stock to which he is entitled and, in lieu of his fractional interest of a share, an Order Form which without any charge to him will entitle such holder to instruct the Distribution Agent to sell for his account his fractional interest or to buy for his account such additional fractional interest in a share of Duquesne Common Stock as is required to make one full share. Such buying and selling will be at then current market prices as determined by the Distribution Agent. The rights of Standard Gas stockholders in respect of the Order Form will terminate 30 days after the distribution record date fixed in accordance with Step IV of the Standard Plan. Provisions are made for the distribution of such cash as the Standard Gas stockholders may be entitled to under Step IV in respect of any sales by the Distribution Agent in the adjustment of fractional interests and in respect of any dividends declared on the Duquesne Common Stock to be distributed. In addition, Step IV has provisions in respect of the voting rights of such shares and at no time will the Distribution Agent have the power to vote such shares. Step IV also provides for a termination or cut-off date after which all rights of holders of Standard Gas Common Stock in respect of the distribution of the Duquesne Common Stock will cease, become void and be of no value and such termination or cut-off date will be at least five years after the effective date of distribution for said shares of Duquesne Common Stock during which time Standard Gas will make or cause to be made reasonable efforts through letters or otherwise to locate all stockholders who have not exercised their rights in respect of the Duquesne Common Stock to be distributed, will advise such stockholders, if located, of their rights, and will report periodically to the Commission regarding such efforts and the success thereof.

(7) Such fees and expenses as the Commission may award or allow in connection with Step IV of the Standard Plan and any and all transactions and proceedings related thereto will be paid by Standard Gas to the extent that they relate primarily to transactions pertaining to Standard Gas and by Philadelphia to the extent that they relate primarily to the transactions pertaining to Philadelphia.

Step IV of the Standard Plan, as proposed, further provides that the record date (subscription record date) for the determination of holders of Standard Gas Common Stock entitled to receive warrants covering the right to subscribe for shares of Pittsburgh Railways Common Stock and the record date (distribution record date) for the holders of Standard Gas Common Stock entitled to receive Duquesne Common Stock and/or an Order Form in respect of any fractional shares thereof will be as specified in the order or orders of the Commission or an appropriate Federal District Court or, if not so specified, by Standard Gas' Board of Directors.

It is further stated by Standard Gas that to the extent that any transaction to be carried out pursuant to Step IV of the Standard Plan may be inconsistent or in conflict with any order previously entered by the Commission, Standard Gas will take appropriate action for the modification of any such order.

The Commission considering that Standard Gas' application and Step IV of its plan, as amended, raise issues that should not be resolved prior to notice and public hearing with respect thereto:

It is hereby ordered That a hearing in the above-entitled proceeding shall be held on May 23, 1956, at 10:00 a. m., at the offices of the Commission, 425 Second Street NW., Washington 25, D. C. On such date the Hearing Room clerk in Room 193 will advise as to the room in which such hearing will be held. Any persons desiring to be heard or otherwise wishing to participate in this proceeding shall file with the Secretary of the Commission before the commencement of the hearing a written request relative thereto as provided by Rule XVII of the Commission's rules of practice.

It is further ordered That James G. Ewell, or any other officer or officers of the Commission designated by it for that purpose, shall preside at such hearing. The officer or officers so designated to preside at such hearing are hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation of the Commission having advised the Commission that it has made a preliminary examination of the application and Step IV of the Standard Plan, as amended, 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 any of the transactions to be carried out pursuant to Step IV of the Standard Plan, as amended or as it may be further modified, is or may be inconsistent or in conflict with any previous steps of the Standard Plan or the Philadelphia Plan or with any orders of the Commission approving such steps; and in the event any such inconsistency or conflict exists, what, if any, conditions the Commission should impose in respect of any order issued by it regarding said Step IV, as amended, of the Standard Plan;

(2) Whether Step IV of the Standard Plan, as amended or as it may be further modified, is necessary to effectuate the provisions of section 11 (b) of the act, or whether any further action should be required by the Commission in order that Standard Gas and Philadelphia shall comply fully with the provision of that section of the act and the Commission's orders thereunder;

(3) Whether Step IV of the Standard Plan, as amended or as it may be further modified, is fair and equitable to the persons affected thereby, and particularly, but not limited to, whether the cancellation of the 1952 tax agreements and the substitution of the new tax agreement therefor are fair and equitable to the persons affected thereby, are in accordance with the other applicable standards of the act, and whether such cancellation and substitution are subject to the jurisdiction of the United States District Court for the District of Western Pennsylvania; whether in the event that Step IV of the Standard Plan, as amended or as it may be further modified, is consummated there will be sufficient assets remaining in Standard Gas and Philadelphia to take care of the fixed and contingent liabilities thereof; and whether the proposed dispositions of common stock of Duquesne and Pittsburgh Railways are fair and equitable to the persons affected thereby and are in accordance with the applicable provisions of the act;

(4) Whether, in connection with the transactions proposed under Step IV of the Standard Plan, as amended or as it may be further modified, or under any proceedings or proposals related thereto, there will remain any affiliated or interlocking relationship between Duquesne and any company which now is or has been in the holding company system in which Duquesne is or was a member;

(5) Whether the Commission should adopt Step IV of the Standard Plan, as amended or as it may be further modified, or whether another plan to achieve compliance by Standard Gas and Philadelphia with the standards of section 11 (b) of the act should be proposed and/or approved by the Commission;

(6) Whether the accounting entries to be made to record the proposed transactions on the books of Standard Gas and Philadelphia are appropriate and in conformity with sound accounting principles;

(7) Whether the fees and expenses and other remuneration which may be claimed or paid in connection with Step IV of the Standard Plan, as amended or as it may be further modified, and the transactions incident thereto are for necessary services and are reasonable in amount;

(8) Generally, whether the transactions proposed in Step IV of the Standard Plan, as amended or as it may be further modified, are in all respects in the public interest and in the interests of investors and consumers and consistent with all applicable standards and requirements of the act and the rules and regulations thereunder; and, if not, what modifications should be required to be made therein, and what terms and conditions, if any, should be imposed to satisfy the applicable statutory standards;

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 serve a copy of this Notice and Order by registered mail on Standard Shares, Standard Gas, Philadelphia, Duquesne, Pittsburgh Railways, Mellon National Bank and Trust Company, Pennsylvania Public Utility Commission, Federal Power Commission, and the United States Treasury Department; that notice of said hearing shall be given to all other persons by general release of this Commission which shall be distributed to the press and mailed to persons on the mailing list

for releases under the act; and that further notice shall be given to all persons by publication of this notice and order in the FEDERAL REGISTER.

It is further ordered, That Standard Gas shall give notice of this hearing to all participants in the proceedings on Steps I and II of the Standard Plan and Step 6 of the Philadelphia Plan, to all Standard Gas public stockholders and to all of the public common stockholders of Duquesne (insofar as the identity of such public common stockholders is known or available to Standard Gas) by mailing to each of said persons a copy of this Notice and Order to his last known address at least 15 days prior to the date set for said hearing and upon the request of any such person and without charge to such person Standard Gas shall mail to such person a copy of the proposed amendments to Step IV of the Standard Plan.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 56-3461; Filed, May 2, 1956; 8:49 a. m.]

GENERAL SERVICES ADMINISTRATION

ARTHUR F. JOHNSON

STATEMENT AS TO CHANGES IN EMPLOYMENT AND FINANCIAL MATTERS

APRIL 9, 1956.

Mr. ROBERT G. PEEBLES,
Director of Personnel,
General Services Administration,
Washington 25, D. C.

DEAR MR. PEEBLES: With reference to your letter of April 5, I have not made any changes in my interests from those reported for the previous six months period as shown in my reply to your letter of December 20, 1955.[1]

Yours very truly,

ARTHUR F. JOHNSON.

[F. R. Doc. 56-3463; Filed, May 2, 1956; 8:49 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

DR. ERICH BOEHM

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Dr. Erich Boehm, Cardiff, England, $26,349.15 in the Treasury of the United States; Claim No. 36995.

[1] See 21 F. R. 43.

Executed at Washington, D. C., on April 24, 1956.

For the Attorney General.

[SEAL] PAUL V. MYRON, *Deputy Director, Office of Alien Property.*

[F. R. Doc. 56-3471; Filed, May 2, 1956; 8:51 a. m.]

NIKOLAUS MOSER

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Nikolaus Moser, Grantschen, Krs. Heilbronn a. N., Wuerttemberg, Germany; $6,008.79 in the Treasury of the United States; Claim No. 62780; Vesting Orders Nos. 9811 and 11805.

Executed at Washington, D. C., on April 24, 1956.

For the Attorney General.

[SEAL] PAUL V. MYRON, *Deputy Director, Office of Alien Property.*

[F. R. Doc. 56-3472; Filed, May 2, 1956; 8:51 a. m.]

ALFRED AUGUSTE RICHTER

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Alfred Auguste Richter, Clarens-Montreux, Switzerland; $179 cash in the Treasury of the United States; Claim No. 60527; Vesting Order No. 17903.

Executed at Washington, D. C., on April 24, 1956.

For the Attorney General.

[SEAL] PAUL V. MYRON, *Deputy Director, Office of Alien Property.*

[F. R. Doc. 56-3473; Filed, May 2, 1956; 8:51 a. m.]

STATE OF THE NETHERLANDS FOR BENEFIT OF DAVID DAVIDS ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

The State of the Netherlands for the benefit of: All right, title and interest of the Attorney General acquired pursuant to Vesting Order No. 18521 (16 F. R. 10097, October 3, 1951) in and to:

David Davids, L. S. Claim No. 64; Cities Service Company 5/58 Debenture No. 49030, in the principal amount of $1,000.

Betsy De Hes, L. S. Claim No. 65; Cities Service Company 5/58 Debenture No. 44383, in the principal amount of $1,000; Central Pacific Railway Company 4/49 Bond No. 9993, in the principal amount of $1,000; and Kansas City Southern Railway Company 3/50 Bond No. 19951, in the principal amount of $1,000.

Hartog, Nebig, L. S. Claim No. 68; Cities Service Company 5/58 Debenture No. 18020, in the principal amount of $1,000; and Southern Railway Company 4/56 Bond Nos. 30664 and 42719, in the principal amount of $1,000 each.

Henriette Polak, L. S. Claim No. 70; Cities Service Company 5/69 Debenture No. 2738, in the principal amount of $1,000.

Henriette Gosschalk, L. S. Claim No. 83; Cities Service Company 5/69 Debenture No. 38687, in the principal amount of $1,000.

Netherlands Embassy, Office of the Financial Counselor, 25 Broadway, New York 4, New York.

Executed at Washington, D. C., April 24, 1956.

For the Attorney General.

[SEAL] PAUL V. MYRON, *Deputy Director, Office of Alien Property.*

[F. R. Doc. 56-3474; Filed, May 2, 1956; 8:51 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 30, 1956.

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. 32007: *Lumber—West Virginia to Marion, N. C.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on lumber, carloads, from specified points in West Virginia to Marion, N. C.

Grounds for relief: Maintenance of destination rate relations with Morgantown, N. C., and circuity.

Tariff: Supplement 113 to Agent Spaninger's ICC 1297.

FSA No. 32008: *Staves and heading—Fairfield, Ill., to Memphis, Tenn.* Filed by the Southern Railway Company, for itself and The Cincinnati, New Orleans and Texas Pacific Railway Company. Rates on staves and heading, rough,

straight or mixed carloads, from Fairfield, Ill., to Memphis, Tenn.

Grounds for relief: Circuitous routes.

Tariff: Supplement 30 to Southern Railway Company ICC A–11099.

FSA No. 32009: *Concrete mix from, to, and between points in the southwest.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on dry concrete mix, carloads, from specified points in Arkansas, Illinois, Kansas, Louisiana (west of the Mississippi River), Missouri, Nebraska, Oklahoma, Tennessee (Memphis), and Texas, to specified points in southwestern, western trunkline and official territory.

Grounds for relief: Short-line distance formula and circuity.

Tariffs: Supplement 20 to Agent Kratzmeir's ICC 4060 and three other tariffs.

FSA No. 32010: *Import and export rates to and from Indiana and Ohio.* Filed by H. M. Engdahl, Agent, for interested rail carriers. Rates on various commodities moving on import and export class and commodity rates from South Atlantic, Florida, and Gulf ports on import traffic, and to such ports on export traffic; to or from Valley Junction, Elizabethtown, Ohio, Lawrenceburg Junction, Lawrenceburg, Greendale and Aurora, Ind., on the New York Central Railroad Company.

Grounds for relief: Grouping, application of rates through higher-rated intermediate points in official territory, and circuity.

Tariffs: Supplement 14 to Agent Engdahl's ICC 132 and one other tariff.

FSA No. 32011: *Pig iron—Troy and Green Island, N. Y., to Erie, Pa.* Filed by C. W. Boin, Agent, for interested rail carriers. Rates on pig iron, carloads, from Troy and Green Island, N. Y., to Erie, Pa.

Grounds for relief: Motorship (barge) competition, and circuity.

Tariffs: Supplement 7 to Agent Boin's ICC A–1054 and one other tariff.

FSA No. 32012: *Sodium phosphates—Carteret, N. J., to West Point, Miss.* Filed by C. W. Boin, Agent, for interested rail carriers. Rates on phosphate of soda, di-sodium phosphate, and tri-sodium phosphate, carloads, from Carteret, N. J., to West Point, Miss.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 12 to Agent Boin's ICC A–1079.

FSA No. 32013: *Export and import class rates to and from Rio Grande crossings.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on commodities moving on export and import class rates from points in Colorado and Wyoming, when on export traffic to Texas border points destined to Mexico; and to points in Colorado and Wyoming on import traffic from these border points originating in Mexico.

Grounds for relief: Equilization of rates to or from Texas-Mexico border points over circuitous routes.

Tariffs: Supplement 171 to Agent Kratzmeir's ICC 3552 and one other tariff.

FSA No. 32014: *Phosphatic feed supplements—St. Louis, Mo., to the South.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on phosphatic feed supplements, carloads, from St. Louis, Mo., to base points in southern territory and points grouped therewith and taking same rates.

Grounds for relief: Short-line distance formula and circuity.

Tariff: Agent Spaninger's ICC 1535.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 56-3464; Filed, May 2, 1956; 8:49 a. m.]