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Title 3—THE PRESIDENT

Proclamation 3270

NATIONAL DEFENSE TRANSPORTATION DAY, 1959

By the President of the United States of America

A Proclamation

WHEREAS the strength of our national economy is dependent upon the existence of a modern land, air, and sea transportation system; and

WHEREAS that transportation system must, at all times, be capable of fully supporting the military activities of our armed forces during any emergency, or during any period of hostilities in which this country may be engaged; and

WHEREAS this Nation's transportation industry has admirably demonstrated its ability to develop and maintain such a system, and, in doing so, renders outstanding service to our people; and

WHEREAS the Congress, by a joint resolution approved May 16, 1957 (71 Stat. 30), has requested the President annually to issue a proclamation designating the third Friday of May of each year as National Defense Transportation Day:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby designate Friday, May 15, 1959, as National Defense Transportation Day, and I urge all our people on that day to join in appropriate activities and ceremonies with the various branches of the transportation industry and with representatives of the armed forces and other governmental agencies. I also invite the Governors of the States to provide for the observance of that day in such manner as will afford an opportunity for the people of each community to recognize the importance of modern transportation.

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 12th day of January in the year of our Lord nineteen hundred and [SEAL] fifty-nine, and of the Independence of the United States of America the one hundred and eighty-third.

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F.R. Doc. 59-418; Filed, Jan. 13, 1959; 4:22 p.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter II—Employment and Compensation in the Canal Zone

ADDITION OF CHAPTER

A new Chapter II is added to Title 5 pertaining to employment and compensation in the Canal Zone.

Part 201—General

Part 202—Filling Positions

Part 203—Conversions to Canal Zone Career or Career-Conditional Appointments

Part 204—Compensation and Allowances

Part 205—Performance Ratings

Part 206—Training

Part 207—Military Service

Part 208—Adverse Personnel and Reduction in Force Actions

Part 209—Grievances and Appeals

Part 210—Records, Reports, and Terminology

PART 201—GENERAL

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EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

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

CODIFICATION GUIDE—Con.

AUTHORITY: §§ 201.1 to 201.100 issued under secs. 3, 15, 72 Stat. 405; E.O. 10794, 23 F.R. 9627; 3 CFR, 1958 Supp.

CROSS REFERENCE: For Civil Service Regulations referred to in this part, see Chapter I of this title.

§ 201.1 Purpose.

By virtue of the authority contained in the Act of July 25, 1958 and in Executive Order 10794 of December 10, 1958 (23 F.R. 9627; 3 CFR, 1958 Supp.), the regulations in this chapter are issued for the purpose of establishing a Canal Zone Merit System governing employment in the Canal Zone and to provide a uniform system of compensation for such employment.

§ 201.2 Definitions.

As used in this chapter the term:

Act. "Act" means the Act of July 25, 1958 (72 Stat. 405).

Board. "Board" means the Canal Zone Civilian Personnel Policy Coordinating Board established by § 201.4.

Commander-in-Chief. "Commander-in-Chief" means Commander-in-Chief, Caribbean Command.

Commission. "Commission" means the United States Civil Service Commission.

Competitive civil service. "Competitive civil service" shall have the same meaning as the words "competitive service", "classified service", "classified (competitive) service", or "classified civil service" as defined in existing statutes and Executive Orders.

Competitive status. "Competitive status" has the meaning ascribed to that term in § 1.102(g) of this title.

Continental United States. "Continental United States" means the several States of the United States of America existing on July 25, 1958 and the District of Columbia.

Department. "Department" means a department, agency, or independent establishment in the executive branch of the Government of the United States (including a corporation wholly owned or controlled by the United States) which conducts operations in the Canal Zone.

Employee or incumbent. "Employee or incumbent" means any individual holding a position.

Governor of the Canal Zone. "Governor of the Canal Zone" unless otherwise indicated by the context, includes the ex officio capacity of the Governor as President of the Panama Canal Company.

Merit status. "Merit status" means basic eligibility to be noncompetitively selected to fill a vacant position under the Canal Zone Merit System.

Position. "Position" means those duties and responsibilities of a civilian nature under the jurisdiction of a department (a) which are performed in the Canal Zone or (b) with respect to which the exclusion of individuals from the Classification Act of 1949, as amended, is provided for by section 202(21)(b) of the Classification Act of 1949, as amended.

Security position. "Security position" means a position which must be filled by United States citizens only, as provided in the Act, Executive Order, and the regulations in this chapter.

Veteran. "Veteran" means a person entitled to preference under the Veterans' Preference Act of 1944, as amended, (5 U.S.C. 851) including a woman entitled to wife, widow, or mother preference under that Act.

§ 201.3 Coverage.

(a) *Coverage.* The regulations in this chapter apply to all employees or applicants for employment, irrespective of citizenship, unless excluded in accordance with paragraph (b) of this section.

(b) *Exclusions.* The Secretary of the Army may, upon recommendation of the agency concerned, exclude employees or positions from the provisions of the Act or the regulations in this chapter or any provision of the Act or the regulations in this chapter and may extend rights and privileges to employees as provided in section 3(b) of the Act. Authority to except positions from the Canal Zone Merit System and Part 202 of this chapter shall be granted only upon a determination that appointments thereto through competitive examinations are not practicable. The Secretary of the Army may also except positions from the Canal Zone Merit System and Part 202 of this chapter on the basis that such positions are of a confidential or policy determining character. Positions and employees excluded from the provisions of the Act or the regulations in this chapter are published in § 201.100.

(c) *Extension of coverage.* Upon the recommendation of the department concerned and approval of the Commission, the coverage of the regulations in this chapter may be extended to employees in positions in installations or activities located in the Republic of Panama which are a part of installations or activities with headquarters in the Canal Zone and which are under the same immediate supervision and control as a parent installation in the Canal Zone.

§ 201.4 Canal Zone Civilian Personnel Policy Coordinating Board.

(a) *Establishment and membership.* There is hereby established a Canal Zone Civilian Personnel Policy Coordinating Board composed of the following or their designated representatives:

(1) Governor of the Canal Zone.

(2) Commander-in-Chief.

(3) Commanding General, U.S. Army Caribbean.

(4) Commandant, 15th Naval District.

(5) Commander, Caribbean Air Command.

(b) *Chairmanship.* The Chairmanship of the Board will rotate at six-month intervals between the Governor and the Commander-in-Chief, or their representatives.

(c) *Functions.* This board, under the direction of the Chairman, shall perform the functions and exercise the authorities delegated to it by the regulations in this chapter.

§ 201.5 Delegations of authority.

(a) *Authority of Board.* The Board is hereby authorized to:

(1) Formulate and issue such additional regulations and detailed procedures as may be necessary to carry out the provisions of Parts 202, 203, and 204 of this chapter.

(2) Develop qualification standards and examination rating guides which will be applied uniformly in effecting all personnel actions. In general, occupational standards issued by the Commission and those developed by individual departments which are appropriate for general use will be used for this purpose. The Board will provide suitable instructions as to standards to be used for shortage recruitment categories.

(3) Conduct, or arrange for, such recruitment and examining programs as may be required to insure an adequate supply of qualified eligibles.

(4) The Board may redelegate the authorities contained in subparagraphs (2) and (3) of this paragraph to a Central Employment Office established under its supervision.

(b) *Authority of Appointing Officers.* Appointing Officers are authorized to effect personnel actions in accordance with the regulations in this chapter and the procedures and standards established by the Board.

§ 201.6 Deviations.

Whenever compliance with the strict letter of the regulations in this chapter would create practical difficulties or unnecessary hardships, the Secretary of the Army may, upon recommendation of the Board, permit a deviation from these regulations. Such authority may be granted only if such deviation is within the spirit of the regulations, and the efficiency of the Government and the integrity of the Canal Zone Merit System are protected and promoted. Any deviation authorized, and the reasons therefor, shall be made a matter of record.

§ 201.7 Enforcement.

Under the direction of the Secretary of the Army, inspection facilities available within the employing departments will be utilized for periodic inspections of operations under the regulations in this chapter. When an inspection indicates failure on the part of any activity to adhere to the regulations in this chapter, or to proper regulations or procedures issued by the Board pursuant to the regulations in this chapter, the Secretary of the Army will bring such deviations to the attention of the head of the department concerned who will be responsible for taking corrective action or, in the case of Army activities, to the Deputy Chief of Staff for Personnel, Department of the Army. When an inspection or appeal indicates an improper or erroneous action on the part of the Board, the Chairman of the Board will be directed to effect corrective action.

§ 201.100 Exclusions.

Pursuant to the provisions of § 201.3 (b) establishing a Canal Zone Merit System governing employment in the Canal Zone and providing a system of compensation for such employment the following positions and the incumbents thereof are excluded, to the extent indicated, from the provisions of the Act of July 25, 1958 (72 Stat. 405) and such regulations:

(a) The following positions, and the incumbents thereof, are excluded from all of the provisions of the Act, except section 16 thereof, and the regulations in this chapter.

(1) General Officers of the Panama Canal Company.

(2) Persons in the active military, naval, or public health service of the United States appointed to or employed by the Panama Canal Company or Canal Zone Government.

(3) The District Attorney and Assistant District Attorneys and the United States Marshal and Deputy United States Marshals for the Canal Zone.

(4) The Magistrates.

(5) Hospital residents and interns.

(6) Consultants and experts when employed under the provisions of section 15, Act of August 2, 1946 (5 U.S.C. 55a) or other statutory authority.

(7) Any employee excluded by the Act of June 19, 1952, as amended (5 U.S.C. 150k), from coverage under laws administered by the Civil Service Commission.

(8) Inmate employees of Corozal Hospital and the Palo Seco Leprosarium.

(b) The following positions, and the incumbents thereof, are excluded from the provisions of Parts 202 and 203 of the regulations in this chapter.

(1) Attorneys.

(2) Teachers and school officers of schools of the Canal Zone Government.

(c) The following positions in the Panama Canal Company and Canal Zone

Government and the incumbents thereof are excluded from all the provisions of Parts 202, 203, and 204 of the regulations in this chapter.

(1) All Bureau Directors.

(2) The General Counsel.

(3) The Executive Secretary and the Deputy Executive Secretary, Canal Zone Government.

(4) The Chief, Executive Planning Staff.

(5) The Chief, Internal Security Office.

(6) The Public Information Officer.

(7) The Deputy Comptroller.

(8) The Health Bureau Heads of Services.

PART 202—FILLING POSITIONS

Sec.

AUTHORITY: §§ 202.1 to 202.16 issued under secs. 3, 10, 15, 72 Stat. 405; E.O. 10794, 23 F.R. 9627, 3 CFR, 1958 Supp.

CROSS REFERENCE: For Civil Service Regulations referred to in this part, see Chapter I of this title.

§ 202.1 Methods of filling vacancies.

In his discretion an appointing officer may fill any position either by competitive appointment from a Canal Zone Merit System register, by appointment or position change of a present or former Federal employee through noncompetitive action in accordance with the regulation in this part, or, when authorized under § 202.13, by temporary appointment. He shall exercise his discretion in all personnel actions solely on the basis of merit and fitness. In determining merit and fitness of any person, there shall be no discrimination on the basis of religious or political affiliations, marital status, physical handicap, race, color, national origin, or of nationality as between citizens of the United States and citizens or residents of the Republic of Panama or of the Canal Zone except as required by § 202.2.

§ 202.2 Designation of security positions.

Positions designated as security positions by the head of each agency or by his authority shall be filled only by citizens of the United States. Such positions shall include, but not be limited to, the following:

(a) Those involving security of property.

(b) Those involving access to defense information, not releasable to foreign nationals, classified pursuant to Executive Order 10501 of November 5, 1953. (3 CFR, 1949–1953 Comp.)

(c) Those which required the use of United States citizens to insure continuity and capability of operation and administration of activities in the Canal Zone by the United States Government.

§ 202.3 Positions restricted to veterans of United States Armed Forces.

The provisions of § 2.102 of this title shall apply in their entirety.

§ 202.4 Disqualification of applicants.

An applicant may be denied examination and an eligible may be denied appointment for any of the reasons set forth below. A person disqualified for any of the listed reasons may, in the discretion of the Board, be denied examination, or denied appointment to any position, for such period as the Board may determine.

(a) Dismissal from employment for delinquency or misconduct.

(b) Physical or mental unfitness for the position for which applied.

(c) Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct.

(d) Intentional false statements or deception or fraud in examination or appointment.

(e) Use of narcotics or habitual use of intoxicating beverages to excess.

(f) In the case of citizens of the United States, reasonable doubt as to the loyalty of the person involved to the Government of the United States. In the case of non-United States citizens, reasonable doubt that the person involved would refrain from committing acts inimical to the interests of the Government of the United States.

(g) Refusal to furnish testimony in regard to matters inquired of arising under the Act or the regulations in this chapter or refusal to furnish testimony in connection with investigations conducted pursuant to Executive Order 10450 of April 27, 1953. (3 CFR, 1949–1953 Comp.)

(h) Any legal or other disqualification which makes the applicant unfit for the service.

§ 202.5 Appointments subject to investigation.

All initial appointments or reappointments made under this part shall be subject to such investigation as may be required to establish the appointee's qualifications and suitability for employment.

(a) Except in cases involving intentional false statements, or deception or fraud in examination or appointment, the condition "subject to investigation" automatically expires at the end of one year after the effective date of the appointment.

(b) For a period of one year after the effective date of any appointment subject to investigation, the Board may instruct the employing department to remove the employee if investigation discloses that he is disqualified for any of the reasons listed in § 202.4. Thereafter the Board may require removal only on the basis of intentional false statements or deception or fraud in examination or appointment.

§ 202.6 Prohibited activities.

(a) *Coercion in competition.* No applicant for competitive examination, eligible on any register, or officer or employee in the executive branch of the Government shall directly or indirectly persuade, induce, or coerce (or attempt to persuade, induce, or coerce) any prospective applicant to withhold filing application, or any applicant or eligible to withdraw from competition or eligibility for the purpose of either improving or injuring the prospects of any applicant or eligible for appointment. The penalty for violation of this section by applicants or eligibles shall be cancellation of application or eligibility, as the case may be. The penalty for violation of this section by an employee subject to the regulations in this chapter shall be as determined by the Board.

(b) *Instruction of applicants.* Employees are forbidden to instruct, either directly or indirectly, or to be concerned in any manner with the instruction of any person or classes of persons with a view to their special preparation for examinations conducted pursuant to the regulations in this part. Violations of this restriction shall be considered sufficient cause for removal from the service.

§ 202.7 Examinations.

The Board shall be responsible for conducting open competitive examinations for entrance into the service which will fairly test the relative capacity and fitness of the persons examined for the position(s) to be filled. When in the judgment of the Board sufficient competent persons will not be available to provide competition, the Board may, with the consent of the employing agency, examine and certify for competitive appointment fewer than three (3) individuals.

§ 202.8 Rating competitors.

The subjects in examinations shall be given such relative weights as the Board may prescribe and the same rating scale shall be applied to all persons competing in the same examination. Military service in the United States Armed Forces will be credited, and ratings augmented for veterans, in accordance with the provisions of § 2.202 (b) and (c) of this title. In rating competitors the Board shall, in the case of preference eligibles, provide for waiver of the physical standards and requirements in accordance with section 5 of the Veterans Preference Act, as amended (5 U.S.C. 851).

§ 202.9 Establishment of registers of eligibles.

The names of eligibles (those competitors who meet minimum requirements and are rated as attaining the minimum required rating) shall be entered on appropriate registers in the order outlined below.

(a) According to their ratings.

(b) An individual entitled to veteran preference shall be entered ahead of all others having the same rating.

(c) All veterans who have a compensable service-connected disability of ten percent or more shall be entered at the top of the register in the order of their ratings, except for professional and scientific positions comparable in pay level to positions in grades Non-manual 9 and above.

(d) When establishing registers, or making certifications therefrom, the Board will provide for priority consideration for Canal Zone career and career-conditional employees who have been separated by reduction-in-force. However, such priority consideration shall not extend to any position which is in a pay level higher than that from which the employee was separated. Any benefits conferred pursuant to this section are in addition to those conferred by entry of the employee's name on the employing activity's reemployment priority list.

(e) The Board will take appropriate action to insure that veterans of, or persons serving in, the armed forces of the United States, receive the same consideration in examinations and entry upon registers as are provided for the competitive service by §§ 2.207, 2.208, and 2.209 of this title.

(f) The Board will establish appropriate time periods and procedures for terminating the eligibility of individuals on a register.

§ 202.10 Certification for appointment.

Upon receipt of a request for certification of eligibles, a sufficient number of names to permit the appointing officer to consider three (3) eligibles in connection with each vacancy shall be certified from the top of the appropriate register. Certificates may, with the consent of the employing agency, contain fewer than three (3) names.

(a) When the position to be filled is a "security position," only United States citizens will be certified.

(b) If the number of eligibles on the register is insufficient, the Board, in consultation with the employing agency, will determine whether selective certification is to be made from another register, whether a recruiting campaign to attract applicants for examination should be initiated, or whether examining action is to be taken in accordance with § 202.7 or a temporary appointment authorized in accordance with § 202.13.

(c) When there is no register appropriate as a whole for certification for filling a particular position, there may be certified selectively from the most nearly appropriate existing register the name of eligibles who are qualified for the particular position. Such eligibles shall be certified in the order of their ranking. Eligibles on the register may, when appropriate, be rerated on the basis of the particular requirements of the position.

(d) Certification shall be made without regard to sex, unless the appointing officer requests eligibles of a specified sex.

(e) Certification may, at the request of the appointing officer, be restricted to eligibles residing in the Republic of Panama and the Canal Zone.

§ 202.11 Selection from certificates.

An appointing officer shall, with sole reference to merit and fitness, make selection for the first vacancy from the highest three (3) eligibles available for appointment on the certificate. For the second vacancy, he shall make selection from the three (3) highest unselected and available eligibles on the certificate. Each succeeding vacancy shall be filled in like manner. An appointing officer shall not be required to consider any eligible (a) who has been considered by him for three (3) separate appointments from the same or different certificates for the same position, or (b) to whose certification for the particular position he makes an objection that is sustained by the Board for any of the reasons stated in § 202.4 or for other reasons considered by the Board to be disqualifying for the particular position. When an appointing officer passes over a veteran preference eligible and tentatively selects a non-veteran, the provisions of § 2.205(b) and (c), of this title shall apply except that the Board shall exercise the authority vested in the Commission.

§ 202.12 Appointments from registers.

(a) A "Canal Zone Career-Conditional Appointment" shall be given to an eligible selected from a register for other than temporary appointment, except as provided in paragraph (d) of this section.

(b) Upon completion by the appointee of three (3) years of creditable service, his career-conditional appointment shall be automatically converted to a "Canal Zone Career Appointment." As used in this paragraph, "creditable service" means all substantially continuous service with the Federal Government since initial non-temporary civilian appointment, including any service in the competitive or excepted service, or intervening service in the legislative or judicial branches or in the armed forces of the United States. A break in service of thirty (30) days or less shall be considered substantially continuous service. Breaks in service of more than thirty (30) days shall not be considered substantially continuous service unless the Board excepts particular types of cases from this requirement. In making such exceptions, the Board will be guided by the instructions published for the competitive service in the Federal Personnel Manual.

(c) An eligible given a Canal Zone Career-Conditional Appointment shall be required to serve a probationary period of one year. Policies as to prior Federal service which may be counted toward completion of the probationary period shall be established by the Board. The employing department shall utilize the probationary period as fully as possible to determine the fitness of the employee and shall terminate his services during such period if he fails to demonstrate fully his qualifications for continued employment. The employee shall automatically acquire a merit status upon satisfactory completion of probation.

(d) An eligible selected from a register for other than a temporary appointment shall be given a Canal Zone career appointment if:

(1) He is a Federal employee serving under a career appointment in the competitive service, a permanent appointment in the excepted service, or a Canal Zone Career appointment.

(2) He is a former Federal employee who once met the service requirement for a career appointment in the competitive service, a permanent appointment in the excepted service, or a Canal Zone Career appointment.

(3) An eligible selected from a register for career appointment shall be required to serve a probationary period, subject to the same conditions as apply to a career-conditional appointment.

§ 202.13 Temporary appointments.

The Board shall promulgate instructions as to when, and under what circumstances, employing departments may make temporary appointments pending establishment of a register or temporary limited appointments for periods not to exceed one year. Such instructions may provide authority for renewal of temporary limited appointments for up to an additional one year period and shall provide for maximum use of eligibles available on registers. No probationary or trial period will be required in connection with any temporary appointment and an employee cannot acquire a merit status by reason of such appointment.

§ 202.14 Noncompetitive appointments.

Appointing officers may noncompetitively appoint a current Federal employee who has a merit status, a competitive status, or who is serving probation at the time of appointment. Appointing officers may noncompetitively reappoint a former Federal employee who has a merit status, a competitive status, or who was serving probation at the time of separation. Eligibility for such reappointment will be subject to the following conditions:

(a) Former Federal employees who have never completed the service requirement for Canal Zone Career appointment or for career appointment in the competitive service may be reappointed only within three (3) years following the date of their separation. This time limit shall not apply to former employees entitled to veteran preference.

(b) Former employees who have once completed the service requirement for Canal Zone Career appointment or for career appointment in the competitive service may be reappointed without time limitation.

§ 202.15 Tenure following noncompetitive appointment.

(a) The noncompetitive appointment of a current or former Federal employee who has not completed the service requirement for Canal Zone Career appointment or career appointment in the competitive service shall be made as a Canal Zone Career-Conditional appoint-

ment. The appointment shall be automatically converted to a Canal Zone Career appointment upon completion of the service requirement. A merit status shall be acquired upon satisfactory completion of any required probationary period.

(b) The noncompetitive appointment of a former or current Federal employee who has once completed the service requirement for Canal Zone Career appointment or for career appointment in the competitive service shall be made as a Canal Zone Career appointment.

(c) Former or current Federal employees who did not complete any required probationary periods prior to noncompetitive appointment shall be required to serve a probationary period of one year following appointment.

§ 202.16 Promotion, demotion, reassignment, and transfer.

(a) Appointing officers may, in their discretion, promote, demote, reassign, or transfer employees who are serving under Canal Zone Career or Career-Conditional appointments, subject to the provisions of this section and in accordance with the appropriate qualification standards for the position established by the Board. Such actions will be based solely on the merit of the employee and upon his qualifications and fitness to hold the position concerned, except that only United States citizens will be considered for assignment to "security positions." Such actions for employees serving under temporary appointments will be subject to such regulations as the Board may prescribe. In preparing such regulations the Board will be guided by the instructions published for the competitive service in the Federal Personnel Manual.

(b) Employing departments will establish a promotion plan for all employees, which is consistent with policies established by the Board. In establishing such policies the Board will be guided by the provisions of the merit promotion plan developed by the Commission for the competitive service.

PART 203—CONVERSIONS TO CANAL ZONE CAREER OR CAREER-CONDITIONAL APPOINTMENTS

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203.2 Other employees.
203.3 Tenure following recommendation or conversion.
203.4 Employees not recommended for conversion.
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AUTHORITY: § 203.1 to 203.5 issued under sec. 15, 72 Stat. 405; E.O. 10794, 23 F.R. 9627; 3 CFR, 1958 Supp.

§ 203.1 Employees with competitive status or competitive appointments.

Employees who have a competitive status, serving in either the competitive or excepted service, and employees serving in the competitive service under appointments leading to acquisition of a competitive status, shall have their appointments converted to a Canal Zone career or career-conditional appointment in the position held on the effective date of the regulations in this part and the conversion will be effective on such date. Notice of such conversion action will be furnished the employee and included in the employee's Official Personnel Folder.

§ 203.2 Other employees.

The following requirements shall be observed in effecting the conversion to Canal Zone career or career-conditional appointments of employees who do not have competitive status or who are not serving under appointments leading to competitive status.

(a) The employee must be recommended for conversion by the employing department on the basis of satisfactory performance and suitability. Employees not so recommended will be advised by the employing department of the reasons for the failure to recommend conversion.

(b) Recommendations will be reviewed and approved or disapproved by the Board, notice of decision furnished the employee together with the reasons for the decision in case of disapproval, and proper documentation of the decision made a part of the employees' Official Personnel Folders. The decision of the Board will be based upon the qualification and suitability standards established for the position in which the employee is serving.

(c) To be eligible for conversion, the employee must be serving on the effective date of the regulations in this part under a non-temporary appointment and must have served satisfactorily for at least six months immediately prior to the effective date of the regulations in this part or immediately prior to the date of recommendation, whichever is later. Periods to be counted toward completion of this six-month period as an exception to the requirement for actual service shall be determined in accordance with the instructions published for the competitive service in the Federal Personnel Manual.

(d) All recommendations for conversion must be submitted within one year of the effective date of the regulations in this part.

(e) The effective date of the conversion action will be the date of the recommendation for conversion but not earlier than the effective date of the regulations in this part.

§ 203.3 Tenure following recommendation or conversion.

(a) *Preservation of tenure.* Neither a conversion action, nor a recommendation for conversion, shall serve to reduce an employee's retention standing for reduction in force purposes.

(b) *Tenure following recommendation.* Upon submission of a recommendation for conversion, the nominee's retention standing for reduction-in-force is in Retention Group I if he is already in that group or if he meets the service requirement for a Canal Zone Career appointment; otherwise, his retention standing is in Retention Group II.

(1) An employee reverts to his previous Retention Group if the recommendation is returned without final action, and remains in this group until such time as the recommendation is resubmitted.

(2) Irrespective of his previous retention standing, an employee is placed in Retention Group III if the Board disapproves the recommendation for conversion.

(c) *Tenure following conversion.* Conversion will be to Canal Zone Career appointment if the employee meets the service requirement for such appointment; otherwise, conversion will be to Canal Zone Career-Conditional appointment. However, retention standing for reduction in force purposes will be governed by paragraph (a) of this section. All conversions will be subject to satisfactory completion of a one year probationary period if such probation has not been completed prior to the time of conversion.

(d) *Acquisition of merit status.* A merit status shall be acquired upon conversion following satisfactory completion of any required probationary period.

§ 203.4 Employees not recommended for conversion.

(a) Employees who are not recommended for conversion, or whose conversion is disapproved, will be retained in "status quo" and placed in Retention Group III until separated or until they receive a competitive appointment.

(b) Employees retained in "status quo" may be noncompetitively changed to other positions upon meeting the requirements established pursuant to § 202.16(a) of this chapter for the noncompetitive movement of employees serving under temporary appointments.

(c) Employees retained in "status quo" may be subject to displacement by eligibles on registers one year after the effective date of these regulations.

§ 203.5 Temporary employees.

Employees serving under temporary appointments on the effective date of the regulations in this chapter will not be converted. Their appointments will be considered as converted to temporary under the authority of § 202.13 of this chapter and they may be retained until the term of their current appointment has expired.

PART 204—COMPENSATION AND ALLOWANCES

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204.12 Tropical differential.

Subpart D—Pay Adjustments

AUTHORITY: §§ 204.1 to 204.19 issued under secs. 3, 5, 6, 7, 11, 15, 72 Stat. 405; E.O. 10794, 23 F.R. 9627; 3 CFR, 1958 Supp.

CROSS REFERENCE: For Civil Service Regulations referred to in this part, see Chapter I of this title.

Subpart A—General

§ 204.1 Uniformity of job classification standards.

In order to apply the provisions of section 6 of the Act concerning uniform application of rates of basic compensation, job classification standards shall be uniform within and among all departments. Any problems arising in achieving such uniformity which cannot be resolved among the departments shall be referred to the Board for resolution. If resolution is not achieved they shall then be forwarded to the Secretary of the Army for decision.

§ 204.2 Uniformity of compensation.

The rates of basic compensation for positions and employees, the overseas (tropical) differential and additional approved additives, such as tax factor, shall be uniform within and among all departments. Any problems arising in achieving such uniformity shall be referred to the Board for resolution. If resolution is not achieved they shall then be forwarded to the Secretary of the Army for decision.

Subpart B—Categories of Positions

§ 204.3 Grouping by category.

Positions in the departments shall be grouped into the categories set forth in §§ 204.4 to 204.7.

§ 204.4 Non-manual.

Those occupational groupings which embrace administrative, clerical, technical, professional, and related occupations. This includes positions covered by the Classification Act of 1949, as amended, on the effective date of the regulations in this part, except for those which are specifically covered in the Service or Special Category.

§ 204.5 Manual.

Those manual-type occupational groupings related to the U.S. Navy Pay Level Plan which embrace unskilled, semi-skilled, and skilled trades, crafts, and related occupations except for those which are specifically included in the Service or Special Category.

§ 204.6 Service.

Sales-type, food service, housekeeping, and related submanagerial positions, medical attendants, firefighters, reproduction and printing plant positions, and certain related occupations except for those which are specifically included in the Special Category. This category is established as a transitional job grouping. These positions may be reassigned to the other categories in accordance with the needs of the departments but subject to coordination for uniformity.

§ 204.7 Special.

Those occupational groupings which are excepted from the Non-manual, Manual, and Service Categories, and whose bases generally have been traditionally or by statute evaluated, classified, and titled by reference to applicable Government or industry standards for the same or similar work performed in the continental United States.

Subpart C—Pay Rates and Allowances

§ 204.8 Derivation of rates of pay.

Rates of pay at or below Grade 3 in the Non-manual Category, Grade 6 in the Service Category, and Level 10 in the Manual Category shall be derived initially from those existing hourly rates in the Canal Zone which were established in relation to rates outside the continental United States. Rates of pay above these grade levels and rates for all security positions shall be established in relation to rates for the same or similar work performed for the United States Government in the continental United States, but shall embody a deduction for the tax factor as defined in § 204.11. These rates shall constitute the base salary or wage rates.

§ 204.9 Non-United States citizen employees.

The rates of pay for non-United States citizen employees shall be the base salary or wage rates.

§ 204.10 United States citizen employees.

The rates of pay for United States citizen employees shall be the base salary or wage rates, plus such additives as are provided by the regulations in this part.

§ 204.11 Tax factor.

A tax factor is authorized in an amount equivalent to the excess of the income tax which the typical U.S. citizen employee normally would expect to pay to the U.S. Government on his salary including the tropical differential over the amount of income tax the typical Panamanian citizen employee would normally pay to the Panamanian Government on the same salary without the tropical differential. The tax for U.S. citizens shall be computed on the basis of a family of four, using the standard ten-percent (10%) deduction and joint return computation. The Panamanian tax shall be computed on the basis of the "family" tax, disregarding the "bachelor" tax and by applying the deductions authorized for two minors.

§ 204.12 Tropical differential.

A tropical differential not in excess of an amount equal to 25 percent of the aggregate compensation established under §§ 204.10 and 204.11 will be authorized for U.S. citizen employees.

Subpart D—Pay Adjustments

§ 204.13 Conversion to new schedules.

Upon conversion to the salary and wage schedules established under the regulations in this part, each employee's rate of pay shall be determined in accordance with the following:

(a) If the employee's existing rate is below the minimum rate established for the grade, pay level, and/or designation of his position on the appropriate new schedule he will have his rate increased to the minimum rate.

(b) If the employee's existing pay rate is the same as one of the rates for the grade, pay level, and/or designation of his position on the appropriate new schedule he will have no change made in his rate.

(c) If the employee's existing rate is between two step-rates for the grade, pay level, and/or designation of his position on the appropriate new schedule he will have his rate adjusted to the higher of the two step-rates.

(d) If the employee's existing rate is above the maximum rate established for the grade, pay level, and/or designation of his position on the appropriate new schedule he will retain his existing rate as a saved rate.

(e) For the purpose of determining entitlement to periodic or longevity increases, service prior to conversion to the new pay schedules will be counted in the following manner:

(1) If conversion is to a step established on a temporary basis, service prior to conversion will not be creditable.

(2) If conversion is to a step other than one established on a temporary basis, and the employee receives an increase equivalent to the difference between two steps on the old schedule, service prior to conversion will not be counted.

(3) If conversion is to a step, other than one established on a temporary basis, and the employee does not receive an increase equivalent to the difference between two steps on the old schedule, service prior to conversion will be counted. In no case may the time credit granted herein exceed the time-in-step requirement for the step.

§ 204.14 General pay adjustments.

For positions for which the basic rate of compensation has been established in reference to rates for the same or similar work in the continental United States, rates of pay shall be adjusted in relation to changes in the corresponding rates in the United States. For all other positions, rates of pay shall be adjusted in relation to changes in wage rates in the Republic of Panama as determined by periodic wage surveys of rates paid for commercial and Government employment in the Republic of Panama.

§ 204.15 Periodic and longevity increases.

Periodic and longevity step increases shall be granted as follows:

(a) *Non-manual and service categories.* Employees in positions in these categories shall be advanced successively to the next higher scheduled or longevity

step within their grade in accordance with Subpart A, Part 25, of this title.

(b) *Manual category.* Employees in positions in this category shall be advanced successively to the next higher step-rate within their pay level at the beginning of the first pay period after meeting the requirements in subparagraphs (1) and (2) of this paragraph.

(1) The employee must have 26 calendar weeks of creditable service without an equivalent increase for advancement from step 1 to step 2. For advancement to step 3, the employee must have 78 calendar weeks of creditable service without an equivalent increase. Creditable service for this purpose will be determined in accordance with the provisions of Navy Civilian Personnel Instruction 195.10—Enclosure 4, which are effective on the date of the regulations in this part, as modified by § 204.13(e).

(2) The employee's current performance rating must be "Satisfactory" or better.

(c) *Special category.* Employees in positions in this category shall be advanced successively to the next higher step within their grade in accordance with regulations to be prescribed by the Panama Canal Company-Canal Zone Government except that in those cases where agencies other than the Panama Canal Company-Canal Zone Government employ persons in positions in this category, the regulations will be developed jointly by interested agencies.

§ 204.16 Individual pay determinations.

Pay determinations in connection with personnel actions such as promotions, demotions, and transfers, shall be made in accordance with regulations generally in effect for employees in the Federal Service as follows:

(a) *Non-manual and service categories.* Salary changes for employees in positions in these categories shall be made in accordance with Subpart B, Part 25 of this title and the provisions of Subpart D, Part 25 of this title shall be applied to all employees occupying positions in these categories.

(b) *Manual category.* Wage changes for employees of positions in this category shall be made in accordance with the provisions of Navy Civilian Personnel Instructions 195.6–2 through 195.6–8, in effect on the effective date of the regulations in this part, except that Subpart D, Part 25 of this title shall be applied to all employees occupying positions in this category.

(c) *Special category.* Salary changes for employees of positions in this category shall be made in accordance with regulations to be promulgated by the Panama Canal Company-Canal Zone Government except that in those cases where agencies other than the Panama Canal Company-Canal Zone Government employ persons in positions in this category, the regulations will be developed jointly by the interested agencies.

§ 204.17 Additional pay assignments; manual-type positions.

Additional pay assignments for manual-type positions may be authorized to compensate for factors of skill or working conditions which are in addition to those normally encountered in a given trade or occupation and which have not been considered in determining the pay level. Compensation for these additional pay assignments, including night differential, will be basic compensation for the purpose of computing overtime, Civil Service Retirement deductions, Social Security deductions, and Federal Employee Group Life Insurance deductions. The head of each department is authorized to adopt, in coordination with the heads of other departments, such additional pay assignments as he deems necessary, to fix the compensation for them, and to promulgate administrative regulations, based generally on Navy practice concerning Additional Pay Assignments.

§ 204.18 Pay saving.

Whenever the rate of basic compensation of an employee established, at any time, in relation to rates of compensation for the same or similar work in the continental United States is converted, on or after the effective date of the initial adjustments under section 5 of the Act, to a rate of basic compensation established in relation to rates in areas other than the continental United States under section 5(*b*) of the Act, such employees shall, pending transfer to a position for which the rate of basic compensation is established in relation to rates in the continental United States under section 5(*b*), continue to receive the rate of basic compensation (but excluding additional pay assignments) to which he was entitled immediately prior to such conversion, so long as he remains in the same position or any other, the salary for which does not exceed such former rate of basic compensation. He shall not be eligible for within-grade salary increases granted to Non-manual or Service employees, step increases granted to Manual employees, or across-the-board increases granted to Manual employees for so long as he remains in a position the salary for which is derived from or fixed in relation to wage rates existing in the Republic of Panama or elsewhere outside the continental United States.

§ 204.19 Adjustments for wages based on Panama area rates.

Heads of departments shall base wage rates for non-security positions in grade 3 and below in the Non-Manual Category, grade 6 and below in the Service Category, and pay level 10 and below in the Manual Category (including manual supervisory positions based on pay level 10 and below) on changes in wage rates of comparable positions in commercial and Panamanian Government organizations in the terminal cities of the Republic of Panama. Wage rates will be adjusted periodically through joint agreements among heads of departments. Such adjustments will be made by reference to wage movements in Panama City and Colon in the Republic of Panama as indicated in periodic wage surveys.

PART 205—PERFORMANCE RATING

§ 205.1 Rating system.

Employing departments will extend to all employees covered by the regulations in this chapter any performance rating system which is established for United States citizens in the Canal Zone.

(Secs. 3, 15, 72 Stat. 405; E.O. 10794, 23 F.R. 9627; 3 CFR, 1958 Supp.)

PART 206—TRAINING

§ 206.1 Training programs.

All employees will be afforded equal opportunity to participate in any training programs conducted by the employing department for employees in the Canal Zone.

(Secs. 14, 15, 72 Stat. 405; E.O. 10794, 23 F.R. 9627; 3 CFR, 1958 Supp.)

PART 207—MILITARY SERVICE

§ 207.1 Rights of employees.

The rights of employees called to active military duty in the Armed Forces of the United States will be determined in accordance with Part 35 of this title.

(Secs. 3, 15, 72 Stat. 405; E.O. 10794, 23 F.R. 9627; 3 CFR, 1958 Supp.)

PART 208—ADVERSE PERSONNEL AND REDUCTION IN FORCE ACTIONS

Sec.
208.1 Applicability of existing law and Civil Service regulations.
208.2 Processing adverse personnel actions.

AUTHORITY: §§ 208.1 and 208.2 issued under secs. 3, 15, 17, 72 Stat. 405; E.O. 10794, 23 F.R. 9627; 3 CFR, 1958 Supp.

CROSS REFERENCE: For Civil Service Regulations referred to in this part see Chapter I of this title.

§ 208.1 Applicability of existing law and Civil Service regulations.

(a) On and after the effective date of the regulations in this part, the provisions of sections 6(a) and 6(b)(1) of the Act of August 24, 1912, as amended (5 U.S.C. 652) will be applicable to the removal or suspension of those employees to whom such provisions were applicable immediately prior to such effective date.

(b) The provisions of Part 22 of this title and section 6(b)(2) of the Act of August 24, 1912, as amended (5 U.S.C. 652) are applicable to preference eligibles to the extent and in the manner specified therein.

(c) The provisions of Part 20 of this title as they apply in the competitive service and the provisions of section 6(b)(3) of the Act of August 24, 1912, as amended (5 U.S.C. 652) are applicable to all reduction in force actions provided that nothing in § 20.5 of this title shall be construed as requiring the assignment of a non United States citizen to a security position.

(d) The provisions of section 6(b)(1) of the Act of August 24, 1912, as amended (5 U.S.C. 652(b)(1)), shall be applicable to any person whose removal or suspension under § 208.2(a) is determined to have been unjustified or unwarranted after review in accordance with procedures of the employing agency.

§ 208.2 Processing adverse personnel actions.

The following requirements shall be observed in connection with any adverse personnel action, not covered by one of the requirements set forth in § 208.1, which affects an employee serving under a Canal Zone Career or Career-Conditional appointment. As used in this section "adverse personnel action" includes removal, involuntary separation (except retirement for age or disability), suspension, or involuntary demotion.

(a) No employee shall be separated, suspended, or demoted except for such cause as will promote the efficiency of the service. (For separation of employees who are serving a probationary period, see paragraph (b) of this section.)

(1) The employing agency shall notify the employee in writing of the action proposed to be taken. This notice shall set forth, specifically and in detail, the charges preferred against him.

(2) The employee shall be allowed a reasonable time for filing a written answer to such charges and for furnishing affidavits in support of his answer but he will not be entitled, except in the discretion of the employing agency, to an examination of witnesses or to a trial or hearing. In emergency cases requiring prompt suspension of an employee, the employing agency may establish 24 hours as a reasonable notice period and in cases where the employee reports for duty in a condition which makes him unfit to perform his assigned duty the notice period may be entirely waived.

(3) If the employee answers the charges, his answer must be considered by the employing agency. Following consideration of the answer, the employee shall be furinshed at the earliest practical date with a written decision. Such decision shall contain the reasons for the action and the effective date of the action.

(4) The employee shall be retained in an active duty status during the period of notice of proposed action except that the employing agency may, in its discretion, temporarily assign the employee to other than his regular duties or place him on annual leave without his consent.

(b) Any employee serving a probationary period shall be given a full and fair trial in the duties of the position in which appointed. If the performance of his duties or his conduct during the probationary period is not satisfactory to the employing agency, his services shall be terminated by notifying him in writing of the reasons for his separation and of its effective date. If an employee's services are to be terminated during the probationary period for reasons based in whole or in part on conditions arising prior to his appointment the employing agency shall notify him of the reasons for his separation and its effective date.

PART 209—GRIEVANCES AND APPEALS

Sec.
209.1 Grievance procedures.
209.2 Appeals to the Commission.
209.3 Appeals from applicants or eligibles.
209.4 Classification appeals.
209.5 Canal Zone Board of Appeals.

AUTHORITY: §§ 209.1 to 209.5 issued under secs. 3, 12, 15, 72 Stat. 405; E.O. 10794, 23 F.R. 9627; 3 CFR, 1958 Supp.

CROSS REFERENCE: For Civil Service Regulations referred to in this part, see Chapter I of this title.

§ 209.1 Grievance procedures.

Each employing department shall make available to its employees equal rights to utilize any grievance procedure established by such department.

§ 209.2 Appeals to the Commission.

Employees may appeal actions taken in accordance with Parts 20 and 22 of this title in the manner provided by this part.

§ 209.3 Appeals from applicants or eligibles.

Applicants and eligibles who have reason to believe that the regulations in this chapter were not followed in rating their examinations or in making selections for appointment may appeal to the Canal Zone Personnel Policy Coordinating Board. In the event they are not satisfied with the decision of the Board, and they can show reason to believe that the action of the Board was arbitrary, capricious, or in violation of these regulations, they may request a review of the decision of the Board by the Secretary of the Army.

§ 209.4 Classification appeals.

Any employee may request at any time that his employing department review and revise or adjust the classification, grade, and pay level of his position, or any of them, as the case may be. Such requests for review and revision or adjustment shall be submitted and adjudicated in accordance with the regularly established procedures of the employing department. In the event of adverse decision by the employing department, the employee shall have the right to appeal, in writing, to the Canal Zone Board of Appeals.

§ 209.5 Canal Zone Board of Appeals.

Section 4(a) of Executive Order 10794 of December 10, 1958 (3 CFR, 1958 Supp.) establishes a Canal Zone Board of Appeals to perform the functions prescribed by section 12 of the Act. The Board shall consist of five members, all of whom shall be civilians appointed by the Secretary of the Army.

(a) *Selection of members.* (1) One member and one alternate member shall be selected from nominees recommended by the Commission and the member so selected shall serve as Chairman.

(2) Two members and two alternate members shall be selected from employees of the United States Government recommended by agencies having employees in the Canal Zone.

(3) The Chairman of the Canal Zone Policy Coordinating Board shall, after consultation with and advice from all organizations representing employees in the Canal Zone, submit to the Secretary of the Army the names of twelve employees as candidates for membership on the Board. The Secretary of the Army shall select two members and two alternate members from this list.

(4) An alternate member shall serve whenever, for any reason, the member for whom he is an alternate is unable to serve. The alternate selected from nominees recommended by the Commission shall also serve as alternate Chairman.

(5) The nominations required by subparagraphs (1) through (3) of this paragraph shall be submitted to the Secretary of the Army not later than February 15, 1959.

(b) *Service of members.* The term of service for each member or alternate member shall be for two years, provided that the Secretary of the Army may, in his discretion, terminate or extend the term of service of any member or alternate member at any time. Individuals who are designated as members or alternate members shall be detailed to the Canal Zone Board of Appeals for such periods as their services are required.

(c) *Appeals procedures.* The Canal Zone Board of Appeals shall formulate the procedures necessary to the performance of the functions prescribed by section 12 of the Act. Those portions of the procedures establishing time limits for filing appeals, the form in which appeals are to be submitted, and the circumstances under which the personal appearance of an employee or his representative will be authorized, shall be published for the information of all employees.

(d) *Decisions of the Board.* Decisions of the Board shall be made by majority vote of the members and shall be binding upon all employing agencies.

PART 210—RECORDS, REPORTS, AND TERMINOLOGY

Sec.
210.1 Applicability of Federal Personnel Manual.
210.2 Official Personnel Folders.

AUTHORITY: §§ 210.1 and 210.2 issued under secs. 3, 15, 72 Stat. 405; E.O. 10794, 23 F.R. 9627; 3 CFR, 1958 Supp.

§ 210.1 Applicability of Federal Personnel Manual.

The provisions of Chapter R1 of the Federal Personnel Manual will, except as indicated below, apply to the preparation of notifications of personnel actions taken under the regulations in this chapter, the maintenance of employment records, and the reporting of employment.

(a) All appointment and conversion actions will be prefaced by the term "Canal Zone" and all personnel actions will be identified as taken under the authority of the regulations in this chapter.

(b) The noncompetitive appointment of a former Federal employee under the provisions of § 202.14 of this chapter, will be termed a reappointment rather than a reinstatement.

§ 210.2 Official Personnel Folders.

(a) The Panama Canal Company or Canal Zone Government may retain, on a permanent basis, the Official Personnel Folders for non-U.S. citizens separated

from employment with activities under their direction.

(b) The Official Personnel Folders of non-United States citizen employees separated from activities other than the Panama Canal Company or Canal Zone Government may be retained by the employing activity or the Board for not to exceed two years following separation. Upon expiration of this period, the Official Personnel Folders will be transferred to the Federal Records Center for permanent storage.

Effective date. The regulations in this chapter, except for Part 204, shall be effective January 19, 1959. Part 204 of this chapter shall be effective on the first day of the first pay period which begins after February 8, 1959.

[SEAL] WILBER M. BRUCKER,
Secretary of the Army.

[F.R. Doc. 59-365; Filed, Jan. 14, 1959; 8:47 a.m.]

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, and Marketing Practices), Department of Agriculture

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE FARM PRODUCTS INSPECTION ACT

PART 70—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF; AND UNITED STATES CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

Miscellaneous Amendments

Certain amendments of the regulations in 7 CFR Part 70, as amended, were published in the FEDERAL REGISTER of December 24, 1958 (23 F.R. 10119). The amendments which made certain changes in paragraph (c) of § 70.170 and § 70.173 are hereby corrected so that §§ 70.170(c) and 70.173 will be included in the regulations to read as hereinafter set forth. This action is taken pursuant to the authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.) and shall be effective as of January 1, 1959.

§ 70.170 [Amendment]

1. Insert paragraph (c) of § 70.170 to read as follows:

(c) Each export certificate shall show the respective names of the exporter and the consignee, the destination, the shipping marks, the numbers of the export stamps attached to the edible products to be exported and covered by the certificate, and the names of such products and the total net weight thereof.

2. Insert § 70.173 to read as follows:

§ 70.173 Export certificates; issuance and disposition.

(a) Upon the request of an exporter, any inspector is authorized to issue an export certificate with respect to the shipment to any foreign country of any inspected and certified edible product after suitable examination of the product has been made by the inspector.

(b) Each export certificate shall be issued in quintuplicate; the original shall be delivered to the exporter who requested such certificate; and the duplicate copy shall be delivered to the agent of the railroad or other carrier transporting such products from the United States. The triplicate copy of such export certificate shall be forwarded to the Administrator; the quadruplicate copy shall be filed in the office of the area supervisor serving the area in which such export certificate was issued; and the memorandum copy shall be retained by the inspector for filing. The last-named three copies shall be retained until otherwise ordered by the Administrator.

This action reinstates provisions for export certification of edible poultry products which have been inspected under the voluntary inspection program provided for in Part 70 and should be effective as of January 1, 1959, the date on which the related amendments of December 24, 1958, became effective. No new obligations are imposed hereby on any persons. Therefore under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public rule-making procedure on this action are impracticable and unnecessary and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of January 1959.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Agricultural Marketing Service.

[F.R. Doc. 59-364; Filed, Jan. 14, 1959; 8:47 a.m.]

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

PART 725—BURLEY, FLUE-CURED, FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO

Notice of Results of Flue-Cured Tobacco Marketing Quota Referendum

Under the provisions of the Agricultural Adjustment Act of 1938, as amended, notice (23 F.R. 9269) was given that on December 15, 1958, a referendum would be held of farmers who were engaged in the production in 1958 of flue-cured tobacco. The purpose of the referendum was to determine whether two-thirds or more of the farmers voting favor national marketing quotas for flue-cured tobacco for the 1959–60, 1960–61 and 1961–62 marketing years.

In the referendum 176,607 farmers voted. Of those voting, 168,492 or 95.4 percent favored national marketing quotas for the three marketing years, 1959–60, 1960–61 and 1961–62, and 8,115 or 4.6 percent were opposed to quotas. Therefore, the national marketing quota of 1,013,972,300 pounds proclaimed on November 25, 1958 (23 F.R. 9254) for flue-cured tobacco for the 1959–60 marketing year will be in effect for such year and marketing quotas on flue-cured tobacco will be in effect for the three marketing years beginning July 1, 1959.

(Sec. 375, 52 Stat. 66, as amended; 7 U.S.C. 1375)

Issued at Washington, D.C., this 12th day of January 1959.

[SEAL] CLARENCE D. PALMBY,
Acting Administrator,
Commodity Stabilization Service.

[F.R. Doc. 59-380; Filed, Jan. 14, 1959; 8:49 a.m.]

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

PART 937—NECTARINES GROWN IN CALIFORNIA

Suspension of Certain Provisions

Notice was published in the FEDERAL REGISTER issue of December 18, 1958 (23 F.R. 9761), that consideration was being given to the suspension of certain provisions of the marketing agreement and Order No. 37 (7 CFR Part 937; 23 F.R. 4616), regulating the handling of nectarines grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

After consideration of all relevant matters presented, and other available information, it is hereby found that after the effective time hereof the provisions, hereinafter set forth, of § 937.22 *Nominations* of the said marketing agreement and order will no longer tend to effectuate the declared policy of the act and that such provisions should be suspended.

It is, therefore, ordered, That the following provisions of § 937.22 *Nominations* of the marketing agreement and Order No. 37 (7 CFR Part 937; 23 F.R. 4616) be, and the same hereby are, suspended at 12:01 a.m., e.s.t., January 15, 1959:

1. The last sentence of paragraph (b)(1) of said section which reads: "Such procedure shall include the subdivision of multiple member districts into election districts designed to provide equitable distribution of representation."

2. The last sentence of paragraph (b)(2) of said section which reads: "Each such grower, including employees of such grower, shall be entitled to cast but one vote for one nominee for member and one vote for one nominee for alternate member in the district or election district in which he produces nectarines."

It is hereby further found that good cause exists for not postponing the effective date of this order until 30 days after publication in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.), in that (1) the provisions of the marketing agreement and order and the act require the Secretary to suspend or terminate any provision of a marketing order

whenever he finds such provision obstructs or does not tend to effectuate the declared policy of the act so the issuance of this order is mandatory; (2) no useful purpose would be served by continuing the said provisions beyond the effective time specified herein; and (3) this order does not impose any restrictions on handlers or producers of nectarines.

Dated: January 12, 1959.

[SEAL] CLARENCE L. MILLER, *Assistant Secretary.*

[F.R. Doc. 59-379; Filed, Jan. 14, 1959; 8:49 a.m.]

PART 952—MILK IN AUSTIN-WACO, TEXAS, MARKETING AREA

Order Terminating Certain Provisions

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), hereinafter referred to as the "Act," and of the order, as amended (7 CFR Part 952), regulating the handling of milk in the Austin-Waco, Texas, marketing area, hereinafter referred to as the "order," it is hereby found that:

(a) The provisions of the base plan and all references thereto, including but not necessarily limited to those set forth below, no longer tend to effectuate the declared policy of the Act;

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This termination order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This termination order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in that the two cooperative associations which furnish more than 95 percent of the milk to the market operate their own base plans which are substantially different from that contained in the order.

(3) This termination order in no way affects the cost of milk to handlers as computed under the order.

(4) This termination order has been requested by a substantial majority of the producers whose milk is regulated by the order.

This termination order must be made effective before January 25, 1959, on which date the market administrator would otherwise be required to announce bases for the ensuing base-paying period.

Therefore, good cause exists for making this order effective immediately upon issuance.

It is therefore ordered, That the provisions of the base plan and all references thereto, including but not necessarily limited to those set forth below, are hereby terminated effective immediately upon issuance of this order:

1. Sections 952.73, 952.80, 952.81, 952.82, and 952.83, in their entirety;

2. In § 952.22(i)(2) the phrase, "of August through January";

3. Section 952.22(i)(3) and (j)(2) in their entirety;

4. In § 952.31(b) the remainder of the paragraph following the word, "received";

5. In § 952.72 the phrase, "of August through January";

6. In § 952.90(b) the phrase, "of August through January";

7. Section 952.90(c) in its entirety; and

8. In § 952.92 the phrase, "and the base price".

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

Issued at Washington, D.C., this 12th day of January 1959.

[SEAL] CLARENCE L. MILLER, *Assistant Secretary.*

[F.R. Doc. 59-378; Filed, Jan. 14, 1959; 8:49 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7117]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Longines-Wittnauer Watch Co., Inc. et al.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended*—Payment for services or facilities for processing or sale under 2(d): § 13.824 *Advertising expenses.* Subpart—*Discriminating in price under section 5, Federal Trade Commission Act:* § 13.892 *Knowingly inducing or receiving discriminating payments.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 2, 38 Stat. 730, as amended; 15 U.S.C. 45, 13) [Cease and desist order, Longines-Wittnauer Watch Company, Inc. (New York, N.Y.), et al., Docket 7117, November 15, 1958.]

In the Matter of Longines-Wittnauer Watch Company, Inc., and Vacheron & Constantin-Le Coultre Watches, Inc., and Associated Barr Stores, Inc., and Myer B. Barr, as an Individual and as President of Associated Barr Stores, Inc.

This proceeding was heard by a hearing examiner on the complaint of the Commission charging importers from Switzerland of jeweled watch movements and parts which they assembled in their New York workshops, with sales in 1955 in excess of $20,000,000, with making payments for newspaper, television, and other advertising to a chain of retail jewelry stores, including six in and around Philadelphia and one in Norfolk, Va., and which acted as buyer also, and handled advertising, for four other affiliated retail jewelry dealers located in the Delaware Valley of Pennsylvania and New Jersey, without making such payments available on proportionally equal terms to all their other customers competing with such favored buyers; and charging aforesaid retail jewelry chain and its affiliates with knowingly inducing and receiving such payments in excess of the limit of 3 percent of the amount of purchases from respondents' sellers and 50 percent of the cost of advertising, as set by said sellers for all other customers competing with the favored chain and affiliates.

After acceptance of agreements containing consent orders from all respondents, the hearing examiner made his initial decision and order to cease and desist which became on November 15 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Respondents Longines-Wittnauer Watch Company, Inc., and Vacheron & Constantin-LeCoultre Watches, Inc., their officers, employees, agents, and representatives, directly or through any corporate or other device in connection with the sale of watches in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from: Paying or contracting for the payment of anything of value to or for the benefit of Associated Barr Stores, Inc., or any other customer, as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the offering for sale, sale, or distribution of respondents' products unless such payment or consideration is made available on proportionally equal terms to all other customers competing in the distribution of such products.

It is further ordered, That Respondent Associated Barr Stores, Inc., a corporation, its officers, and Myer B. Barr, an individual, and their respective representatives, agents, and employees, directly or through any corporate or other device, in or in connection with the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of jewelry or other products, do forthwith cease and desist from: Knowingly inducing, receiving, or contracting for the receipt of, the payment of anything of value from any supplier as compensation or in consideration for advertising or other services or facilities furnished by or through the corporate respondent, its affiliates, subsidiaries, or successors, in connection with the handling, offering for resale or resale by said corporate respondent, its affiliates, subsidiaries, or successors, of said products, when such payment or other consideration is not made available by such supplier on proportionally equal terms to all other customers competing with said corporate respondent, its affiliates, subsidiaries or successors in the sale or distribution of such products.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents, as named in the caption hereof, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which

they have complied with the order to cease and desist.

Issued: November 14, 1958.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc 59-357; Filed, Jan. 14, 1959; 8:46 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 6356]

PART 42—FACILITIES AND SERVICES EXCISE TAXES

Taxes on Communications Services or Facilities

On October 18, 1958, notice of proposed rule making regarding the regulations under sections 4251 to 4254, inclusive, of the Internal Revenue Code of 1954, as amended, relating to taxes on communications services or facilities, was published in the FEDERAL REGISTER (23 F.R. 8063). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted without change.

[SEAL] O. GORDON DELK, *Acting Commissioner of Internal Revenue.*

Approved: January 12, 1959.

FRED C. SCRIBNER, Jr., *Acting Secretary of the Treasury.*

§ 42.0–3 [Amendment]

PARAGRAPH 1. In § 42.0–3 of the Facilities and Services Excise Tax Regulations (26 CFR Part 42) paragraph (b) is amended to read as follows:

(b) *Subpart C.* The regulations in Subpart C of this part apply, unless otherwise specified in such subpart, to all amounts paid on or after January 1, 1955, for communications services or facilities.

(68A Stat. 917; 26 U.S.C. 7805)

Par. 2. The regulations as so adopted under sections 4251 to 4254, inclusive, of the Internal Revenue Code of 1954, as amended, are as follows:

Subpart C—Communications

Sec.

AUTHORITY: §§ 42.4241 to 42.4254–2 issued under sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805.

Subpart C—Communications

§ 42.4251 Statutory provisions; imposition of tax.

SEC. 4251. *Imposition of tax.* There is hereby imposed on amounts paid for the communication services or facilities enumerated in the following table a tax equal to the percent of the amount so paid as is specified in such table:

Taxable service	*Rate of tax (percent)*
Local telephone service	10
Long distance telephone service	10
Telegraph service	10
Leased wire, teletypewriter or talking circuit special service	10
Wire and equipment service	8

The taxes imposed by this section shall be paid by the person paying for the services or facilities.

§ 42.4251–1 Imposition and rates of tax.

(a) *Imposition of tax.* Section 4251 imposes a tax on amounts paid for local telephone service; long distance telephone service; telegraph service; leased wire, teletypewriter or talking circuit special service; and wire and equipment service.

(b) *Rates of tax.* Tax is imposed on amounts paid for each of the following services and facilities furnished at the rate specified below:

Taxable service	*Rate of tax (percent)*
Local telephone service	10
Long distance telephone service	10
Telegraph service	10
Leased wire, teletypewriter or talking circuit special service	10
Wire and equipment service	8

(c) *Amounts paid.* The term "amounts paid" means the amounts collected for the communication services and facilities specified in paragraph (a) of this section, without regard to whether the charge therefor is paid or satisfied in money, service, or other valuable consideration. See also paragraph (c) of § 42.4252–1.

(d) *Liability for, and return of, tax.* The taxes imposed by section 4251 are payable by the person paying for the services and facilities furnished, and shall be paid to the person furnishing the services and facilities who is required to collect the tax and return and pay over the tax in accordance with the applicable provisions of the regulations contained in Subparts H and I of this part.

§ 42.4252 Statutory provisions; definitions.

SEC. 4252. *Definitions*—(a) *Local telephone service.* As used in section 4251 the term, "local telephone service" means any telephone service not taxable as long distance telephone service; leased wire, teletypewriter or talking circuit special service; or wire and equipment service. Amounts paid for the installation of instruments, wires, poles, switchboards, apparatus, and equipment shall not be considered amounts paid for service. This subsection shall not be construed as defining as local telephone service, amounts paid for services and facilities which are exempted from other communication taxes by section 4253 (b).

(b) *Long distance telephone service.* As used in section 4251 the term "long distance telephone service" means a telephone or radio telephone message or conversation for which the toll charge is more than 24 cents and for which the charge is paid within the United States.

(c) *Telegraph service.* As used in section 4251 the term "telegraph service" means a telegraph, cable, or radio dispatch or message for which the charge is paid within the United States.

(d) *Leased wire, teletypewriter or talking circuit special service.* As used in section 4251 the term "leased wire, teletypewriter or talking circuit special service" does not include any service used exclusively in rendering a service taxable as wire and equipment service. The tax imposed by section 4251 with respect to a leased wire, teletypewriter or talking circuit special service shall apply whether or not the wires or services are within a local exchange area.

(e) *Wire and equipment service.* As used in section 4251 the term "wire and equipment service" shall include stock quotation and information services, burglar alarm or fire alarm service, and all other similar services, but not including service described in subsection (d) of this section. The tax imposed by section 4251 with respect to wire and equipment service shall apply whether or not the wires or services are within a local exchange area.

§ 42.4252–1 Local telephone service.

(a) The term "local telephone service" means telephone service furnished within a local service area, and any telephone call between points which are not within the same local service area if the toll charge for such call is 24 cents or less. Such term includes generally the ordinary residential and business or commercial telephone service within a local service area, and includes all types of such service, such as individual line and party line telephones, and extension telephones. Where, in addition to the basic periodic charge for telephone service within the local service area, there are additional charges, for example, for calls in excess of a certain number or for calls between certain points within the same local service area, the telephone service for which such additional charges are made is included within the term "local telephone service" regardless of the amount of the total charge for any particular call within the local service area. These additional charges for services within a local service area, generally

referred to as "message units", are not considered to be "toll charges". The term "local telephone service" includes any service furnished which is telephonic in nature, regardless of the commercial or other name or term by which such service may be known or designated, and which is not taxable as long distance telephone service; leased wire, teletypewriter or talking circuit special service; or wire and equipment service. For the definition of the term "toll charge", see paragraph (a) of § 42.4252–2. For provisions relating to coin-operated telephones, see section 4253 (a) and § 42.4253–1.

(b) Notwithstanding the provisions of paragraph (a) of this section, the term "local telephone service" does not include any service which is included in the term "long distance telephone service", "leased wire, teletypewriter or talking circuit special service", or "wire and equipment service" (see §§ 42.4252–2, 42.4252–5, and 42.4252–6) and which is exempt from the tax imposed on any such service. For provisions relating to such exemptions, see sections 4253, 4292, and 4293 and the regulations thereunder contained in this part.

(c) For purposes of the tax in respect of local telephone service, the term "amounts paid" means the amounts collected for the service, whether the charge for the service is paid or satisfied in money, service, or other valuable consideration, and whether the charge is made on a monthly or other periodic basis, or is based on the number of calls made, or is in the form of an assessment as in the case of a mutual telephone system. Where a basic periodic charge is made for the service, with additional charges for all calls or additional calls above a certain number, the additional charges are also subject to the tax.

(d) Where the charge for telephone service includes an additional charge for not making payment within a specified time, the total amount paid including the additional charge is the basis for computing the amount of tax due. Similarly, where a discount is allowed for the payment within a specified time of a charge for service rendered, the tax is to be computed on the amount actually paid.

(e) Assessments or charges paid by members or subscribers of a mutual or cooperative telephone company, association, or system for switching services or facilities, or for the repair or replacement of instruments, poles, wires, equipment, etc., incidental to ordinary maintenance, are subject to the tax.

(f) All amounts paid by subscribers for private branch exchange service, for the use of switchboard, switching, and other telephone equipment, for the use of trunkline facilities, for tie lines (within the local service area) connecting private branch exchanges within a local service area, are subject to the tax on local telephone service.

(g) Where a subscriber to local telephone service is outside the local service area and an additional charge is made on a mileage or other basis, the additional charge is regarded as a charge for leased wire service and is subject to the tax imposed by section 4251 on leased wire service. For provisions relating to the tax on leased wire service, see § 42.4252–5.

(h) The tax attaches to the total charge made to a hotel or similar subscriber for local telephone service furnished to the hotel or its guests, but no tax attaches to any charge made by the hotel for service rendered in placing the calls for its guests.

(i) No tax is imposed on amounts paid by subscribers as charges for the installation of instruments, wires, poles, switchboards, apparatus, and equipment.

(j) For other provisions relating to local telephone service, see § 42.4252–4.

§ 42.4252–2 Long distance telephone service.

(a) The term "long distance telephone service" means any telephone or radio telephone message or conversation for which the toll charge is more than 24 cents and for which the charge is paid within the United States. A toll charge is a charge made for such a message or conversation to a place beyond the local service area. For the meaning of the term "United States", see paragraph (d) of § 42.4252–4. For provisions relating to any telephone or radio telephone message or conversation for which the toll charge is 24 cents or less, see paragraph (a) of § 42.4252–1.

(b) Any additional charge made for "overtime" in connection with a telephone or radio telephone message or conversation shall be added to the basic toll charge for the purpose of determining whether or not the toll charge is more than 24 cents. The tax is imposed on the total amount paid for the service including any such additional charge.

(c) For other provisions relating to long distance telephone service, see § 42.4252–4.

§ 42.4253–3 Telegraph service.

(a) The term "telegraph service" means a telegraph, cable, or radio dispatch or message for which the charge is paid within the United States regardless of the amount of the charge therefor. For the meaning of the term "United States", see paragraph (d) of § 42.4252–4.

(b) A charge made for a telephone toll call used by a telegraph company in effecting delivery of a telegraph message shall be added to the basic charge for the transmission of a telegraph message for the purpose of determining the amount subject to tax. In such case, the telegraph company is not liable for tax on the amount paid by it to the telephone company for the toll call whether or not the charge therefor is in excess of 24 cents.

(c) A charge made for a telephone call which is used to reach a telegraph office for the purpose of sending a telegraph message should not be added to the basic charge for the transmission of the telegraph message, as the telegraph message is considered to begin at the telegraph office.

(d) For other provisions relating to telegraph service, see § 42.4252–4.

§ 42.4252–4 Provisions common to telephone and telegraph services.

(a) *In general.* The tax applies to all amounts paid for services rendered and for facilities provided which are incidental to the transmission of a message or conversation. Where dispatches, messages, or conversations are transmitted by telephone, radio telephone, telegraph, cable, or radio free of any charge whatsoever, no tax attaches, but where the carrier in fact makes some charge for the transmission, either in money, service, or other valuable consideration, such charge is subject to the tax upon the basis of the amount of the charge computed in money or money's worth. The tax is payable by the person paying the transmission charge and is to be collected by the person receiving the payment. If a message, dispatch, or conversation is transmitted "collect", the person who pays the charge therefor is liable for the tax. All telephone and telegraph transmission services when rendered for hire are subject to tax whether or not the agency furnishing such services is a common carrier. For provisions relating to the computation of tax with respect to charges for telephone and telegraph services, see section 4254 and §§ 42.4254–1 and 42.4254–2.

(b) *When transmission begins and ends.* Transmission begins when the message is delivered by the sender to the carrier, or its agent, and continues until receipt by the addressee or his agent. Thus, an amount paid to a telephone, telegraph, radio, or cable company for messenger service in bringing the recipient of a message to the telephone, or in delivering a dispatch or message, must be included in determining the total amount subject to tax. However, an amount paid for messenger service rendered by a hotel or similar establishment is not to be included in the total charge on which the tax is computed.

(c) *Services rendered under contract.* (1) Where, under the provisions of a contract, dispatches, messages or conversations are transmitted by telephone, radio telephone, telegraph, cable or radio in consideration of the payment of a lump sum of money or the performance of services, the amounts paid for such transmissions are subject to tax regardless of whether such dispatches, messages or conversations relate to the operation of the business of a common carrier and whether they are "on line" or "off line".

(2) Where a telegraph company agrees to transmit over its wires dispatches or messages relating to the business of a carrier free or at reduced rates in consideration of services to be performed by the carrier in transporting men or materials of the telegraph company, all such dispatches or messages are subject to tax.

(d) *Meaning of the term "United States".* For purposes of section 4252 (b) and (c), the term "United States" includes the States, the Territories of Alaska and Hawaii, and the District of Columbia. Such term also includes inland waters (such as rivers, lakes, bays, etc.) lying wholly within the United States, and, where an international boundary line divides inland waters, such parts of such inland waters as lie within the boundary of the United States, and also the waters known as a marine

league from low tide on the coast line. Ships within these limits whether of foreign or domestic registry are considered to be within the United States.

§ 42.4252–5 Leased wire, teletypewriter, or talking circuit special service.

(a) In general, the term "leased wire, teletypewriter, or talking circuit special service" relates to private line or private channel service where channels, equipment, and other facilities are furnished (usually, but not necessarily, on a contractual basis), to enable users to communicate between specified locations continuously or for specified periods, as distinguished from the sending of single dispatches, messages, and conversations by telephone, radio telephone, telegraph, cable, or radio for which tolls are charged by the carrier. The communications may be telephonic, in Morse or similar code, or may be reproduced at the terminating end in the form of a typewritten page or tape, or picture or facsimile. In certain instances it may be necessary to utilize the switchboards and exchanges of a carrier to connect the sending and receiving terminals of the service.

(b) The term "leased wire, teletypewriter, or talking circuit special service" does not include any service which is used exclusively in rendering a service taxable as wire and equipment service.

(c) Examples of leased wire, teletypewriter, or talking circuit special services are: (1) Channels and equipment for private telephone service, (2) channels and equipment for private Morse or similar code service, (3) channels and equipment for private teletypewriter or teleprinter service, (4) channels and equipment for teletypewriter or teleprinter exchange service, (5) channels and equipment for program transmission, and (6) channels and equipment for photograph, picture or facsimile transmission, etc.

§ 42.4252–6 Wire and equipment service.

(a) In general, the term "wire and equipment service" relates to lines or channels and equipment by means of which information or services are furnished to the subscriber. Tax is imposed on the amounts paid for such lines or channels, equipment, and information or services.

(b) Wire and equipment services include, but are not limited to, the following services:

(1) Burglar, fire, or other alarm service, where the service consists of channels furnished between a remote point and the subscriber's office, or a police or fire station, or a central station, and over which a signal is transmitted in the case of illegal entry, fire, leakage, etc.

(2) Wires and equipment installed on the subscriber's premises for burglar, fire, or other alarm service, not owned by the subscriber, but for the use and maintenance of which he pays a periodic fee, whether or not the wires and equipment are located wholly within his premises.

(3) Channels furnished between a point of origin and the subscriber's premises over which are given stock and bond market quotations and reports, racing results, baseball scores, and other sporting results, news items, musical programs, weather reports, the time, etc.

(4) Metering services, including channels and equipment, furnished between a remote point and the subscriber's office, over which signals are transmitted so that the subscriber may obtain information as to a given condition at the remote point, such as water level, water pressure, gas pressure, etc.

(5) Remote control channels furnished between a remote point and the subscriber's premises over which signals are transmitted which will actuate an instrument at the remote point, such as the starting and stopping of a radio transmitter, etc.

(c) Where the services rendered include the furnishing of information or programs such as stock market quotations, baseball scores, racing results, weather reports, or musical programs, etc., the total amount paid, including any amounts charged for information or programs furnished, shall be the basis for determining the tax due, whether or not individual items are charged or billed separately.

(d) The tax on leased wire, teletypewriter, or talking circuit special service does not apply in respect of any service which is used exclusively in rendering a service taxable as wire and equipment service. See paragraph (c) of § 42.4252–5.

§ 42.4252–7 Provisions common to leased wire, teletypewriter, talking circuit special service, and wire and equipment service.

(a) In determining the amount of tax due, there shall be included all charges made in connection with the furnishing of any of the services enumerated, such as salaries of operators, if in the employ of the person furnishing such services, charges for equipment, instruments, and other apparatus, and installation charges.

(b) The tax imposed with respect to leased wire, teletypewriter, talking circuit special service, and wire and equipment service applies whether or not the wires or services are within a local service area.

(c) For exemptions from the tax imposed on leased wire, teletypewriter, talking circuit special service, and wire and equipment service, see sections 4253, 4292, 4293 and the regulations thereunder contained in this part.

§ 42.4253 Statutory provisions; exemptions.

SEC. 4253. *Exemptions*—(a) *Certain coin-operated service.* Services paid for by inserting coins in coin-operated telephones available to the public shall not be subject to the tax imposed by section 4251 with respect to local telephone service, except that where such coin-operated telephone service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be subject to the tax.

(b) *News services.* No tax shall be imposed under section 4251, except with respect to local telephone service, upon any payment received from any person for services or facilities utilized in the collection of news for the public press, or a news ticker service furnishing a general news service similar to that of the public press, or radio broadcasting, or in the dissemination of news through the public press, or a news ticker service furnishing a general news service similar to that of the public press, or by means of radio broadcasting, if the charge for such services or facilities is billed in writing to such person.

(c) *Certain organizations.* No tax shall be imposed under section 4251 upon any payment received for services or facilities furnished to an international organization, or any organization created by act of Congress to act in matters of relief under the treaty of Geneva of August 22, 1864.

(d) *Servicemen in combat zone.* No tax shall be imposed under section 4251 with respect to long distance telephone service upon any payment received for any telephone or radio telephone message which originates within a combat zone, as defined in section 112, from a member of the Armed Forces of the United States performing service in such combat zone, as determined under such section, provided a certificate, setting forth such facts as the Secretary or his delegate may by regulations prescribe, is furnished to the person receiving such payment.

(e) *For items otherwise taxed.* Only one payment of tax under section 4251 shall be required with respect to the tax on long distance telephone service or telegraph service notwithstanding the lines or stations of one or more persons are used in the transmission of such dispatch, message or conversation.

(f) *Special wire service in company business.* No tax shall be imposed under section 4251 on the amount paid for so much of the service described in sections 4252 (d) and (e) as is utilized in the conduct, by a common carrier or a telephone or telegraph company or radio broadcasting station or network, of its business as such.

§ 42.4253–1 Exemption for certain coin-operated service.

(a) Except as provided in paragraph (b) of this section, the tax imposed on local telephone service is not applicable to a single telephone conversation paid for by inserting coins in public coin-operated telephones regardless of the total charge for such conversation. However, the exemption is not applicable to a single telephone conversation for which a toll charge is made (see paragraph (a) of § 42.4252–2) if such toll charge, including any additional charge for overtime service, is more than 24 cents. In such case, the tax imposed on long distance telephone service is applicable.

(b) Where coin-operated telephone service is furnished for a guaranteed amount, the amount paid under such guarantee plus any fixed monthly or other periodic charge is subject to the tax imposed on local telephone service. The tax applies to the full amount of the guarantee whether such amount is paid out of receipts from the coin-box of the telephone or from funds of the subscriber.

§ 42.4253–2 Exemption for news services.

(a) The exemption for news services provided by section 4253 (b) is applicable to payments for services and facilities of the kind described in section 4251, except local telephone service. The exemption will apply only with respect to payments for services and facilities which are utilized exclusively (1) in the collection of news for the public press or radio or television broadcasting or in the

dissemination of news through the public press or by means of radio or television broadcasting, or (2) in the collection or dissemination of news by a news ticker service furnishing a general news service similar to that of the public press. For the exemption to apply, the charge for the services or facilities must be billed in writing to the person paying for the services or facilities and such person must certify in writing that the services or facilities are so utilized.

(b) The exemption applies to amounts charged for messages from any newspaper, press association, radio or television news broadcasting agency, or news ticker service, to any other newspaper, press association, radio or television news broadcasting agency, or news ticker service or to or from their bona fide correspondents, which messages deal exclusively with the collection of news items for, or the dissemination of news items through, the public press, radio or television broadcasting, or a news ticker service furnishing a general news service similar to that of the public press. The exemption does not extend to messages of an administrative nature such as messages transmitting funds to correspondents, messages to correspondents relating to assignments or hotel accommodations, etc.

(c) The exemption does not extend to the collection and dissemination of information or matters for publication in magazines, periodicals, and trade and scientific publications issued to supply information on certain subjects of interest to particular groups; or to amounts paid by newspapers, press associations, radio or television news broadcasting agencies or networks, or news ticker services, for local telephone service taxable under section 4251.

§ 42.4253–3 Exemption for certain organizations.

(a) The taxes imposed by section 4251 do not apply to amounts paid for services or facilities furnished to any organization created by act of Congress to act in matters of relief under the treaty of Geneva of August 22, 1864 (The American National Red Cross).

(b) The taxes imposed by section 4251 do not apply to amounts paid for services or facilities furnished to an international organization. See section 7701 (a) (18) for the definition of "international organization". An international organization is designated as such by the President through an Executive order or orders. When an organization has been designated by the President as entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act, or part thereof, including exemption from tax, the exemption applies to the taxes imposed by section 4251 on amounts paid for services and facilities unless the President, otherwise provides. The exemption is subject to withdrawal or revocation by the President. In case of withdrawal or revocation, unless otherwise provided by the President, the exemption is inapplicable to payments made on or after the date of issuance of the order of withdrawal or the date of revocation.

(c) No exemption certificate is required under this section where the payment for the services or facilities furnished is made by the American National Red Cross direct to the person furnishing the services or facilities. In all other cases the right to exemption under section 4253 (c) shall be evidenced by properly executed exemption certificates in substantially the following form:

EXEMPTION CERTIFICATE

---------- 19--
(Date)

I certify that ----------
(Name of service or facility)
have been furnished by ----------
(Telephone, telegraph company, etc.)
to ----------;
(International Organization, etc.)
that the charges of $------ will be paid from ----------
(International Organization, etc.)
funds; and that the charges are exempt from tax under section 4253 (c) of the Internal Revenue Code.

(Signature of Officer or Employee)

---------- ----------
(Address) (Title)

NOTE: Penalty for fraudulent use, $10,000 or imprisonment or both.

(d) See § 42.4253–7 for further provisions relating to exemption certificates.

§ 42.4253–4 Exemption for servicemen in combat zone.

(a) The exemption provided by section 4253(d) is applicable to any payment received for any telephone or radio telephone message or call which originates within a combat zone, as defined in section 112, from a member of the Armed Forces of the United States performing service in such combat zone, if a properly executed certificate of exemption substantially in the form shown in paragraph (c) of this section is furnished to the person receiving such payment.

(b) Service is performed in a combat zone only if it is performed in an area which the President of the United States has designated by Executive order, for the purpose of section 112, as an area in which Armed Forces of the United States are or have engaged in combat, and only if it is performed on or after the date designated by the President by Executive order as the date of the commencing of combatant activities in such zone and on or before the date designated by the President by Executive order as the date of the termination of combatant activities in such zone.

(c) The exemption certificate shall be in substantially the following form:

EXEMPTION CERTIFICATE

(Overseas Telephone Calls)

---------- 19--
(Date)

I certify that the toll charges of $------ are for telephone or radio telephone messages originating at ----------
(Point of origin)
within a combat zone from ----------

(Name)
a member of the Armed Forces of the United States performing service in such combat zone; that the transmission facilities were furnished by ----------;
(Name of carrier)
that the charges are exempt from tax under section 4253 (d) of the Internal Revenue Code.

(Signature of Subscriber)

(Address)

NOTE: Penalty for fraudulent use, $10,000 or imprisonment or both.

(d) See § 42.4253–7 for further provisions relating to exemption certificates.

§ 42.4253–5 Exemption for items otherwise taxed.

A dispatch, message, or conversation transmitted by long distance telephone or by telegraph over the combined facilities of several lines or stations of one or more persons is considered to be one dispatch, message, or conversation, and is subject to only one payment of tax under section 4251.

§ 42.4253–6 Exemption for special wire service in company business.

(a) The taxes imposed by section 4251 on leased wire, teletypewriter, or talking circuit special service, or wire and equipment service do not apply to amounts paid for any such service which is utilized by a common carrier, telephone or telegraph company, or radio broadcasting station, television station, or network in the conduct of its business as such.

(b) This particular exemption is not applicable in the case of the taxes imposed on other services by section 4251, even though such services are utilized by the companies described in the conduct of their business as such.

§ 42.4253–7 Use and retention of exemption certificates.

(a) An agent of a telegraph, telephone, radio, or cable company should not accept an exemption certificate unless satisfied, on the basis of proper credentials or otherwise, that the person who signed it is the person whom he represents himself to be and that the exemption claimed is allowable under the law.

(b) A separate exemption certificate will be required for each message paid for as a separate item, but where periodic payments are made, a blanket certificate (for a period not to exceed one month) may be accepted as evidence of the right to exemption.

(c) Exemption certificates should be retained with the record of the services rendered or the facilities furnished for inspection by internal revenue officers as provided in section 6001 and the regulations in Subpart I of this part.

§ 42.4253–8 Cross reference.

For regulations pertaining to the exemptions applicable to amounts received as payment for services or facilities furnished to the government of the United States, the government of any State, Territory of the United States, any political subdivision of a State or Territory, or the District of Columbia, see §§ 42.4292 and 42.4293 contained in Subpart H of this part.

§ 42.4254 Statutory provisions; computation of tax.

SEC. 4254. *Computation of tax*—(a) *In general.* If a bill is rendered the taxpayer

for telephone services or telegraph services with respect to which a tax is imposed by section 4251, the amount upon which the tax shall be based shall be the sum of all such charges included in the bill, and the tax shall not be based upon the charge for each item, separately, included in the bill.

(b) *Where payment is made for long distance telephone service or telegraph service in coin-operated telephones.* If the tax imposed by section 4251 with respect to long distance telephone service or telegraph service is paid by inserting coins in coin-operated telephones, tax shall be computed to the nearest multiple of 5 cents, except that where the tax is midway between multiples of 5 cents, the next higher multiple shall apply.

§ 42.4254–1 Computation of tax.

When a bill is rendered to a taxpayer covering charges for telephone services or telegraph services with respect to which a tax is imposed by section 4251, the amount upon which the tax shall be based shall be the sum of all such charges included in the bill, and not upon each separate charge included therein.

§ 42.4254–2 Payment in a coin-operated telephone.

Where the tax on a long distance telephone or radio telephone message or conversation, or a telegraph, cable, or radio dispatch or message is paid by inserting coins in a coin-operated telephone, the tax shall be computed to the nearest multiple of 5 cents, and where the tax is midway between multiples of 5 cents, the next highest multiple shall apply. In other words, one-half or a greater fraction of 5 cents shall be treated as 5 cents and a smaller fraction shall be ignored.

[F.R. Doc. 59–372; Filed, Jan. 14, 1959; 8:49 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

SUBCHAPTER H—GRAZING

[Circular 2010]

PART 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

Miscellaneous Amendments

On page 8557 of the FEDERAL REGISTER of November 1, 1958, there was published a notice of proposed rule making, revising certain sections of the Federal Range Code for Grazing Districts, the primary purpose of which is generally to strengthen the regulations for more effective administration of the Federal range, and to provide for greater stability of the livestock industry dependent upon it. Interested persons were given 30 days within which to submit written comments. No comments or suggestions were submitted within the 30-day period.

The proposed regulations are hereby adopted without change and are set forth below.

FRED A. SEATON,
Secretary of the Interior.

JANUARY 9, 1959.

1. Paragraph (k) (1) of § 161.2 is amended to read as follows:

§ 161.2 Definitions. * * *

(k) (1) "Land dependent by use" means forage land other than Federal range of such character that the conduct of an economic livestock operation requires the use of the Federal range in connection with it and which, in the "priority period", was used as a part of an established, permanent, and continuing livestock operation for any two consecutive years or for any three years of such priority period in connection with substantially the same part of the public domain, now part of the Federal range. Such land may be (i) parallel land, i.e., land of the same character, interspersed with, and grazed at the same time as the Federal range on which grazing privileges may be granted, except in those grazing districts which by special rule have excluded parallel land as base property,[1] (ii) land of different character than the Federal range and which properly supports the permitted livestock during all or part of the period that the Federal range is closed to grazing, or (iii) a combination of these two types of land. The priority period shall be the five-year period immediately preceding June 28, 1934, except that if such Federal range was placed within a grazing district after June 28, 1938, or added to an existing grazing district by boundary modification after the latter date, the priority period shall be the five years immediately preceding the date of the order establishing such district or effecting such addition, as the case may be.

2. Paragraph (k) (3) (ii) of § 161.2 is revised to read as follows:

(ii) It shall not exceed the amount of forage needed for the number of livestock creating such dependency by use that were customarily and properly sustained on the base property during the priority period and continue to use such property to the same extent, except that in no instance shall the use of base property be for less than the minimum period established under § 161.4.

The grazing privileges which may be granted hereunder shall not exceed the amounts determined under subdivision (i) or (ii) of this subparagraph, whichever is the lesser. Where the base property provides forage in excess of that necessary for the proper support of the number of livestock used in creating the dependency by use (class 1) the base property, to the extent of such excess forage capacity, may be treated as dependent by location (class 2) if so qualified.

3. Paragraph (d) (2) of § 161.5 is amended to read as follows:

§ 161.5 Rating and classification of Federal range. * * *

(d) *Unit-wide or area-wide adjudication.* * * *

(2) The district manager shall give written notice by registered mail[2] of such classification and allocation to the persons offering such base properties, naming a place and date not less than 30 days thereafter to file protest to the advisory board, in accordance with § 161.9 (b). Thereafter, and provided there is then pending a valid application for grazing privileges, the district manager will render his final decision thereon and will allow the right of appeal to the Examiner in accordance with § 161.10.

4. Paragraph (d) of § 161.6 is amended to read as follows:

§ 161.6 Issuance of licenses and permits. * * *

(d) *Nonrenewable licenses.* Nonrenewable licenses may be issued to nonpreference applicants only for the period specified by the district manager and for the number of livestock for which range is temporarily available and which can be properly grazed without detriment to the operations regularly authorized on the basis of properties in class 1 and class 2.

5. In § 161.6(e), subparagraphs (7), (9), (12), (13) (ii) and (14) (ii) are amended and a new subparagraph (14) (iii) is added as follows:

(e) *Terms and conditions.* * * *

(7) If a licensee or permittee for two consecutive years ceases to make substantial use of his base property in connection with his year-round livestock operation, the authorized use under such license or permit and the qualifications of the base property may be subject to reduction in proportion to the diminished use of the base property.

* * * * *

(9) Base property qualifications, in whole or in part, will be lost upon the failure for any two consecutive years:

(i) To offer base property which is not covered by an outstanding current term permit to the full extent of its qualification in an application for a license or permit or renewal thereof, or to apply for nonuse thereof in whole or in part or

(ii) To accept a license or permit issued pursuant to such application.

* * * * *

(12) A revocation of a license or permit in whole or in part may result in a proportionate loss of the base property qualifications supporting such license or permit.

(13) * * *

(ii) The Bureau of Land Management may make adjustments in licenses and permits at any time when necessary to comply with the Federal Range Code for Grazing Districts.

(14) * * *

(ii) May require any licensee or permittee who will benefit in some substantial measure from such fence construction, as a condition to the renewal of an existing license or permit, likewise to pay or to reimburse an equitable share of the cost of such fence construction and maintenance. The amount of such share may be established by agreement of the parties, or, upon their failure to

[1] Such rules were adopted in Montana Grazing District No. 5, Utah Grazing District No. 1, and all grazing districts in Oregon.

[2] Wherever registered mail is required in this part, certified mail may be used in lieu thereof in accordance with § 101.19 of this chapter.

agree, by determination of the district manager.

(iii) May take necessary action to enforce the requirements under subdivisions (i) and (ii) of this subparagraph, in accordance with the provisions of § 161.9(d).

6. Paragraph (a)(1) of § 161.7 is amended to read as follows:

§ 161.7 Transfers of base property; base property qualifications; relinquishments.

(a) *Transfer of base property; effect.* (1) A transfer of a base property or part thereof, whether by agreement, operation of law, or testamentary disposition, will entitle the transferee, if qualified under § 161.3(a), to so much of the grazing privileges as are based thereon. In any event, the existing license or permit and the grazing privileges thereunder shall automatically and without further notice be terminated or decreased by such transfer to the extent of the grazing privileges attaching to the transferred base property; except that further grazing under the license or permit may be temporarily extended pursuant to request and notification filed in accordance with § 161.6 (e)(8)(i).

7. Paragraphs (c) and (d) of § 161.8 are amended to read as follows:

§ 161.8 Fees; time of payment; refunds. * * *

(c) *Crossing permits.* Upon application filed with the district manager by any person showing the necessity for crossing the Federal range with livestock for proper and lawful purposes, a crossing permit may be issued to him at a charge, payable in advance, of one cent per head per day for cattle, two cents per head per day for horses, and one-fifth cent per head per day for sheep and goats. A minimum charge of $5 will be made for each crossing permit, except that no fee will be charged where the trail to be used is so limited and defined that no substantial amount of forage will be consumed in transit, or to the extent the crossing permit involves the use of a stock driveway created under section 10 of the Stockraising Homestead Act of December 29, 1916 (39 Stat. 862; 43 U.S.C. 300).

(d) *Payment of fees; reduction or increase in numbers; modification of periods of use.* No license or permit shall be issued or renewed until payment of all fees due the United States under the Federal Range Code for Grazing Districts has been made. Fees for licenses and permits are due the United States upon issuance of the fee notice and are payable at least 15 days in advance of the first grazing period and for the full amount indicated on the fee notice; no license or permit shall be effective to authorize grazing use thereunder until such advance payment has been made.[2] A permit may be canceled or reduced pursuant to § 161.9(d) for failure to pay the fee in accordance with the fee notice. Any licensee or permittee who desires to make temporary use of the grazing privileges during any authorized grazing period or periods in a manner other than that authorized in his existing license or permit must file with the district manager a written request for such change in use at least 30 days prior to the beginning of any such grazing period. If the district manager approves the request he will issue an adjusted fee notice accordingly.

8. A new subparagraph (4) is added to paragraph (b) of § 161.11, as follows:

§ 161.11 General rules of the range. * * *

(b) *Rules of fair range practice.* * * *

(4) When so requested by the State Supervisor or district manager, the licensee or permittee shall join with the Bureau of Land Management in preparing a fire plan which shall set forth in detail the program for prevention, control, and extinguishment of fires, including the responsibility of the licensee or permittee for action on his range allotment and on adjacent Federal range.

9. Paragraphs (d), (e)(1) and 2) of § 161.12 are amended to read as follows:

§ 161.12 Procedure for enforcement of rules and regulations. * * *

(d) *Amicable settlement of civil cases involving unauthorized use of the Federal range or damage to Federal property.* All offers of settlement for the value of the forage consumed in trespass and for damage to Federal range or to other property of the United States resulting from an alleged violation of any provision of the act or of the Federal Range Code for Grazing Districts in the amount of $2,000 or less may be accepted by the district manager. Offers of settlement in excess of $2,000 will be transmitted to the State Supervisor for appropriate action. An offer of settlement will not constitute satisfaction of civil liability for the consumed forage and damage involved until finally accepted by the district manager or the State Supervisor, and in no event will it relieve the violator of criminal liability. No license or permit will be issued or renewed until payment of any amount found to be due the United States under this section has been offered.

(e) *Disciplinary action for violations; show cause.* (1) Whenever it appears to the State Supervisor that a wilful violation exists he shall cause a written notice to be served upon the licensee or permittee. The notice shall set forth the act or acts complained of, specifically referring to the terms, conditions, or provisions of the license or permit and the section or sections of the Federal Range Code for Grazing Districts or of the act alleged to have been violated, and an estimate of the amount of damages resulting therefrom, including the reasonable commercial value of any forage consumed. The notice will cite the licensee or permittee to appear before an Examiner of the Bureau of Land Management at a designated time and place to show cause why his license or permit should not be reduced or revoked or renewal thereof denied and satisfaction of damages made.

(2) The hearing upon the order to show cause will be conducted so far as practicable in the same manner as other hearings before an examiner. The evidence shall be confined to the commission of the acts charged and the amount of damages, including the reasonable commercial value of any forage consumed, due the United States. If the alleged violation is established to the satisfaction of the examiner, or upon the failure, without proper excuse satisfactory to the examiner, of the person named in the notice or his representative to appear at the hearing, the examiner will render a written decision assessing the amount of damages, including the reasonable commercial value of forage consumed and directing the district manager to suspend, reduce, or revoke the license or permit or to deny renewal, if the facts so warrant.

[F.R. Doc. 59-366; Filed, Jan. 14, 1959; 8:47 a.m.]

[2] Any grazing on the Federal range within grazing districts in the absence of effective license or permit is unlawful and prohibited; such unauthorized grazing shall be deemed in trespass and may be proceeded against as provided in § 161.12, or by other action under the law.

PART 232—DESERT-LAND ENTRIES

Economic Unit Requirements

On page 8624 of the FEDERAL REGISTER of November 5, 1958, there was published a notice of proposed rulemaking to issue regulations governing the entry of disconnected tracts of public lands under the desert-land laws. Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed regulations.

No comments, suggestions, or objections have been received.

The proposed regulations are hereby adopted without change and are set forth below.

FRED A. SEATON,
Secretary of the Interior.

JANUARY 9, 1959.

The headnote and present text in § 232.7 are amended to read as follows:

§ 232.7 Economic unit requirements, compactness.

(a) One or more tracts of public lands may be included in a desert land entry and the tracts so entered need not be contiguous. All the tracts entered, however, shall be sufficiently, close to each other to be managed satisfactorily as an economic unit. In addition, the lands in the entry must be in as compact a form as possible taking into consideration the character of available public lands and the effect of allowance of the entry on the remaining public lands in the area.

(b) In determining whether an entry can be allowed in the form sought, the authorized officer of the Bureau of Land Management will take into consideration such factors as the topography of the applied for and adjoining lands, the availability of public lands near the lands sought, the private lands farmed by the applicant, the farming systems

and practices common to the locality and the character of the lands sought, and the practicability of farming the lands as an economically feasible operating unit.

(c) In addition to the other requirements of the regulations in this part, applicants for desert land entry must submit with their applications information showing that the tracts applied for are sufficiently close to each other to be managed satisfactorily as an economic unit and that the lands in the application are as compact as possible in the circumstances.

(R.S. 2478; 43 U.S.C. 1201)

[F.R. Doc. 59-358; Filed, Jan. 14, 1959; 8:46 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Civil and Defense Mobilization

[OCDM Reg. 4]

OCDM REG. 4—REGULATIONS UNDER SECTION 8 OF THE TRADE AGREEMENTS EXTENSION ACT OF 1958

Sec.
1. Authority.
2. Definitions.
3. General.
4. Criteria for determining effects of imports on national security.
5. Applications for investigation.
6. Confidential information.
7. Conduct of investigation.
8. Emergency action.
9. Report of Director.

AUTHORITY: Sections 1 to 9 issued under sec. 8, Pub. Law 85-686.

Section 1. Authority.

These regulations are promulgated pursuant to section 8 of the Trade Agreements Extension Act of 1958 (19 U.S.C., sec. 1352a), Pub. Law 85-686, August 20, 1958.

Sec. 2. Definitions.

(a) As used herein "Director" means the Director of the Office of Civil and Defense Mobilization.

Sec. 3. General.

(a) Upon request of the head of any Government Department or Agency, upon application of an interested party, or upon his own motion, the Director shall set in motion an immediate investigation to determine the effects on the national security of imports of any article.

Sec. 4. Criteria for determining effects of imports on national security.

(a) In determining the effect on the national security of imports of the article which is the subject of the investigation, the Director is required to take into consideration the following:

(1) Domestic production needed for projected national defense requirements including restoration and rehabilitation.

(2) The capacity of domestic industries to meet such projected requirements, including existing and anticipated availabilities of

(i) Human resources
(ii) Products
(iii) Raw materials
(iv) Production equipment and facilities
(v) Other supplies and services essential to the national defense.

(3) The requirement of growth of such industries and such supplies and services including the investment, exploration and development necessary to assure capacity to meet projected defense requirements.

(4) The effect which the quantities, availabilities, character and uses of imported goods have or will have on such industries and the capacity of the United States to meet national security requirements.

(5) The economic welfare of the Nation as it is related to our national security, including the impact of foreign competition on the economic welfare of individual domestic industries. In determining whether such impact may impair the national security, any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects shall be considered.

The Director shall also consider whatever other factors relative to imports he deems appropriate in determining whether the national security is affected thereby.

Sec. 5. Applications for investigation.

(a) Applications in writing are required. Twenty-five copies shall be filed by mail with the Director, Office of Civil and Defense Mobilization, Washington 25, D.C.

(b) Applications shall set forth the reasons why it is believed that the quantities or circumstances of imports of the particular article threaten to impair the national security and shall contain the following information:

(1) Identification of the person, partnership, association, corporation, or other entity on whose behalf the application is filed.

(2) The name or precise description of the article.

(3) Description of the applicant and the domestic industry concerned, including pertinent information regarding companies and their plants, locations, capacity and current output of the domestic industry concerned with the article in question.

(4) Pertinent statistics showing the quantities and values of both imports and production in the United States.

(5) Nature, sources, and degree of the competition created by imports of the article in question.

(6) The effect, if any, of imports of the article in question upon the restoration of domestic production capacity in an emergency.

(c) When it is alleged that a threat of impairment of the national security would result from the impact of foreign competition on the economic welfare of the domestic industry, additional information of the following type should be provided concerning the applicant and the domestic industry:

(1) Employment and special skills required in the domestic production of the article.

(2) Extent to which investment and specialized productive capacity is or will be adversely affected.

(3) Revenues of Federal, State, or local Governments which are or may be affected by the volume or circumstances of imports of the article.

(4) Defense or defense supporting uses of the article including data on defense contracts or sub-contracts, both past and current.

(5) Direct capital investments for manufacturing facilities and developmental expenditures required to fulfill defense contracts or subcontracts; and direct capital outlays for exploration or expansion necessary to the growth and development of the industry for national defense purposes. In either case, the extent to which assistance was provided by Government-sponsored expansion programs.

(6) Statistics on production, sales, exports, profits, losses, prices, taxes, wages and other costs of production, subsidies, price support programs, inventories, plant investment and related data both for the applicant and the domestic industry whose production is in competition with the imported article, and the relationship of receipts of the applicant from sales of the article to applicant's total receipts.

(d) Statistical material should be presented on a calendar-year basis for sufficient periods of time to indicate trends and afford the greatest possible assistance to the Director. Monthly or quarterly data for the latest complete years should be included as well as any other breakdowns which may be pertinent to show seasonal or short-term factors.

Sec. 6. Confidential information.

Information which would disclose individual business data or operations will be accorded confidential treatment by the Director if submitted in confidence. All information submitted in confidence should be on separate pages marked "Business Confidential."

Sec. 7. Conduct of investigation.

(a) The investigation by the Director, or by such official or agency as he may designate shall be such as to enable the Director to arrive at a fully informed opinion as to the effect on the national security of imports of the article in question.

(b) Upon receipt of an application for an investigation the Director shall issue a public notice which shall be published in the FEDERAL REGISTER. Any interested party shall notify the Director of his interest within thirty days, and submit to the Director twenty-five copies of any comment, opinion, or data relative to the investigation within forty-five days, after such notice. Rebuttal to material so submitted shall be filed with the Director within seventy-five days after such public notice and all data and comment from interested parties shall be a matter of record by ninety days after the giving of such public notice, or

fifteen days after the close of any hearing conducted under paragraph (f) of this section.

(c) Any application for an investigation, as well as statements in opposition to the applicant's position, including nonconfidential supporting information, will be available for inspection at the Office of Civil and Defense Mobilization in Washington, D.C., where it may be read and copied by interested parties.

(d) The Director or his designee may also request further data from other sources through the use of questionnaires, correspondence and other available means.

(e) The Director or his designee shall in the course of the investigation seek information or advice from appropriate departments and agencies.

(f) In addition, the Director, or his designee, may, when he deems it appropriate, hold public hearings to elicit further information. In such cases the time and place of public hearings will be published in the FEDERAL REGISTER.

(1) All hearings shall be conducted by the Director, or his designee, and the full record shall be considered by the Director in arriving at his determination. Interested parties may appear at public hearings, either in person or by representation, and produce oral or written evidence relevant and material to the subject matter of the investigation.

(2) After a witness has offered evidence in testimony the Director or his designee may question the witness. Questions submitted to the Director or his designee in writing by any interested party may, at the discretion of the Director or his designee, be posed to the witness for reply for the purpose of assisting the Director in obtaining the material facts with respect to the subject matter of the investigation. All hearings shall be stenographically reported. The Director, however, shall not cause transcripts of the record of such hearings to be distributed to the interested parties, but such transcripts may be inspected at the Office of the Director in Washington, D.C., or purchased from the reporter.

Sec. 8. Emergency action.

In emergency situations or at his discretion, the Director may dispense with the procedures as set forth above and may formulate his views without following such procedures.

Sec. 9. Report of Director.

A report will be made and published upon the disposition of each request, application or motion. Notice of publication of such report, shall be given in the FEDERAL REGISTER. Copies of the report will be made available at the Office of Civil and Defense Mobilization.

These regulations shall be effective upon publication in the FEDERAL REGISTER.

Dated: January 6, 1959.

LEO A. HOEGH,
Director.

[F.R. Doc. 59-352; Filed, Jan. 14, 1959; 8:45 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 31—STAMPS, ENVELOPES, AND POSTAL CARDS

Envelopes

a. Paragraph (a) of § 31.2, *Plain envelopes, postal cards, and air letter sheets*, as amended by Federal Register Document 58-9167, 23 F.R. 8666, is further amended to read as follows:

(a) *Plain stamped envelopes—(1) Envelopes available.*

Kind	Size	Denomination	Item No.	1,000	500	250	100	50	Less than 50
		Cents							*Cents (each)*
Regular	6¾	3	631	$36.40	$18.20	$9.10	$3.64	$1.82	4
	6¾	4	641	46.40	23.20	11.60	4.64	2.32	5
	8	3	831	37.60	18.80	9.40	3.76	1.88	4
	8	4	841	47.60	23.80	11.90	4.76	2.38	5
Window	6¾	3	632	37.20	18.60	------	------	------	------
	6¾	4	642	47.20	23.60	------	------	------	------
	7	3	732	38.40	19.20	9.60	------	------	------
	7	4	742	48.40	24.20	12.10	------	------	------
	8	3	832	38.80	19.40	9.70	------	------	------
	8	4	842	48.80	24.40	12.20	------	------	------
Precanceled	6¾	[1] 1	613	16.40	8.20	------	------	------	------
	6¾	[2] 2	632	26.40	13.20	------	------	------	------
	8	[1] 1	813	17.60	8.80	4.40	------	------	------
	8	[2] 2	823	27.60	13.80	6.90	------	------	------
Airmail	6¾	7	674	76.80	38.40	19.20	7.68	3.84	8
	8	7	874	78.00	39.00	19.50	7.80	3.90	8

[1] Change in rate to 1¼ cents effective July 1, 1960, will increase selling price by $2.50 per thousand.
[2] Change in rate to 2½ cents effective July 1, 1960, will increase selling price by $5.00 per thousand.

(2) *Sales at Post Offices.* Only sizes 6¾ and 8 regular and airmail will be sold in less than full box lots. Remaining stocks of plain size 13 envelopes (manufacture of which ceased on December 31, 1958) shall be sold at the same prices and conditions as size 6¾ envelopes.

(3) *Precanceled envelopes.* Precanceled envelopes are sold only to patrons holding permits for the mailing of third-class matter at bulk rates. Only nonprofit organizations or associations covered in § 24.5 of this chapter may purchase 1-cent precanceled envelopes.

(4) *Window envelopes.* Window envelopes are sold to the public in full box lots only. All windows are 1⅛ inches wide and 4¾ inches long and are located ½ inch from the bottom of the envelope. In size 6¾, the window is located ⅞ inch from the left edge, in size 7 and 8 it is ¾ inch from the left edge.

(5) *Dimensions of envelopes.*

	Inches
Size 6¾	3⅝ by 6½
Size 7 (commercial size 9)	3⅞ by 8⅞
Size 8 (commercial size 10)	4⅛ by 9½

(6) *Private printing.* You may have stamped envelopes privately printed in any style, provided you leave at least 3½ inches of clear space at the right end of the address side of the envelope.

NOTE: The corresponding Postal Manual section is 141.21.

b. Amend paragraph (a) of § 31.3, *Printed stamp envelopes (special request)*, as amended by Federal Register Document 58-9167, 23 F.R. 8666, to read as follows:

(a) *Printed stamped envelopes available.*

Kind	Size	Denomination	Item No.	Price 500	Price 1,000
		Cents			
Regular	6¾	3	631	$19.20	$38.40
	6¾	4	641	24.20	48.40
	8	3	831	19.80	39.60
	8	4	841	24.80	49.60
Window	6¾	3	632	19.60	39.20
	6¾	4	642	24.60	49.20
	7	3	732	20.20	40.40
	7	4	742	25.20	50.40
	8	3	832	20.40	40.80
	8	4	842	25.40	50.80
Precanceled	6¾	[1] 1	613	9.20	18.40
	6¾	[2] 2	623	14.20	28.40
	8	[1] 1	813	9.80	19.60
	8	[2] 2	823	14.80	29.60
Airmail	6¾	7	674	39.40	78.80
	8	7	874	40.00	80.00

[1] Change in rate to 1¼ cents effective July 1, 1960, will increase selling price by $2.50 per thousand.
[2] Change in rate to 2½ cents effective July 1, 1960, will increase selling price by $5.00 per thousand.

NOTE: The corresponding Postal Manual section is 141.31.

(R.S. 161, as amended, 396, as amended, 3914, 3915, as amended, 3916, as amended; 5 U.S.C. 22, 369; 39 U.S.C. 351, 354, 356)

[SEAL]

HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 59-361; Filed, Jan. 14, 1959; 8:46 a.m.]

Title 44—PUBLIC PROPERTY AND WORKS

Chapter IV—Business and Defense Services Administration, Department of Comerce [1]

[Foreign Excess Property Order No. 1, Revised]

PART 401—FOREIGN EXCESS PROPERTY

Importation Into the United States of Nonagricultural Foreign Excess Property

On December 3, 1958, there was published in the FEDERAL REGISTER (23 F.R. 9332) a Notice of the Proposed Issuance of Foreign Excess Property Order No. 1 (Revised), Importation Into the United States of Nonagricultural Foreign Excess Property. Said Notice provided for the submission of views or arguments in writing to the Foreign Excess Property Officer of the Department of Commerce within 20 days following the day of publication of the Notice of Proposed Rule Making. Views and arguments have been received in writing and have been considered. Editorial and procedural modifications have been made in the text of the proposed Foreign Excess Property Order No. 1 (Revised).

Pursuant to the Administrative Procedure Act, insofar as it may be applicable hereto, Foreign Excess Property Order No. 1 (Revised) is hereby published and is made effective upon the date of publication hereof in the following form:

Sec.

AUTHORITY: §§ 401.1 to 401.17 issued under secs. 402, 404(b), 601, Act of June 30, 1949, 63 Stat. 398, 399, 64 Stat. 583, 40 U.S.C. 512, 514(b) and 473; Foreign Liquidation Commissioner's Reg. 8, 44 CFR 308.15; Commerce Department Order No. 152 (Revised), 23 F.R. 7951.

§ 401.1 What this part does.

This part prescribes procedures for making applications for determinations as to whether importation of foreign excess property, as defined in this part, would relieve domestic shortages or otherwise be beneficial to the economy of this country. It prescribes procedures for the issuance of FEP Import Determinations and FEP Import Authorizations, as defined in §§ 401.6 and 401.7. It sets forth subsidiary criteria and principles to be applied in determining whether importation of foreign excess property would relieve domestic shortages or otherwise be beneficial to the economy of this country. It provides for liaison with the Bureau of Customs, Treasury Department, in connection with such importations. It delegates authority to the Commissioner of Customs with respect to certain matters pertaining to importations in bond for reexport. It establishes procedures for appeals from actions of the FEPO. It provides administrative measures for enforcement of the order. It revokes and supersedes Foreign Excess Property Order 1, as amended August 23, 1950, 15 F.R. 5847, and Supp. No. 1, October 9, 1956, 21 F.R. 7717.

§ 401.2 Definitions.

For the purposes of this part:

(a) "Foreign excess property" means any property (except any agricultural commodity, food, or cotton or woolen goods) located outside the continental United States, Hawaii, Alaska, Puerto Rico, and the Virgin Islands, under the control of any Federal agency, which is not required for its needs and the discharge of its responsibilities as determined by the head thereof. It includes any such property after it has been disposed of by such Federal agency, notwithstanding any subsequent change of ownership. The importation of surplus property sold by the Government or any agency thereof in foreign areas before July 1, 1949, is governed by Foreign Liquidation Commissioner's Reg. 8, which delegates to the Secretary of Commerce jurisdiction over some but not all of such property (§ 308.15 of this title). To the extent that such jurisdiction over such property is delegated to the Secretary of Commerce, such property shall be deemed to be foreign excess property, and is governed by the provisions of this part. All persons owning or acquiring property disposed of by the Government in foreign areas before July 1, 1949, are referred to the said Foreign Liquidation Commissioner's Reg. 8, § 308.15 of this title, for the rules applicable to the importation of any such property which is not subject to the jurisdiction of the Secretary of Commerce.

(b) "BDSA" means the Business and Defense Services Administration of the United States Department of Commerce.

(c) "Administrator" means the Administrator of BDSA.

(d) "Foreign Excess Property Officer (FEPO)" means the Officer appointed by the Administrator, and includes any Deputy FEPO so appointed.

(e) "Appeals Board" means the Appeals Board for the United States Department of Commerce.

(f) "Person" means any individual, corporation, partnership, association, or any other organized group of persons.

(g) "United States" means the continental United States, Hawaii, Alaska, the Commonwealth of Puerto Rico and the Virgin Islands.

(h) "FEP Import Determination" means a document issued by the FEPO stating that the importation of specified and identified foreign excess property would, or would not, relieve domestic shortages or otherwise be beneficial to the economy of this country. An FEP Import Determination is not an authorization to import foreign excess property.

(i) "FEP Import Authorization" means a document issued by the FEPO to the owner of specified and identified foreign excess property authorizing such person to import such foreign excess property into the United States within the period stated therein.

§ 401.3 Office of Foreign Excess Property Officer (FEPO).

(a) The Office of Foreign Excess Property Officer (FEPO) is hereby established.

(b) The FEPO, or, in his absence the Deputy FEPO, is authorized to carry out the functions assigned to him in this part.

§ 401.4 Criteria and principles.

The basic criteria to be applied in making FEP Import Determinations are contained in section 402 of the Federal Property and Administrative Services Act of 1949. These are, whether "the importation of such property would relieve domestic shortages or otherwise be beneficial to the economy of this country." There is no legislative or judicial history interpreting the term "relieve domestic shortages or otherwise be beneficial to the economy of this country." These are broad and general concepts and require particularization in their application. More detailed criteria and principles, subsidiary to and consistent with those laid down in the statute, are contained in this order, and will be observed by all concerned.

(a) *Shortages.* In general, a shortage in the market for any particular type or class of goods or materials exists when the demand is greater than the supply. Shortages may be temporary or seasonal in nature, and may also be chronic or of long duration. Shortages may be caused by inadequate productive capacity to supply the market; by shortage in raw materials or component parts; by labor shortage or work stoppage; or by lack of sufficient demand to support economic production. Certain types of temporary shortages may not qualify as shortages for the purpose of the statute, as more fully explained below.

(b) *"Beneficial to the economy of this country".* The importation of foreign excess property must have special benefits over and beyond any benefits to be derived in the market place by an added supply of goods and materials through imports. Although the importation of foreign excess property of various qualities may make available additional supplies of products and materials, it is not considered that this situation constitutes the type of benefit to the economy contemplated in the law.

(c) *Detailed criteria and principles.* A finding of the existence of a domestic shortage which would be relieved by importation of foreign excess property, or of other benefits to the domestic economy, must take the following elements into consideration:

[1] Formerly Chapter IV—Department of Commerce.

(1) *Affirmative finding required.* It is not sufficient to find that an importation would not be harmful. It must affirmatively appear that it would specifically relieve a shortage, or otherwise be beneficial to the economy.

(2) *Potential shortages and indirect benefits.* These will not be regarded as satisfying the statutory criteria.

(3) *Price.* The price at which foreign excess property is acquired, or the price at which it can be sold in the domestic market, will not be considered as an adequate benefit to the economy to justify importation, nor will the possibility of domestic sale of such property at abnormally low prices be regarded as evidence of domestic shortage.

(4) *Area of competition.* A product of specific grade, quality or dimension is not considered to be in short supply if alternative usable grades, qualities or dimensions are domestically available. Only when all items of a competitive product group or class are in short supply shall there be a finding that there is a shortage of a particular item in that product group or class.

(5) *Lead time.* A product may be in short supply if it is not domestically procurable within customary lead time limits for such product and is not otherwise available in the domestic market. Increase in length of normal lead time is an appropriate element to consider in determining the existence of a shortage.

(6) *Temporary or seasonal shortage.* If a shortage is of a temporary or seasonal nature, or is caused by the deliberate withholding of goods from the domestic market, or by work stoppages in producing plants, due regard must be accorded to the fact that FEP Import Determinations remain in effect for six months from date of issuance. The situation must, therefore, be evaluated in terms of the estimated duration of the shortage.

(7) *Local versus national shortage.* Shortages must be determined on a national and not on a local basis.

(8) *Outstanding FEP Import Determinations.* If determinations have been issued for the importation of a product, the quantities covered thereby should be assumed to be included in the domestic supply for the purpose of determining whether a shortage exists.

(9) *Reliance upon imports.* A history of substantial imports of a product is not conclusive as to the existence of a domestic shortage. The current and short term future supply positions must be independently examined, as well as the probability of continuation of the normal flow of imports.

(10) *Custom production.* The fact that a product can be produced to special order in this country is not decisive that a shortage does not exist. Lead time, quantities available, and customer convenience are relevant under these circumstances.

(11) *Unique articles.* Unique items, including museum and collection pieces, articles of historical value, antiques, and items of special sentimental value may be considered beneficial to the economy.

(12) *Expenditures in connection with importation.* A need for substantial expenditures for labor, materials, parts, storage, transportation, and similar items may be taken into consideration, together with other relevant factors, in determining benefit to the economy.

(13) *Net benefit.* Every importation presumably confers some benefit upon some segment of the economy; otherwise it would not be applied for. This is obviously not the benefit intended by the statute. For the purposes of the law, the benefit to the economy resulting from an importation must outweigh the detriment.

(14) *Lend-lease property.* Property ostensibly or presumably of lend-lease origin will be deemed to be foreign excess property until the contrary is established by the applicant to the satisfaction of the FEPO.

(15) *Sources of information.* In addition to any information and data adduced by an applicant, there will be considered pertinent information and data available in the BDSA Industry Divisions and from other appropriate sources.

§ 401.5 Applications.

(a) Any person proposing to import foreign excess property other than for reexport (see § 401.9), shall make application in duplicate to the FEPO for an FEP Import Determination with respect to the property involved. Such application shall be made on Form FEPF–1 set forth below as Annex 1. Form FEPF–1 may be obtained from the FEPO Department of Commerce Field Offices, Collectors of Customs, or it may be reproduced by an applicant. The instructions contained in Form FEPF–1 are made a part of this order. Where the applicant is the owner of the foreign excess property which is the subject of the application, and submits proof of ownership thereof as prescribed in § 401.7, the application shall also be treated as a request for an FEP Import Authorization.

(b) An application which is incomplete in any material respect, or which is not executed in the manner prescribed in the Instructions contained in Form FEPF–1, or which does not lie within the jurisdiction of the FEPO, shall be returned without action by the FEPO to the applicant.

(c) In order to permit time for adequate consideration, ten days will ordinarily be required for processing applications.

§ 401.6 Issuance of FEP Import Determination.

(a) The determination made by the FEPO that importation of foreign excess property would or would not relieve domestic shortages or otherwise be beneficial to the economy of this country shall be issued on Form FEPF–2, "FEP Import Determination". An FEP Import Determination is not an authorization for the importation of foreign excess property.

(b) FEP Import Determinations shall be serially numbered, and shall be dated and signed by the FEPO. FEP Import Determinations shall remain in effect for a period of six months from the date thereof.

(c) A copy of each FEP Import Determination shall be transmitted to the original applicant and to any other person upon request.

§ 401.7 Issuance of FEP Import Authorization.

(a) Upon presentation to the FEPO of a Request for FEP Import Authorization (Form FEPF–3), or of Application for FEP Import Determination (Form FEPF–1) completely executed including Part II thereof, and proof of ownership of foreign excess property described therein concerning which the FEPO has made a determination that its importation would relieve domestic shortages or otherwise be beneficial to the economy of this country, the FEPO shall issue an FEP Import Authorization (Form FEPF–4). The original of the FEP Import Authorization shall be transmitted to the owner of the property and two copies of each FEP Import Authorization shall be furnished to the Collector of Customs at the proposed port of entry.

(b) Proof of ownership shall consist of a photocopy of bill of sale of the property involved or other evidence of title satisfactory to the FEPO.

(c) FEP Import Authorizations shall expire upon the expiration date of the FEP Import Determination with respect to the same property, and shall constitute the sole authority for the importation thereof into the United States within such period.

(d) Each original FEP Import Authorization shall be presented to the Collector of Customs for his indorsement at the time of entry of any property described therein.

§ 401.8 Transfer of FEP Import Authorizations.

(a) The holder of an FEP Import Authorization may transfer it to a transferee of the foreign excess property specified therein. If such transfer shall be of all of the foreign excess property specified in the FEP Import Authorization, the FEP Import Authorization may be transferred by assignment to the transferee of the property. If such transfer shall be of a part of the foreign excess property specified in the FEP Import Authorization, the holder of the FEP Import Authorization shall return the original FEP Import Authorization to the FEPO together with photocopy of bill of sale of the property transferred and Request for an FEP Import Authorization executed by the transferee. The FEPO shall thereupon cancel the original FEP Import Authorization and issue new FEP Import Authorizations to the original holder and the transferee as their respective interests appear.

(b) The FEPO shall notify the Collector of Customs at the proposed port of entry of any such cancellation of an FEP Import Authorization, and shall furnish to such Collector copies of new FEP Import Authorizations issued as a result of any such transfer and Request.

§ 401.9 Entries in bond for reexport.

(a) Applications for importations of foreign excess property in bond for reexport will not be entertained by the FEPO. The procedures set forth in this section shall be applicable to such applications and importations.

(b) The Bureau of Customs, Treasury Department, shall have authority to permit the entry into the United States of foreign excess property in bond for reexport. Bonds accepted for this purpose by the Bureau of Customs shall conform to Bureau of Customs Forms 7551 or 7555, with the added condition:

There is incorporated in and made a part of the bond No. _____ dated _____, in the amount of _____, executed by _____, as principal, and _____, as surety, the following added condition:

Whereas, the principal named in the said bond has been permitted to enter merchandise subject to the provisions of section 402 of the Federal Property and Administrative Services Act of 1949, which has been imported for reexport;

The obligors named in the above-mentioned bond stipulate and agree that there shall be delivered to the collector of customs at the port of entry named in this bond or to the collector of customs at another port of entry, in accordance with the provisions of law and regulations pertaining to the entry and exportation of merchandise, all the above-described merchandise for customs inspection and identification prior to exportation; and if such merchandise shall not be used for any gainful purpose in the United States; and if all the merchandise shall be actually so exported within one year from the date of importation, or within any lawful extension of such period, and if the said merchandise shall not be relanded in the United States; or, in default thereof, the obligors shall pay to the collector of customs such amounts as liquidated damages as may be demanded by him in accordance with the law and regulations, not exceeding the amount of this obligation.

Then this added condition shall be void, otherwise to remain in full force and effect.

(c) No extensions of time for reexportation shall be granted by the Bureau of Customs without the prior written approval of the FEPO.

(d) The Commissioner of Customs may promulgate such regulations not inconsistent herewith as he deems appropriate with respect to applications for importation of foreign excess property in bond for reexport, and procedures of the Bureau of Customs in respect to such applications.

(e) Persons making applications to import foreign excess property in bond for reexport shall comply with regulations promulgated by the Commissioner of Customs. The provisions of § 401.5 shall not apply thereto.

§ 401.10 Time extensions.

A person who has received from the FEPO an FEP Import Authorization may file with the FEPO, prior to the expiration date thereof, a request for an extension of time. Such request shall state any reasons why the extension is needed, and the duration of the extension requested. The FEPO may allow or deny the request in whole or in part. In determining whether a time extension should be granted, the FEPO shall consider whether the importation of the property applied for would relieve domestic shortages or otherwise be beneficial to the economy of this country during the period of such extension. He shall promptly notify the applicant of his decision, and, if he grants an extension of time, he shall promptly inform the Collector of Customs at the proposed port of entry.

§ 401.11 Metal scrap.

(a) The determination made on August 23, 1950 (15 F.R. 5847, 5849) that no authorization is required for importation of foreign excess property in the form of scrap metal is revoked. Applications for the importation of metal scrap should be made to the FEPO in accordance with the provisions of this part.

(b) Every FEP Import Authorization for the importation of scrap metal issued by the FEPO shall require, as a condition precedent to such importation, the importer to furnish an undertaking in a form and an amount to be prescribed by the Treasury Department to insure that none of the property will be diverted from use as scrap metal.

(c) The provisions of paragraphs (a) and (b) of this section shall not apply to the importation of metal scrap delivered to a United States port of entry on or before February 15, 1959.

§ 401.12 Finality of decisions.

Decisions of the FEPO are final when issued. Requests for reconsideration must be in writing and may be entertained by the FEPO in his discretion, but no request for reconsideration shall extend the period within which an appeal must be taken to the Appeals Board from a decision by the FEPO.

§ 401.13 Appeals.

(a) A person aggrieved by the issuance of an FEP Import Determination that the importation of specified and identified foreign excess property would not relieve domestic shortages or otherwise be beneficial to the economy of this country may appeal to the Appeals Board for the Department of Commerce as provided in this section. The Appeals Board shall also have jurisdiction to decide appeals from persons to whom an application has been returned without action pursuant to § 401.5(b), from persons whose Request for FEP Import Authorization shall have been denied, and from persons whose request for an extension of time pursuant to § 401.10 has been denied.

(b) The only grounds for appeal which the Appeals Board will consider are that the FEPO erred:

(1) In determining that an application should be returned without action (§ 401.5(b)).

(2) In applying the criteria and principles prescribed in § 401.4 to the facts of the case.

(3) In failing or refusing to issue an FEP Import Authorization as provided in § 401.7.

(4) In determining that a request for a time extension pursuant to § 401.10 should not be granted.

(c) The Appeals Board shall have jurisdiction of appeals with respect to actions taken pursuant to § 401.15(a).

(d) Appeals from actions of the FEPO must be filed within 30 days of the date of the action appealed from. Such appeals shall be by letter in triplicate addressed to the Appeals Board, Department of Commerce, Washington 25, D.C., Ref: FEP Order 1 (Revised). If the applicant so requests, the Appeals Board shall grant him a hearing at the office of the Board at the Department of Commerce, Washington, D.C.

(e) Decisions of the Appeals Board shall be communicated in writing to the FEPO and to the appellant and shall be carried out by an appropriate action of the FEPO.

§ 401.14 Exemption of Government-owned property.

Nothing in this part shall be construed as limiting the authority of any Government agency to import Government-owned property into the United States.

§ 401.15 Violations and penalties.

(a) Any person who imports, or attempts to import, foreign excess property into the United States and who fails to comply, both before and after such importation or attempted importation, with the provisions of this part is subject to administrative action terminating his right to submit applications to the FEPO and cancelling any FEP Import Determinations and FEP Import Authorizations issued to such person.

(b) Any person who fraudulently or knowingly imports into the United States any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law, shall, upon conviction, be fined not more than $10,000 or imprisoned not more than five years, or both. Proof of defendant's possession of such goods, unless explained to the satisfaction of the jury, shall be deemed evidence sufficient to authorize conviction. Merchandise introduced into the United States in violation of this provision, or the value thereof, to be recovered from any person described in this paragraph, shall be forfeited to the United States (18 U.S.C. 545).

(c) Any person who knowingly and wilfully makes any false, fictitious or fraudulent statement or representation to an employee of the Department of Commerce or of the Bureau of Customs in any matter concerning the importation of foreign excess property shall, upon conviction, be fined not more than $10,000 or imprisoned not more than five years, or both (18 U.S.C. 1001).

§ 401.16 Cancellation of certain determinations.

(a) All authorizations, permits, determinations, licenses, and approvals issued on or before December 31, 1955 by the FEPO for the importation of foreign excess property are hereby canceled, rescinded and revoked.

(b) Nothing contained in this part shall be construed as extending the validity of any authorization, permit, license, or approval for the importation of foreign excess property which shall have expired in accordance with the terms thereof.

§ 401.17 Communications.

All communications concerning this part shall, unless otherwise stated, be

addressed to the Foreign Excess Property Officer, Business and Defense Services Administration, Department of Commerce, Washington 25, D.C., Ref: FEP Order 1 (Revised).

Revocation of previous delegations and orders: The delegations issued under date of October 7, 1958 (23 F.R. 8112) and December 18, 1858 (23 F.R. 10192) are hereby revoked. Foreign Excess Property Order 1, dated August 23, 1950, as supplemented by Supplement 1, dated October 9, 1956, 15 F.R. 5847, 21 F.R. 7717, §§ 401.1 to 401.12, is hereby revoked. This orders does not relieve any person of any obligation or liability incurred under said Foreign Excess Property Order 1, dated August 23, 1950, as supplemented, nor deprive any person of any rights received prior to the effective date hereof.

This order shall take effect upon the date of its publication in the FEDERAL REGISTER.

Dated: January 9, 1959.

BUSINESS AND DEFENSE SERVICES ADMINISTRATION,
H. B. McCOY,
Administrator,

ANNEX 1

Form Approved, Budget Bureau No. 41-R-1959

Form FEPF-1 (1-7-59)	DATE	APPLICATION NO. (Do not write in this space)

U. S. DEPARTMENT OF COMMERCE
BUSINESS AND DEFENSE SERVICES ADMINISTRATION

APPLICATION FOR FEP IMPORT DETERMINATION

To: Foreign Excess Property Officer
Business and Defense Services Administration
U.S. Department of Commerce
Washington 25, D. C.

GENERAL INSTRUCTIONS. All information required in Part I of this form must be supplied. Applications not completely filled out or which are not executed as required in these instructions will be returned to applicant without action. This application must be limited to property acquired or to be acquired in a single transaction. Application must be executed by owner or by proposed owner of property. It may not be executed by a broker or agent. When applicant is a partnership, firm, or corporation, application must be signed personally by a partner or duly authorized officer. If sufficient space is not provided for any answer, additional sheets shall be attached and referred to. Exhibits, letters, etc. shall be similarly attached. Part II of this form is to be completed only when the applicant is the owner of the property and is requesting an FEP Import Authorization to import such property into the United States. This application must be submitted in duplicate to the Foreign Excess Property Officer, Business and Defense Services Administration, U.S. Department of Commerce, Washington 25, D. C.

PART I—ALL ITEMS IN PART I MUST BE COMPLETED

The undersigned hereby applies to the Foreign Excess Property Officer for a determination with respect to the importation of the foreign excess property described in Item 3 of this application.

1. NAME OF APPLICANT	2. BUSINESS ADDRESS (Street, City, Zone, State)

3. DESCRIPTION OF PROPERTY. (A detailed description of the property must be furnished, giving as far as practicable for each item the make, type, and quantity, and any identifying marks and serial numbers. If the property has been purchased or is to be purchased from a U.S. Government Agency pursuant to an invitation, to bid, auction or other means of disposal, the item number and the description of the property in the sale catalog must be included or a statement must be made that no such sale catalog has been published.)

(Continue with Part I on reverse side)

CERTIFICATION. The undersigned company and the official executing this certification on its behalf hereby certifies that the information contained in this application is correct and complete to the best of their knowledge and belief.

NAME OF COMPANY	SIGNATURE OF APPLICANT	DATE

The U.S. Code, Title 18 (Crimes and Criminal Procedure), Section 1001, makes it a criminal offense to make a willfully false statement or representation to any department or agency of the United States as to any matter within its jurisdiction. Any person who knowingly and willfully makes any false, fictitious, or fraudulent statement or representation to the FEPO or to an employee of the Bureau of Customs in any matter concerning the importation of foreign excess property shall, upon conviction, be fined not more than $10,000 or imprisoned not more than five years, or both (18 U.S.C. 1001).

COMPLETE FORM BEFORE SIGNING CERTIFICATION

4. PRESENT OWNERSHIP OF PROPERTY (If applicant checks Item C, submits proof of ownership of property described together with other identifying information required, and completes Part II of this form, this application will also be accepted in lieu of Form FEPF-3, Request for FEP Import Authorization.)

A. United States Government. Supply following information:

(1) Date of proposed sale	(2) Name of selling agency	(3) Present location of property
(4) Invitation to Bid No.	(5) Item No.	

B. Owner other than U.S. Gov't. or Applicant. Supply following information:

(1) Name of present owner	(2) Address of present owner	(3) Present location of property
(4) Name of U.S. Gov't. Agency that originally owned property	(5) Location of sale by U.S. Gov't. Agency	(6) Date of sale by U.S. Gov't. Agency

C. Applicant (Attach proof of ownership, i.e., photocopy of bill of sale or other evidence of title) Supply the following information.

(1) Location of sale by U.S. Gov't. Agency	(2) Date of sale by U.S. Gov't. Agency	(3) Name of selling agency (U.S. Gov't.)
(4) Present location of property	(5) Name and address of seller if property purchased from other than U.S. Gov't. Agency	

5. Domestic shortage of property or other benefit to the economy of this country (State whether importation of the property would relieve domestic shortages, or whether, and in what respects, importation would benefit the domestic economy. Such statements must be accompanied by all available supporting evidence, including, for example, supply-demand data, production and consumption statistics, statement of inability to obtain the type of property domestically, statements of manufacturers that production has been discontinued and no substitutes are reasonably available, and the like.)

PART II—TO BE COMPLETED ONLY IF APPLICANT IS OWNER OF PROPERTY, HAS CHECKED ITEM 4C, AND HAS ATTACHED PROOF OF OWNERSHIP

The undersigned, as owner of the foreign excess property described in Items 3 above, hereby requests the Foreign Excess Property Officer to issue an FEP Importation Authorization for the importation of such property into the United States

1. Proposed date and port of importation		2. Name of ship or other carrier, if known
Date	Port	

3. Bureau of Customs Data (If property is held in a U.S. Custom warehouse, or otherwise in control of the Bureau of Customs, give full particulars regarding the following):

(a) Status of property	(b) Type of Customs entry
	(c) Identifying Customs numbers and symbols

(Sign Certification on Face of Form)

The provisions of Part 401 set forth in this order relating to appeals to the Appeals Board for the Department of Commerce are hereby adopted as the rules of the Appeals Board for the Department of Commerce.

GRISWOLD FORBES,
Acting Chairman,
Appeals Board.

[F.R. Doc. 59-350; Filed, Jan. 14, 1959; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12485; FCC 59-22]

[Rules Amdt. 12-10]

PART 12—AMATEUR RADIO SERVICE

Postponement of Effective Date

In the matter of amendment of § 12.111 of the Commission's rules, Amateur Radio Service, to provide that only A1 emission may be used in the lower 100 kc of the 50 and 144 Mc amateur band; Docket No. 12485.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 9th day of January 1959;

The Commission having under consideration a petition, filed by the American Radio Relay League, Inc., 38 La Salle Road, West Hartford 7, Connecticut, on January 6, 1959, requesting postponement of the effective date from January 10, 1959 until March 10, 1959, of amendments of § 12.111 of the Commission's rules ordered by the Report and Order in the above-captioned proceeding; a petition, filed by James D. Ahlgren, Route 2, Box 27A, Herndon, Virginia, on January 6, 1959, requesting that the above-captioned proceeding be reopened "in order that new evidence may be introduced"; a petition, filed by Arthur J. Swanick, 4629 North Henderson, Arlington 3, Virginia, Ross Bateman, 5720 El Nido Road, Falls Church, Virginia, and Walter F. Bain, RFD 1, Box 27-M, Springfield, Virginia, on January 5, 1959, requesting that "the effective date of said Report and Order, now set for January 10, 1959, be indefinitely stayed and postponed pending further rule-making herein" and that the Commission reconsider its Report and Order issued in this proceeding;

It appearing that there is insufficient time to properly consider the aforementioned petitions for reconsideration and/or reopening prior to January 10, 1959, the scheduled effective date of rule amendments ordered by the Report and Order issued in this proceeding on December 3, 1958; and

It further appearing that this proceeding was initiated pursuant to a petition for rule-making filed by the American Radio Relay League, one of the petitioners now requesting postponement of the effective date of the previously ordered rule amendments;

It is ordered, That the effective date of the amendments of § 12.111 of the Commission's rules, presently scheduled to become effective January 10, 1959, is postponed until further order of the Commission;

It is further ordered, That the time for filing petitions for reopening or reconsideration is hereby extended to March 10, 1959.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154)

Released: January 9, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-383; Filed, Jan. 14, 1959; 8:50 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[Docket No. 32448]

PART 130—RATE-MAKING ORGANIZATION; RECORDS AND REPORTS

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 29th day of December A.D. 1958.

It appearing that the Commission, division 2, pursuant to provisions of section 4(a) of the Administrative Procedure Act, by notice dated May 29, 1958 (23 F.R. 4318), informed the rate bureaus and other organizations operating pursuant to rate-making agreements approved by the Commission under the provisions of section 5a of the Interstate Commerce Act that the Commission had under consideration the matter of rules and regulations governing the maintenance and preservation of accounts and other records and the reporting of information to the Commission, and that interested parties were permitted to file statements in writing on or before July 25, 1958, extended to October 25, 1958, by notice of July 9, 1958, containing their views with respect to the proposed rules and regulations;

It further appearing that written statements were filed on behalf of 17 motor common carrier and 3 railroad associations operating under said agreements, The National Industrial Traffic League, and the American Retail Federation; and that certain respondents requested oral argument;

And it further appearing that full consideration has been given to the matters and things involved and of the representations made by said respondents; and that inasmuch as the rules and regulations have been changed to reflect most of the views presented by respondents, oral argument is deemed unnecessary, therefore:

It is ordered, That said requests for oral argument be, and they are hereby, denied.

It is further ordered, That Title 49 of the Code of Federal Regulations be, and the same is hereby, amended by adding thereto Part 130, Rate-Making Organizations; Records and Reports, as fully set forth below, which regulations are hereby approved and made a part hereof.

And it is further ordered, That this order shall become effective on March 9, 1959, and that notice be given to the public by posting copies thereof in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Federal Register Division.

By the Commission, Division 2.

[SEAL] HAROLD D. McCOY,
Secretary.

Sec.
130.10 Accounts.
130.20 Other records.
130.30 Retention of records.
130.31 Destruction of records.
130.40 Reporting requirements.

AUTHORITY: § 130.10 to 130.40 issued under sec. 5a(3), 62 Stat. 472; 49 U.S.C. 5b.

§ 130.10 Accounts.

Accounts shall be kept by each conference, bureau, committee, or other organization subject to section 5a to record all receipts and expenditures of moneys. Such accounts shall be kept with sufficient particularity to show the facts pertaining to all transactions reflected in the entries made in the accounts. All receipts shall be supported by records, including records showing the basis for charges to members. All disbursements shall be supported by vouchers, payrolls, cancelled checks, and other evidences of expenditures, including the basis for any apportionment of expense items to members.

§ 130.20 Other records.

Each such organization subject to section 5a shall maintain: (a)(1) A file for each proposal relating to rates, fares, classifications, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, which shall contain the complete proposal, all procedural documents issued, protests, memoranda, amendments, reports, etc., submitted and any other correspondence respecting the matter proposed. Also reports or minutes of all proceedings at any oral, committee or public hearing held thereon and the determination relating thereto;

(2) a file covering each petition or protest filed by the organization against tariff publications of a member for suspension of rates or other matters published for such member carrier; (3) a file covering each instruction or request for publication by independent action.

(b) All accounts and other records covered by this part shall be filed in such manner as to be readily accessible for examination by representatives of the Commission.

§ 130.30 Retention of records.

Except as otherwise specifically provided in § 130.31, each such organization subject to section 5a shall retain records or documents, which relate or pertain to transactions or activities in that connection, for the periods of time specified for each kind respectively in the following list. Inclusion of a record or document in the list imposes no requirement that it shall be installed if its purpose is otherwise being adequately served.

Item	Description of records	Period to be retained
1.	Capital stock records, corporate charters or certificates, minutes of meetings, and all similar records pertaining to formation of the organization	Permanent.[1]
2.	General ledgers, general journals, and general cash books	10 years.
3.	Property records; those pertaining to the acquisition, depreciation, retirement, and replacement of property	5 years after sale or retirement.
4.	Contracts, leases, and agreements	3 years after expiration.
5.	Records and documents required by provisions of § 130.20 to be maintained	5 years.
6.	All other records, memoranda, documents, papers, and correspondence	3 years.

[1] Permanent records are those which may not be destroyed without special authority.

§ 130.31 Destruction of records.

(a) A permanent record shall be maintained of all records and documents subject to this part which have been destroyed after the required periods of retention. Compliance with this part will not exempt an organization subject thereto from statutory requirements, other than the Interstate Commerce Act, for retention of records or documents for periods longer than those herein prescribed.

(b) *Photographic copies.* Records and documents not specifically designated as permanent records may be destroyed at any time after they have been suitably photographed in the normal course of business under a program instituted for the protection or storage of records generally: *Provided, however,* That microfilm copies shall be retained for the periods of time prescribed for the original records or documents, respectively; that the microfilm copies shall be no less readily accessible than the original records or documents as normally filed or preserved would be; and that suitable facilities shall be available to locate, identify, read, and reproduce such microfilm copies.

(c) *Special authority.* Organizations subject to the provisions of this part proposing to destroy records or documents which have not been retained for the period of time required by regulations, may request special authority to destroy them. Applications for such special authority shall describe in detail the records or documents to be destroyed and shall explain why their continued retention is unnecessary.

§ 130.40 Reporting requirements.

All conferences, bureaus, committees, or other organizations, subject to section 5a shall file annual reports for the year ended December 31, 1959, and for each succeeding year until further notice in accordance with Annual Report Form RBO which is attached hereto and made a part hereof.[1] This annual report shall be filed, in duplicate, in the Bureau of Transport Economics and Statistics, Interstate Commerce Commission, Washington 25, D.C., on or before March 31 of the year following the one to which it relates.

[F.R. Doc. 59-370; Filed, Jan. 14, 1959; 8:48 a.m.]

[1] Filed as part of the original document.

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 58]

GRADING AND INSPECTION, MINIMUM SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

Spray Process; Roller Process

Notice is hereby given that the United States Department of Agriculture is considering the issuance, as hereinafter proposed, of amendments to the United States Standards for Grades of Nonfat Dry Milk pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U.S.C. 1621 et seq.).

The proposed amendments provide under Subparts L and M, §§ 58.2529 and 58.2554, respectively, "U.S. Grade not assignable," for a reduction in the direct microscopic level of nonfat dry milk on which a U.S. grade will be assigned. The purpose of the reduction in the DMC level is to adjust the standards to conform with quality improvement achieved by industry.

All persons who desire to submit written data, views or arguments in connection with this amendment should file the same in triplicate with the Chief of the Standardization and Program Development Branch, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2742, South Building, Washington 25, D.C., not later than 30 days after publication hereof in the FEDERAL REGISTER.

The proposed amendments are as follows:

1. Change Subpart L, § 58.2529 to read as follows:

§ 58.2529 U.S. Grade not assignable.

Nonfat dry milk which fails to meet the requirements for U.S. Standard Grade and/or shows a direct microscopic clump count exceeding 200 million per gram shall not be assigned a U.S. grade.

2. Change Subpart M, § 58.2554 to read as follows:

§ 58.2554 U.S. Grade not assignable.

Nonfat dry milk which fails to meet the requirements for U.S. Standard Grade and/or shows a direct microscopic clump count exceeding 200 million per gram shall not be assigned a U.S. grade.

(60 Stat. 1090; 7 U.S.C. 1624)

Done at Washington, D.C., this 12th day of January 1959.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Agricultural Marketing Service.

[F.R. Doc. 59-377; Filed, Jan. 14, 1959; 8:49 a.m.]

NOTICES

DEPARTMENT OF DEFENSE

Department of the Army

JOHN S. PFEIL

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) of the Defense Production Act of 1950, as amended, and Executive Order No. 10647 of November 28, 1955, the following changes have taken place as of January 1, 1959 in my financial interests as reported in the FEDERAL REGISTER, August 1, 1958.

A. Deletions:
National Shawmut Bank.
B. Additions:
Home Insurance Co.
Manufacturers & Traders Trust Co.

Dated: January 1, 1959.

JOHN S. PFEIL.

[F.R. Doc. 59-353; Filed, Jan. 14, 1959; 8:45 a.m.]

KENNETH B. COATES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) of the Defense Production Act of 1950, as amended, and Executive Order No. 10647 of November 28, 1955, the following changes have taken place as of January 1, 1959 in my financial interests as reported in the FEDERAL REGISTER, August 1, 1958.

A. Deletions:
Michigan Plating & Stamping Co., Grand Rapids, Mich.—Director and Stockholder.
B. Additions:
Gulf & Western Corp., Grand Rapids, Mich.—Director and Stockholder.
Shamrock Oil & Gas Co., Amarillo, Tex.—Stockholder.
Pubco Petroleum Corp., Albuquerque, N. Mex.—Stockholder.

Dated: January 1, 1959.

KENNETH B. COATES.

[F.R. Doc. 59-354; Filed, Jan. 14, 1959; 8:45 a.m.]

EDWARD F. McCROSSIN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) of the Defense Production Act of 1950, as amended, and Executive Order No. 10647 of November 28, 1955, the following changes have taken place as of January 1, 1959 in my financial interests as reported in the FEDERAL REGISTER, August 1, 1958.

a. Deletions:
1. Corporations of which I am an officer or director: No change.
2. Corporations of which I am a stockholder: No change.
b. Additions:
1. Corporations of which I am an officer or director: No change.
2. Corporations of which I am a stockholder: No change.

Dated: January 1, 1959.

EDWARD F. MCCROSSIN.

[F.R. Doc. 59-355; Filed, Jan. 14, 1959; 8:45 a.m.]

BYRON C. HEACOCK

Statement of Changes in Financial Interests

In accordance with the requirements of section 710 (b) of the Defense Production Act of 1950, as amended, and Executive Order No. 10647 of November 28, 1955, the following changes have taken place as of January 1, 1959 in my financial interests as reported in the FEDERAL REGISTER, August 1, 1958.

A. Deletions:
1. a. F. E. Booth Co., San Francisco, Director.
B. Additions: No change.

Dated: January 1, 1959.

BYRON C. HEACOCK.

[F.R. Doc. 59-356; Filed, Jan. 14, 1959; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Utah (I-16)]

UTAH

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 5, 1959.

The Bureau of Reclamation has filed an application, Serial No. Utah 031297, for the withdrawal of the lands described below, from all forms of appropriation. The applicant desires the land for a reclamation townsite in connection with the Flaming Gorge Unit of the Colorado River Storage Project.

For a period of 30 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, Post Office Box 777, Salt Lake City, Utah.

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:

SALT LAKE MERIDIAN, UTAH

T. 2 N., R. 22 E.
Sec. 1: S½SW¼SW¼;
Sec. 3: NE¼SW¼, E½NW¼SW¼;
Sec. 11: NE¼NE¼, N½NW¼NE¼, SW¼SW¼NE¼, NE¼NE¼NW¼, SE¼SE¼NW¼, NW¼NE¼SW¼;
Sec. 12: N½NW¼, N½S½NW¼;
Sec. 14: NE¼SW¼NW¼;
Sec. 15: Lot 3.

The above area aggregates 330.45 acres.

VAL B. RICHMAN,
State Supervisor.

[F.R. Doc. 59-359; Filed, Jan. 14, 1959; 8:46 a.m.]

[Group No. 399 California]

CALIFORNIA

Notice of Filing of Plats of Survey and Order Providing for Opening of Public Lands

JANUARY 8, 1959.

1. Plats of survey of the lands described below will be officially filed in the Land Office, Los Angeles, California, effective at 10:00 a.m. on February 2, 1959.

SAN BERNARDINO MERIDIAN

T. 16 N., R. 9 E.,
Sec. 9: S½;
Sec. 16: All;
Sec. 17: E½;
Sec. 20: NE¼;
Sec. 36: All.

The area described aggregate 2,017.75 acres. Plat of Survey accepted July 1, 1958.

T. 16 N., R. 10 E.,
Sec. 16: All;
Sec. 36: All.

The area described aggregate 1,279.96 acres. Plat of Survey accepted July 1, 1958.

T. 17 N., R. 9 E.,
Sec. 36: NE¼.

The area described aggregate 165.88 acres. Plat of Survey accepted July 1, 1958.

T. 17 N., R. 10 E.,
Sec. 16: E½;
Sec. 36: All.

The area described aggregate 960.00 acres. Plat of Survey accepted July 1, 1958.

T. 17 N., R. 11 E.,
Sec. 15: W½;
Sec. 16: All;
Sec. 21: N½.

The area described aggregate 1,275.50 acres. Plat of Survey accepted July 1, 1958.

T. 18 N., R. 9 E.,
Sec. 36: E½.

The area described aggregate 348.10 acres. Plat of Survey accepted July 1, 1958.

T. 18 N., R. 10 E.,
Sec. 36: All.

The area described aggregate 640.00 acres. Plat of Survey accepted July 1, 1958.

T. 18 N., R. 11 E.,
Sec. 16: W½;
Sec. 21: NW¼.

The area described aggregate 498.54 acres. Plat of Survey accepted July 1, 1958.

T. 18 N., R. 12 E.,
Sec. 16: E½;
Sec. 36: N½, SE¼.

The area described aggregate 806.96 acres. Plat of Survey accepted July 1, 1958.

T. 18 N., R. 12½ E.,
Sec. 36: All.

The area described aggregate 492.00 acres. Plat of Survey accepted July 1, 1958.

T. 18½ N., R. 12 E.,
Sec. 36: All.

The area described aggregate 633.75 acres. Plat of Survey accepted July 1, 1958.

T. 19 N., R. 8½ E.,
Sec. 1: All;
Sec. 12: All;
Sec. 13: All;
Sec. 24: All;
Sec. 25: All;
Sec. 36: All.

The area described aggregate 3432.73 acres. Plat of Survey accepted July 1, 1958.

T. 19 N., R. 9 E.,
Sec. 16: All;
Sec. 36: W½.

The area described aggregate 960.00 acres. Plat of Survey accepted July 1, 1958.

T. 19 N., R. 10 E.,
Sec. 16: All;
Sec. 36: All.

The area described aggregate 1280.00 acres. Plat of Survey accepted July 1, 1958.

T. 19 N., R. 11 E.,
Sec. 16: All;
Sec. 36: All.

The area described aggregate 1280.00 acres. Plat of Survey accepted July 1, 1958.

T. 20 N., R. 9 E.,
Sec. 16: All;
Sec. 36: All.

The area described aggregate 1279.81 acres. Plat of Survey accepted July 1, 1958.

T. 20 N., R. 10 E.,
Sec. 16: All;
Sec. 31: All;
Sec. 36: All.

The area described aggregate 1737.00 acres. Plat of Survey accepted July 1, 1958.

T. 20 N., R. 11 E.,
Sec. 16: All;
Sec. 36: All.

The area described aggregate 1,281.49 acres.
Plat of Survey accepted July 1, 1958.

T. 20½ N., R. 9 E.,
Sec. 36: All.

The area described aggregate 339.34 acres.
Plat of Survey accepted July 1, 1958.

T. 20½ N., R. 10 E.,
Sec. 36: All.

The area described aggregate 326.79 acres.
Plat of Survey accepted July 1, 1958.

T. 20½ N., R. 11 E.,
Sec. 36: All.

The area described aggregate 349.89 acres.
Plat of Survey accepted July 1, 1958.

2. Except for, and subject to valid existing rights, it is presumed that title to the following lands passed to the State of California upon the acceptance of the above mentioned plats of survey.

SAN BERNARDINO MERIDIAN

T. 16 N., R. 9 E.,
Sec. 16: All;
Sec. 36: All.
T. 16 N., R. 10 E.,
Sec. 16: All;
Sec. 36: All.
T. 17 N., R. 9 E.,
Sec. 36: NE¼.
T. 17 N., R. 10 E.,
Sec. 16: E½;
Sec. 36: All.
T. 17 N., R. 11 E.,
Sec. 16: All.
T. 18 N., R. 9 E.,
Sec. 36: E½.
T. 18 N., R. 10 E.,
Sec. 36: All.
T. 18 N., R. 11 E.,
Sec. 16: W½.
T. 18 N., R. 12 E.,
Sec. 16: E½;
Sec. 36: N½, SE¼.
T. 18 N., R. 12½ E.,
Sec. 36: All.
T. 18½ N., R. 12 E.,
Sec. 36: All.
T. 19 N., R. 8½ E.,
Sec. 36: All.
T. 19 N., R. 9 E.,
Sec. 16: All;
Sec. 36: W½.
T. 19 N., R. 10 E.,
Sec. 16: All;
Sec. 36: All.
T. 19 N., R. 11 E.,
Sec. 16: All;
Sec. 36: All.
T. 20 N., R. 9 E.,
Sec. 16: All;
Sec. 36: All.
T. 20 N., R. 10 E.,
Sec. 16: All;
Sec. 36: All.
T. 20 N., R. 11 E.,
Sec. 16: All;
Sec. 36: All.
T. 20 N., R. 9 E.,
Sec. 36: All.
T. 20½ N., R. 10 E.,
Sec. 36: All.
T. 20½ N., R. 11 E.,
Sec. 36: All.

The areas described aggregate 16,478.56 acres.

3. The following described lands are privately owned:

SAN BERNARDINO MERIDIAN

T. 16 N., R. 9 E.,
Sec. 36: M.S. 3899A, M.S. 3992.

4. The following described lands are opened to application, location, selection, and petition as outlined in paragraph 6, below. No application for these lands will be allowed under the homestead, desert land, small tract, or any other nonmineral public land law, unless the lands have already been 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.

T. 16 N., R. 9 E.,
Sec. 9: S½;
Sec. 17: E½;
Sec. 20: NE¼.
T. 17 N., R. 11 E.,
Sec. 15: W½;
Sec. 21: N½.
T. 18 N., R. 11 E.,
Sec. 21: NW¼.
T. 19 N., R. 8½ E.,
Sec. 1: All;
Sec. 12: All;
Sec. 13: All;
Sec. 24: All;
Sec. 25: All.
T. 20 N., R. 10 E.,
Sec. 31: All.

The areas described aggregate 4,906.03 acres.

5. Land use characteristics:

The lands opened to application, as described in paragraph 4, are located in the Kingston Valley Area in the Northeastern part of San Bernardino County, California. The area is arid and desert in nature, being bordered in the east and south by the Mojave Desert and on the east and north by mountains rising to more than 7,000 feet. Kingston Valley is not a closed basin, but drains through Kingston wash northwestwardly into the Amargosa drainage basin.

The lands lie either in rough and broken desert mountains or on steep alluvial slopes at the bases of mountains. Topography is generally rough and mountainous or steep and broken by canyons and washes. Soils are generally of a course-textured nature, being derived as fill materials from the surrounding mountains. Vegetation varies with the elevation of the lands. A saltbrush aspect is found in the lower areas with a creosote bush-bur sage aspect at the intermediate elevations and Joshua tree-Pinyon-Juniper aspects at the higher elevations.

In all the lands described, precipitation, which is small in magnitude and infrequent in occurrence, is largely in the form of rainfall with some snowfall in the higher elevations. Average precipitation varies from 4 inches in the lower valleys to 10 inches or more in the mountainous area.

There is no agricultural development in the area. Grazing use is restricted to annual plants during seasons of favorable moisture conditions. Several mines, producing both Metallic and Non-Metallic minerals, are located in the general area.

6. Subject to any existing valid rights and the requirements of applicable law, the lands described in paragraph 4 hereof, are hereby opened to filing of application, selection, and locations in accordance with the following:

a. Applications and selection under the nonmineral public-land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, begining on the date of this order. Such applications, selection and offers 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 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 February 12, 1959, 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. May 21, 1959, 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 paragraph (1) and (2) above, and applications and offers under the mineral leasing laws, presented prior to 10:00 a.m. of May 21, 1959, 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 will be open to location under the United States mining laws, beginning 10:00 a.m. on May 21, 1959.

Persons claiming veteran's preference rights under Paragraph 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 applications, setting forth all facts relevant to 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.

7. Inquiries concerning these lands shall be addressed to the Manager, Land Office, Fifth Floor, Bartlett Building, 215 West Seventh Street, Los Angeles 14, California.

NOLAN F. KEIL,
Manager, Land Office, Los Angeles.

[F.R. Doc. 59-360; Filed, Jan. 14, 1959; 8:46 a.m.]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 6, 1959.

The United States Forest Service of the Department of Agriculture has filed an application, serial No. Colorado 024415, for withdrawal of the lands described below from location and entry under the General Mining Laws, subject to existing valid claims.

The applicant desires the use of these lands for picnic grounds, campgrounds and recreation areas.

For a period of thirty 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, 339 New Custom House, P.O. Box 1018, Denver 1, Colorado.

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 of the Interior 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:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

SAN JUAN NATIONAL FOREST

East Mountain Campground Site

T. 36 N., R. 6 W.,
Sec. 4, lots 5 to 10, inclusive.

Aspen Point Picnic Ground Site

T. 36 N., R. 6 W.,
Sec. 5, lots 5 to 8, inclusive and E½SW¼.

Sawmill Point Boating Site

T. 36 N., R. 6 W.,
Sec. 8, NW¼ and N½SW¼.

Pine Point Campground Site

T. 36 N., R. 6 W.,
Sec. 9, SE¼NE¼, SE¼SW¼, NE¼SE¼ and W½SE¼.

North Canyon Campground Site

T. 36 N., R. 6 W.,
Sec. 16, NW¼NE¼, NW¼ and NE¼SW¼.

Graham Creek Campground Site

T. 36 N., R. 6 W.,
Sec. 16, W½SW¼;
Sec. 17, NE¼SE¼ and S½SE¼.

Vallecito Dam Area

T. 36 N., R. 6 W.,
Sec. 19, NE¼SW¼ and N½SE¼;
Sec. 20, SW¼NW¼ and N½SW¼.

Old Timers Campground Site

T. 36 N., R. 6 W.,
Sec. 20, NE¼NE¼, W½NE¼ and NW¼-SE¼.

Middle Mountain Trailer Camp Site

T. 37 N., R. 6 W.,
Sec. 33, lots 1 to 5, inclusive, E½NE¼ and NE¼SE¼;
Sec. 34, lot 1 and NW¼SW¼.

The above areas aggregate 2020.08 acres.

J. ELLIOTT HALL,
Lands and Minerals Officer.

[F.R. Doc. 59-371; Filed, Jan. 14, 1959; 8:48 a.m.]

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The Bureau of Land Management has filed an application, Serial Number F-022686 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws including the mining laws, but excluding provisions of the mineral leasing laws and the Materials Act.

The applicant desires the land for an administrative and fire control site.

For a period of sixty days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 1050, Fairbanks, 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:

MCGRATH AREA

Beginning on Line 2-3, U.S. Survey 1962 (Northern Commercial Company Land at McGrath, Alaska, leased by C.A.A.) where it intersects west ditch line of the road lying parallel to, and east of, the North-South runway of the McGrath Airfield; thence east along Line 3-2 of U.S. Survey 1962, 1300 feet to Corner No. 2, U.S. Survey 1962; thence, south 330 feet; thence, west 1300 feet to west ditch line of said road; thence, north 330 feet to the point of beginning

Containing 9.85 acres, more or less.

FRED W. VARNEY,
Acting Operations Supervisor,
Fairbanks.

[F.R. Doc. 59-374; Filed, Jan. 14, 1959; 8:49 a.m.]

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The Department of the Air Force has filed an application, Serial Number F-022305 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.

The applicant desires the land for a communications station site.

For a period of sixty days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 1050, Fairbanks, 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:

TIN CITY AIR FORCE STATION

TRACT E

A tract of land located on the Seward Peninsula, 2d Judicial Area, Territory of Alaska, more specifically described as follows:

Commencing at a point, identical with the point of intersection of Latitude 65°35' 01.579" N., Longitude 167°56'25.790" W., thence South 220 feet to the Point of Beginning for this description;
thence West 175 feet; thence North 482 feet to a point on the south boundary of the Champion Lode Claim; thence S. 82°12' W., 372 feet along said boundary to a point identical with the southeast corner of said claim; thence N. 29°40' E., 78 feet along said boundary to a point; thence East 193 feet; thence South 500 feet; thence West 425 feet to the point of beginning

Containing 6.31 acres.

FRED W. VARNEY,
Acting Operations Supervisor,
Fairbanks.

[F.R. Doc. 59-375; Filed, Jan. 14, 1959; 8:49 a.m.]

WASHINGTON

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 7, 1959.

The Bureau of Sport Fisheries and Wildlife, U.S. Fish and Wildlife Service, has filed an application, Serial No. Washington 02626, for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, and to reserve the lands subject to valid existing rights under the jurisdiction of the Department of the Interior, under the Act of September 14, 1946 (60 Stat. 1080).

The applicant desires the land for use by the Department of Game of the State of Washington in connection with the Colockum Game Range. Forestry resources will continue to be managed by the Bureau of Land Management.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections or suggestions in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 680 Bon Marche Building, Spokane 1, Washington.

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:

WILLAMETTE MERIDIAN WASHINGTON

T. 19 N., R. 21 E.,
Sec. 24: NW¼NE¼, NE¼SE¼.
T. 19 N., R. 22 E.,
Sec. 4: Lots 1, 2, 4, SW¼SE¼;
Sec. 10: S½NW¼, N½SW¼;
Sec. 12: Lots 2, 3, 4, 5;
Sec. 20: SE¼SW¼;
Sec. 24: Lots 1, 2, 3, 4, W½NE¼, W½;
Sec. 26: Lot 1.

The area described contains 1,131.92 acres.

The proposed withdrawal will be subject to Power Site Reserve 264, insofar as it affects Lots 2, 3, 4, 5, Sec. 12; Lots 1, 2, 3, 4, Sec. 24; Lot 1, Sec. 26, T. 19 N., R. 22 E., W.M., and subject to Power Site Reserve 349 as to the W½NE¼, SW¼, Sec. 24, T. 19 N., R. 22 E., W.M. Also subject to withdrawal for Project 2114, Grant County P.U.D. No. 2, Priest Rapids Dam, as to Lots 2, 3, 4, 5, Sec. 12; Lots 1, 2, 3, 4, Sec. 24; and Lot 1, Sec. 26, T. 19 N., R. 22 E., W.M.

FRED J. WEILER,
State Supervisor.

[F.R. Doc. 59-376; Filed, Jan. 14, 1959; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-114]

WILLIAM M. RICE INSTITUTE

Notice of Issuance of Utilization Facility License

Please take notice that no request for a formal hearing having been filed following the filing of notice of the proposed action with the Federal Register Division on December 23, 1958, the Atomic Energy Commission has issued Facility License No. R-54 authorizing the William M. Rice Institute to acquire and operate nuclear reactor Model AGN-211, Serial No. 101 at thermal power levels not in excess of fifteen kilowatts on its campus in Houston, Texas. Notice of the proposed action was published in the FEDERAL REGISTER on December 24, 1958, 23 F.R. 10187.

Dated at Germantown, Md., this 8th day of January 1959.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Division of Licensing and Regulation.

[F.R. Doc. 59-351; Filed, Jan. 14, 1959; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12176-12178; FCC 59M-36]

KTAG ASSOCIATES (KTAG-TV) ET AL.

Order Scheduling Further Prehearing Conference

In re applications of Charles W. Lamar, Jr., J. Warren Berwick, Harold Knox, R. B. McCall, Jr., d/b as KTAG Associates (KTAG-TV), Lake Charles, Louisiana, Docket No. 12176, File No. BMPCT-4682; for modification of construction permit; Evangeline Broadcasting Company, Inc., Lafayette, Louisiana, Docket No. 12177, File No. BPCT-2335; Acadian Television Corporation, Lafayette, Louisiana, Docket No. 12178, File No. BPCT-2351; for construction permits for new television broadcast stations; Camellia Broadcasting Company, Inc. (KLFY-TV), Docket No. 12436, File No. BMPCT-4711; for modification of construction permit.

By agreement of the parties, it is ordered, this 9th day of January 1959, that a further prehearing conference in the above-entitled proceeding will be held on January 15, 1959, at 10:00 a.m., in the offices of the Commission, Washington, D.C.

Released: January 12, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-384; Filed, Jan. 14, 1959; 8:50 a.m.]

[Docket No. 12210; FCC 59M-32]

KENNETH G. PRATHER AND MISHA S. PRATHER

Order Continuing Hearing

In re application of Kenneth G. Prather and Misha S. Prather, Boulder, Colorado, Docket No. 12210, File No. BP-11289; for construction permit.

It is ordered, This 8th day of January 1959, that, upon oral request of counsel for KDEN and with the agreement of all other parties, the hearing in the above-entitled matter presently scheduled for January 12, 1959, be and it hereby is rescheduled to commence on January 15, 1959, at 10 a.m. in the Commission's offices in Washington, D.C.

Released: January 12, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-385; Filed, Jan. 14, 1959; 8:50 a.m.]

[Docket No. 12543; FCC 59M-28]

UNIVERSITY ADVERTISING CO.

Order Scheduling Hearing

In re application of University Advertising Company, Highland Park, Texas, Docket No. 12543, File No. BP-11850; for construction permit.

It is ordered, This 8th day of January 1959, that the hearing in the above-entitled proceeding heretofore continued without date, is hereby scheduled to be held on January 19, 1959, at 9:00 a.m., in the offices of the Commission, Washington, D.C.

Released: January 9, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-387; Filed, Jan. 14, 1959; 8:50 a.m.]

[Docket No. 12729; FCC 59-11]

OPERATION OF STANDARD BROADCAST STATIONS LICENSED FOR DAYTIME OPERATIONS

Notice of Inquiry

In the matter of inquiry into the advisability of authorizing standard broadcast stations to operate with facilities licensed for daytime operation from 6:00 a.m. or local sunrise (whichever is earlier) to 6:00 p.m. or local sunset (whichever is later).

Background:

1. On September 19, 1958, the Commission issued a Report and Order (FCC 58-891) in Docket No. 12274 denying a petition, filed December 9, 1955 by Daytime Broadcasters Association, Inc. (DBA), requesting that all daytime standard broadcast stations be authorized to operate from 5:00 a.m. or local sunrise (whichever is earlier) to 7:00 p.m. or local sunset (whichever is later), in lieu of the sunrise to sunset hours provided for in the present rules. On October 20, 1958, DBA filed a petition for reconsideration of the Commission's September 19 Report and Order, asking that the Commission either grant its original request or, in the alternative, that it permit all daytime stations to operate from 6:00 a.m. or local sunrise (whichever is earlier) to 6:00 p.m. or local sunset (whichever is later). In a Memorandum Opinion and Order, released today in Docket No. 12274, the Commission denied the October 20, 1958, DBA petition for reconsideration insofar as it requested reconsideration of the "5 to 7" request and dismissed the DBA alternative request for "6 to 6" operation. The Commission stated therein, with respect to the alternative request for "6 to 6" operation, that it was not apprised of sufficient necessary facts concerning the changes envisaged in the standard broadcast allocations structure to render a decision upon the merits of the alternative request. After further data thereon is elicited and obtained, such new information may possibly warrant the institution of rule making looking toward some form of extended hours of operation by qualifying standard broadcast stations. Accordingly, a Notice of Inquiry to elicit such further data appears warranted. The instant inquiry is intended to obtain such information.

Problems:

2. Before defining specific issues on which parties will be invited to submit data and comments, we will briefly summarize some—but not necessarily all—of the problems which would be involved in the "6 to 6" operations which are considered herein.

Relation between the Instant Inquiry and Pending Clear Channel (Docket No. 6741), Daytime Skywave (Docket No. 8333) and U.S.-Canadian Agreement (Docket No. 10453) Rule Making Proceedings:

3. In 1947 the Commission initiated a rule making proceeding (Docket No. 8333) to determine the existence, nature, and extent of skywave transmissions of standard broadcast stations during daytime hours and to ascertain what, if any, changes should be made in the rules as

a result of its findings. The evidence in the proceeding shows that the skywave interfering signals do not begin abruptly at sunset and disappear at sunrise but build up throughout the afternoon, acquiring maximum rate of increase with the approach of sunset and quasi-maximum strength approximately two hours after sunset. Conversely, during morning hours the skywave signals decrease in strength before, during, and after the sunrise time, with the most rapid decrease occurring near sunrise. As a result, operation of broadcast stations within the period between sunrise and sunset causes progressively diminishing or increasing skywave interference to stations sharing the use of the channel and, to some extent, adjacent channel stations. This interference is sufficiently severe to impinge substantially on the service areas of stations which under the Commission's present allocation rules are entitled to protection from objectionable interference over the wide areas that they are intended to serve.

4. In 1953 the Commission initiated a procedure in conformance with a Proposed Agreement between the United States and Canada (Docket No. 10453), (1 Pike & Fischer RR 53:909) which restricts the daytime skywave radiation of interfering United States stations toward the Canadian border on the channels on which Canada enjoys I–A priority under the North American Regional Broadcasting Agreement. The agreement is reciprocal in nature.

5. In March 1954, the Commission issued a proposed Report and Order in the Daytime Skywave proceeding (10 Pike & Fischer RR 1541), embodying amendments to the rules and technical standards which would restrict the daytime radiation of daytime stations toward dominant Class I stations to a specifically prescribed degree. This could be achieved by reducing power, directionalizing radiation away from the desired station, or both. While affording some degree of protection from daytime skywave interference, the proposed amendments reflect a compromise in that the restrictions were not so limited as to afford the co-channel Class I stations the full degree of protection which was sought by these stations. In July 1954, the Commission held oral argument on the proposed rules, and subsequently received written comments concerning whether the proposed restrictions should be confined to new or changed station assignments or should be applied also to existing stations. The Commission has not yet reached a final conclusion in that proceeding.

6. The Daytime Skywave proceeding (Docket No. 8333) in turn is intimately related to far broader issues concerning even more basic questions of revision of the standard broadcast allocations pattern which are under review in the Clear Channel proceeding (Docket No. 6741).[1] Under the present allocation, a total of 46 frequencies are assigned as U.S. Clear Channels. Approximately one-half of these clear channels are reserved for the exclusive use at night of a single Class I–A station. On the remaining U.S. clear channels more than one Class I–B dominant stations may be assigned, such stations affording each other mutual protection through the use of directional antennas. The assignment of secondary or Class II stations is permitted on all of the clear channels. On the clear channels assigned for Class I–A use, only daytime Class II stations are permitted; whereas on clear channels assigned for Class I–B use, unlimited time Class II stations affording day and night protection to the dominant Class I–B stations are permitted. On April 15, 1958, the Commission issued a Further Notice of Proposed Rule Making in Docket No. 6741, inviting comments on a proposal to assign additional unlimited time stations on 12 of the U.S. Class I–A clear channels in order to improve service in certain areas. Comments and reply comments in response to the April 15 Further Notice were filed on and before October 29, 1958.

7. It is evident that the entire clear channel problem embraces the daytime skywave problem as one large facet, and that the latter in turn affects the basis on which it would be possible to approach the questions raised by the instant "6 to 6" inquiry concerning extended hours for daytime stations. The subject inquiry explores an action diametrically opposed to the tentative conclusions announced by the Commission in its March 1954 proposed Report and Order in Docket No. 8333. Thus, insofar as the instant inquiry concerns daytime stations on clear channels, it has a direct bearing upon the aforementioned clear channel, U.S.-Canadian Agreement, and daytime skywave proceedings.

Interference:

8. The data in the September 19, 1958, Report and Order in Docket No. 12274 shows that if the stations which are now licensed for daytime hours of operation were authorized to operate additional hours, they would transmit skywave interfering signals throughout such additional hours. These signals when propagated over the great distances characteristic of skywave signals would cause interference to the stations now affording broadcast service in many areas and would interfere also with the proposed operations of the daytime stations. The effect of the interference in the United States would be the disruption of secondary service to rural and smaller urban communities and of primary services to many areas, thus creating new "white areas" having no primary service. The interference would also affect the broadcast services of other North American countries. On the other hand, aside from the relationship hereof to the Daytime Skywave (Docket No. 8333), Clear Channel (Docket No. 6741) and proposed agreement with Canada (Docket No. 10453) proceedings, it is apparent that the disruption of service under the "6 to 6" proposal would be less than that under the "5 to 7" proposal which we have considered and rejected, because of the smaller number of non-daytime hours involved.

International Agreements:

9. It is necessary to consider "6 to 6" operation in relation to international agreements under which the governments of the signatory North American countries allocate the use of the frequencies commonly employed for radio broadcasting in such manner as to avoid interference which would be mutually destructive of each other's broadcast service. The chief relevant agreements are the North American Regional Broadcasting Agreement of 1950 and the Agreement between the United States of America and the United Mexican States, signed January 29, 1957. These agreements, which represent the results of lengthy negotiations and reflect what the Contracting Parties considered to be equitable compromises of conflicting interests among the countries concerned in the international allocation of the limited spectrum space available for standard broadcasting, have not yet entered into formal effect through ratification by the parties. But, in the interest of avoiding chaotic mutual interference to the several broadcast services involved, the signatory parties are, in general, observing the limitations contained in these agreements.[2] It is therefore not possible to disregard these agreements.[3]

10. The differences between daytime and nighttime operation are recognized in, and comprise a basic part of, all of these agreements. Different standards of allocation, protection, and interference are set forth for daytime and for nighttime operation. (See the 1950 NARBA, Annex 2, Appendix B; 1957 U.S.-Mexican Agreement, Annex III.) With respect to the channels assigned to the respective countries for Class I–A priority of use, the 1950 NARBA (Annex 2, Appendix B, Note 3) provides that no other country will assign a station for nighttime operation on such channel within 650 miles of the nearest boundary of the country having priority. The Mexican Agreement provides that (with stated exceptions) the respective governments will make no nighttime assignments on the clear channels on which the other country has Class I–A priority (1957 U.S.-Mexican Agreement, Article II, B, par. 8(b)). With respect to channels assigned to the various countries for Class I–B priority of use in specified areas, Class II assignments on these frequencies in other countries are permitted, but the nighttime service areas of the Class I–B stations are protected to their 0.5 mv/m 50 percent time skywave contours from co-channel skywave interference from Class II stations. With respect to regional channels, any nation may use such channels, subject to the conditions as to power and prevention of objectionable interference set forth in the agreements. (Daytime and nighttime interference and protection standards differ.) Any country making an assignment on any frequency must

[1] Docket Nos. 6741 and 8333 were consolidated in 1947 but in 1953 were severed in order to permit separate consideration of the Daytime Skywave proceeding (Docket No. 8333).

[2] See the note to § 3.28(b) of our rules (47 CFR 3.28).

[3] Moreover, the Proposed Agreement between the United States and Canada respecting assignment of Class II Standard Broadcast Stations to clear channels, mentioned above, must be considered.

notify the other countries involved of the assignment; if another country objects thereto, the assignment becomes the subject of international negotiation. Furthermore, the concept of daytime and nighttime embodied in these agreements is that based on sunrise and sunset. The 1950 NARBA provides (Annex 2, section A(6)):

(a) Daytime operation in general means operation between the times of local sunrise and local sunset at the transmitter location of the station; however, in particular cases other hours for daytime operation may be established, either in the present Agreement or any bilateral agreements, between the respective Contracting Governments, taking into account the location of the station it is intended to protect.[4]

(b) Nighttime operation is operation at any other time.

The U.S.-Mexican Agreement does not define "daytime" and "nighttime" generally; however, the same concept is embodied in the provisions concerning assignments on the other country's class I-A frequencies.[5] The agreement provides that such daytime Class II assignments will be subject to the following conditions:

(1) Permissible Hours of Operation: Sunrise to Sunset at the location of the Class II station.

(2) Permissible Signal Intensity at the Boundary of the Country which Has the Class I-A Priority on the Channel Involved: Not more than 5 uv/m groundwave * * *

The public need for "6 to 6" operation, and for the Service which would be lost from existing stations:

11. In the pleadings and comments filed heretofore in Docket No. 12274, DBA and other advocates of extended hours for daytime stations have asserted that there is a large unsatisfied need for local service during pre-sunrise and post-sunset hours. Of particular significance, states DBA, is the fact that in the United States 913 communities, with a total population of more than 7,500,000, have available to them no locally licensed radio outlet other than daytime-only stations. It is asserted that extended hours are necessary for daytime stations, notwithstanding the resulting interference to existing radio broadcast services, in order that the needs of these communities and surrounding areas for broadcast service may be more fully met. In evaluating this argument, it must be borne in mind, among other factors, that a number of these 913 communities are located in metropolitan or unbanized areas, and receive primary service from stations closely located in the principal city thereof or in another suburban community within the area. Moreover, 243 of the 913 communities are in counties which have full-time local stations.

12. Various contentions with respect to the need for extended hours from 5:00 a.m. until 7:00 p.m. were advanced by parties filing comments in Docket No. 12274, and were treated in Paragraphs 45 to 54 of the September 19 Report and Order therein (FCC 58-981). While most of these arguments appear to be applicable to some extent to "6 to 6" operation, some of them may not apply to it at all and others may apply in markedly less degree because of the shorter extended operating time.

13. Conversely, many of the opponents of the "5 to 7" proposal advanced arguments concerning the public need for the service of existing full-time stations which would be lost under that proposal. Taking into account the shorter period involved in the "6 to 6" operation, some of these arguments may have less, or even no, significance in relation to the present inquiry.

Effect of the "6 to 6" operation upon full-time stations operating with different daytime and nighttime facilities:

14. There are a large number of full-time standard broadcast stations which are licensed to operate with different facilities during daytime and nighttime. The Commission desires information on the question whether authorization of "6 to 6" operation would or would not necessarily require authorization of extended hours of operation by full-time stations with their daytime facilities. Parties who believe that equitable allocation practice would require such concomitant change in the present operation of full-time stations are requested to set forth in detail the increased amount of interference and increased primary service which would result from such operation during non-daytime hours.

Increased number of daytime stations and pending applications:

15. The licensing of daytime stations has increased from 84 in 1946 to approximately 1,400 in 1958. Approximately 650 applications seeking daytime facilities are pending, ranging in power up to 50 kw. In addition, more than 350 applications for unlimited time operation are pending which propose, by use of directional antennas and reduced power, the avoidance of transmissions of interfering skywave signals during non-daytime hours. The filing of both kinds of applications is continuing at a substantial rate.

Effect of the "6 to 6" proposal upon operation pursuant to § 3.87 of the Commission's rules:

16. Under the provisions of § 3.87 of the Commission's rules, all stations, except certain Class II stations, are permitted to begin operation with their daytime facilities at 4:00 a.m., unless undue interference is caused thereby to full-time stations. Difficulties have been encountered in applying this rule to individual circumstances. See Music Broadcasting Co., 10 Pike & Fischer RR 20, 35, 554 (1954), 15 RR 547 (1957); Frank J. Russell, Jr., 16 Pike & Fischer RR 995 (1958); Josh L. Horne, 14 FCC 645, 5 Pike & Fischer RR 1420 (1950). The instant proposal would permit daytime stations to operate during pre-sunrise beginning at 6:00 a.m. Moreover, the subject proposal would permit non-daytime operation by daytime stations as a matter of right, to which such stations would be entitled regardless of the amount of interference caused to full-time stations; while § 3.87 affords daytime stations a privilege which may be cancelled at any time by the Commission upon a finding of interference to a fulltime station. The Commission believes it appropriate to ascertain in this proceeding what changes, if any, in § 3.87 of the Commission's rules may be desirable or necessary if the "6 to 6" operation were adopted.

17. The foregoing discussion does not exhaust but merely points out a number of problems involved which require close scrutiny and study.

Issues:

18. Before we endeavor to reach conclusions as to any action it may be appropriate for the Commission to take with reference to "6 to 6" operation in the light of the aforementioned problems, we believe that it would be appropriate and useful to afford all interested parties an opportunity to submit such data and views as they feel should be taken into account. It is apparent, as just noted, that the number of daytime stations has rapidly increased in recent years and that applications for such facilities continue to be filed in substantial numbers.[6] Therefore, in comments and data submitted herein, consideration may be given to the effects of the proposal both in terms of presently authorized facilities and, where relevant, in terms of prospective facilities, including those requested in applications now on file.

19. Written comments may be filed on or before April 8, 1959, in an original and 14 copies. Authorization for the institution of this proceeding is found in section 403 of the Communications Act of 1934, as amended. Data and views are desired, in particular, on the following issues:

1. The times during which, the areas in which, and the populations for whom the "6 to 6" operation would result in a new primary service.

2. The extent to which such new primary service would occur where no other primary service is available:

(a) From any other station.

(b) From any other station located in the same community.

3. The periods during which, the areas in which, and the populations for whom primary service now available would be subjected to objectionable interference.

(NOTE. The losses in areas and population during all hours affected by the proposal, both before and after local sunset and after and before local sunrise, bearing in mind time differences throughout the country, are requested in response to this issue.)

[4] The proposed U.S.-Canadian Agreement (Docket No. 10453) accords with this provision.

[5] In connection with any assignment of U.S. stations for non-daytime operation on Mexican channels, it must be noted that Mexico has in the past attached the utmost importance to the extended service rendered by its Class I stations. Thus, the 1941 U.S.-Mexican Agreement (Executive Agreement Series 196, the "Gentleman's Agreement"), authorized U.S. Class II assignments at New York City and Detroit on Mexican I-A channels 1050 kc and 1220 kc, respectively, directionalized so as to "protect the Mexican station's coverage in the United States as much as possible."

[6] All parties are hereby placed on notice that the Commission in its deliberations on this matter will take into consideration the applications for new daytime and fulltime stations.

4. The extent to which the foregoing losses of service would be sustained in areas which receive no other primary service.

5. Data similar to "3" and "4" above, with respect to losses of skywave service of Class I stations during evening listening hours before 9:00 p.m., e.s.t., and morning listening hours after 3:00 a.m., P.s.t.

6. The degree of interference which would result from authorization of "6 to 6" operation to stations in other North American countries with which the United States has broadcasting agreements, determined in accordance with the nighttime standards of these agreements. (In instances of interference to Class I stations, areas affected should be shown.)

7. Whether it would be equitable, reasonable and appropriate allocation practice to authorize daytime stations to operate from "6 to 6" and preclude unlimited time stations with different daytime and nighttime facilities from using their daytime facilities during the same nondaytime hours.

8. If it should be concluded that daytime stations should be permitted to operate from "6 to 6", and if, in answer to "7" above, it is also concluded that fulltime stations should be permitted to operate with their daytime facilities from "6 to 6", how much additional interference (in areas and populations) would be caused and how much service would be gained or lost by fulltime stations so operating?

9. Should "6 to 6" licensing be considered in only those communities with no local fulltime standard broadcast station?

10. Should "6 to 6" licensing be considered in terms of such licensing limited to only one station in a community?

11. If "6 to 6" licensing is to be permitted only for stations in communities with no local fulltime stations, should such "6 to 6" authorizations be terminated when fulltime stations are licensed in the same communities?

12. Of the 913 communities having one or more daytime stations but no fulltime stations, listed by Daytime Broadcasters Association, Inc. (in its Engineering Statement appended to its comments in Docket No. 12274), which communities receive primary service from fulltime stations located in the same urbanized or standard metropolitan areas (as defined by the 1950 U.S. Census) or in the same counties?

13. Would it be feasible for daytime stations, if operating after sunset, to reduce power sufficiently at sunset and before sunrise to limit interference to other stations to the daytime level? If so, how much service would be provided with such reduced radiation?

14. Specifically, what changes in Commission rules would be necessary in order to authorize the "6 to 6" operation upon which inquiry is made herein?

15. What changes, if any, would be necessary or desirable in the text of and in the Commission's procedure pursuant to § 3.87 of the Commission's rules if the "6 to 6" operation were adopted?

16. Considerations other than those arising from the physical facts of radio propagation, including:

(a) What effect would the new services gained have on reception of needed and valuable programs by persons who are advantaged by such reception, including emergency and weather information, farm information, national and local news, programs and announcements concerning local affairs and local organizations? [1]

(b) What effect would the limitation of service through destructive interference have upon access to events of national and regional interest and to programs of a type which cannot be originated by local communities, and other needed and valuable transmissions now available under the existing allocation rules?

(c) With respect to those of the 913 communities mentioned above which are located in the same standard metropolitan or urbanized area as, or the same county with, a fulltime station, to what extent do the fulltime stations serve the particular local needs of such communities?

(d) The effect of the proposal on the CONELRAD operation, considering the need for alerting broadcast stations, other radio stations and the general public by means of skywave and groundwave radio signals.

(e) What would be the effect of grant of the "6 to 6" operation on the development of FM broadcasting?

Adopted: January 7, 1959.

Released: January 12, 1959.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-388; Filed, Jan. 14, 1959; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 9743]

PERU AIR WAYS, S.A.

Notice of Postponement of Hearing

In the matter of the application of Peru Air Ways, S.A., for a foreign air carrier permit authorizing the transportation of persons, property and mail between points in Peru and Montreal, Canada, via Panama, Havana, Cuba, Miami, Florida, and Washington, D.C.

Notice is hereby given that the hearing in the above-entitled proceeding heretofore assigned to be held on February 3, 1959, has been postponed indefinitely at the request of counsel for the applicant.

Dated at Washington, D.C., January 9, 1959.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F.R. Doc. 59-382; Filed, Jan. 14, 1959; 8:49 a.m.]

[Docket No. 9528]

NATIONAL AIRLINES, INC.; ENFORCEMENT PROCEEDING

Notice of Postponement of Hearing

In the matter of contest activities of National Airlines, Inc., enforcement proceeding.

Notice is hereby given that the hearing in the above-entitled matter is postponed until January 19, 1959, at 10 a.m. e.s.t., in Room 2051, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington 25, D.C., before Examiner Merritt Ruhlen.

Dated at Washington, D.C., January 9, 1959.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F.R. Doc. 59-381; Filed, Jan. 14, 1959; 8:49 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 208]

CALIFORNIA

Declaration of Disaster Area

Whereas, it has been reported that during the month of December 1958, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of California;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Office below indicated from persons or firms whose property situated in the following County (including any areas adjacent to said County) suffered damage or other de-

[1] We expressed the view in the Report and Order in Docket No. 12274 (par. 49) that the needs and advantages relating to programming were common to all radio service, and that "any change in allocation rules which results in degradation of overall radio service results in less meeting of the various needs and provides for less of the advantages than at present." We adhere to that view on the basis of the record made in that proceeding. But we wish to permit the presentation of any special facts as to the value of the programming of certain stations or kinds of stations which may be available; and accordingly we are including this among the issues herein. Data supplied along this line, as in other connections, should be specific and factual, rather than general and conclusionary.

[2] Concurring statement of Commissioner Bartley and the dissenting statement of Commissioner Lee filed as part of original document.

struction as a result of the catastrophe hereinafter referred to:

County: Los Angeles (Forest fires occurring on or about December 31, 1958).

Office: Small Business Administration, Ohrbach Building, Room 1101, 312 West Fifth Street, Los Angeles 13, Calif.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to July 31, 1959.

Dated: January 2, 1959.

WENDELL B. BARNES,
Administrator.

[F.R. Doc. 59-362; Filed, Jan. 14, 1959; 8:46 a.m.]

TARIFF COMMISSION

[Investigation 73]

CALF AND KIP LEATHER

Postponement of Public Hearing

The United States Commission has ordered that the public hearing in connection with investigation No. 73 under section 7 of the Trade Agreements Extension Act of 1951, as amended, relating to calf and kip leather, heretofore scheduled for February 17, 1959 (23 F.R. 9113), be postponed to 10 a.m. February 24, 1959. Interested parties should note that the scope of the investigation to which the hearing relates has been modified to exclude lining leather made from calf or kip skins (23 F.R. 9528).

The hearing will be held in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C.

Request to appear. Interested parties desiring to appear, to produce evidence, and to be heard at the public hearing should file request in writing with the Secretary, United States Tariff Commission, Washington 25, D.C., at least three days in advance of the date of the hearing.

Issued: January 12, 1959.

By order of the Commission.

[SEAL] DONN N. BENT,
Secretary.

[F.R. Doc. 59-373; Filed, Jan. 14, 1959; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 68]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICE

JANUARY 9, 1959.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with no service at intermediate points have been filed with the Interstate Commerce Commission, under the Commission's Special Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 2153 (Deviation No. 1), MIDWEST MOTOR EXPRESS, INC., 1205 Front Avenue, Bismarck, N. Dak., filed December 24, 1958. Attorney for said carrier, F. J. Smith, Suite 200, Professional Bldg., Bismarck, N. Dak. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Jamestown, N. Dak., and Williston, N. Dak., as follows: from Jamestown over U.S. Highway 52 to Carrington, N. Dak., thence westerly over North Dakota Highway 7 to Hurdsfield, N. Dak., thence northerly over North Dakota Highway 3 to junction U.S. Highway 52, thence northwesterly over U.S. Highway 52 to Minot, N. Dak., thence westerly over U.S. Highway 2 to Williston and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Jamestown, N. Dak., and Williston, N. Dak., over the following pertinent route: from Jamestown over U.S. Highway 10 to Dickinson, N. Dak., thence northerly over North Dakota Highway 22 to Killdeer, N. Dak., thence westerly over North Dakota Highway 7 to junction U.S. Highway 85, thence north over U.S. Highway 85 to junction U.S. Highway 2, thence easterly over U.S. Highway 2 to Williston.

No. MC 3598 (Deviation No. 5), WOOSTER EXPRESS, INC., 2921 Main Street, Hartford, Conn., filed January 5, 1959. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between the Western Terminus of the New England Section of the New York State Thruway at the intersection of Bruckner Boulevard and Westchester Avenue in the Bronx, New York City, N.Y., and the junction of the Bryam River Bridge at the New York-Connecticut State line with the Western Terminus of the Connecticut Turnpike near Port Chester, N.Y., as follows: from the Western Terminus of the New England Section of the New York State Thruway over the New England Section of the New York State Thruway and access routes to junction Bryam River and the Western Terminus of the Connecticut Turnpike and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Northampton, Mass., and Newark, N.J., over the following pertinent route: from Northampton over U.S. Highway 5 to New Haven, Conn., thence over U.S. Highway 1 to Newark.

No. MC 64543 (Deviation No. 1), SYKES MOTOR EXPRESS, 221 Honeyspot Road, Stratford, Conn., filed December 29, 1958. Attorney for said carrier, Reubin Kaminsky, 410 Asylum Street, Hartford, Conn. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between the junction Connecticut Turnpike and Honeyspot Road (Interchange No. 30) in Stratford, Conn., and terminus of U.S. Highway 1–A in Manhattan, N.Y., as follows: from Interchange No. 30 of the Connecticut Turnpike over the Connecticut Turnpike and access routes to its western terminus at the New York-Connecticut State line, thence over the New England Thruway and access routes to junction Baychester Avenue in Bronx, N.Y., thence over Baychester Avenue to junction Bruckner Boulevard, thence over Bruckner Boulevard to junction U.S. Highway 1–A, thence over U.S. Highway 1–A to Manhattan and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between New York, N.Y., and New Haven and Derby, Conn., over the following pertinent route: from New York over U.S. Highway 1 to New Haven, Conn., and from New York over U.S. Highway 1 to Stratford, Conn., thence over Connecticut Highway 8 to junction Connecticut Highway 34, and thence over Connecticut Highway 34 to Derby.

No. MC 66562 (Deviation No. 2), RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y., filed December 29, 1958. Attorney for said carrier, William H. Marx, 219 East 42d Street, New York 17, N.Y. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between New Cumberland, W. Va., and Chester, W. Va., as follows: from New Cumberland over West Virginia Highway 66 to Chester, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between New Cumberland, W. Va., and Chester, W. Va., over West Virginia Highway 2.

No. MC 69275 (Deviation No. 6), THE M & M TRANSPORTATION COMPANY, 40 Harrison Street, Tiffin, Ohio, filed December 29, 1958. Attorney for said carrier, Francis E. Barrett, Jr., 7 Water St., Boston 9, Mass. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route between the Western Terminus of the New England Section of the New York State Thruway at the Intersection

of Bruckner Boulevard and Westchester Avenue, in the Bronx, New York City, N.Y., and the junction of the Bryam River Bridge at the New York-Connecticut State line with the Western Terminus of the Connecticut Turnpike near Port Chester, N.Y., as follows: from the Western Terminus of the New England Section of the New York State Thruway over the New York State Thruway and access routes to junction Byram River Bridge at the New York-Connecticut State line with the Western Terminus of the Connecticut Turnpike and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Boston, Mass., and Philadelphia, Pa., over the following pertinent routes: from Boston over U.S. Highway 20 to Springfield, Mass., thence over U.S. Highway 5 via Hartford, Conn., to New Haven, Conn., and thence over U.S. Highway 1 to Philadelphia; from Boston to Springfield as specified above, thence over Alternate U.S. Highway 5 to Hartford, thence to New Haven as specified above, thence over U.S. Highway 1 to junction U.S. Highway 130, thence over U.S. Highway 130 to Camden, N.J., and thence across the Delaware River to Philadelphia; from Boston over U.S. Highway 20 to junction Massachusetts Highway 15, thence over Massachusetts Highway 15 to the Massachusetts-Connecticut State line, thence over Connecticut Highway 15 to Hartford, Conn., thence over Connecticut Highway 9 to Middletown, Conn., thence over Connecticut Highway 15 to New Haven, Conn., thence over U.S. Highway 1 to Morrisville, Pa., and thence over U.S. Highway 13 to Philadelphia; from Boston over U.S. Highway 1 to Providence, R.I., thence over Rhode Island Highway 3 to Westerly, R.I., and thence over U.S. Highway 1 via Groton, Conn., to Philadelphia; and from Boston over Massachusetts Highway 1A to North Attleboro, Mass., thence over U.S. Highway 1 to Providence, R.I., thence over Rhode Island Highway 3 to Hopkinton, R.I., thence over Rhode Island Highway 84 to the Rhode Island-Connecticut State line, thence over Connecticut Highway 84 to Groton and thence to Philadelphia as specified above.

No. MC 69275 (Deviation No. 7), THE M & M TRANSPORTATION COMPANY, 250 Mystic Avenue, Somerville, Mass., filed December 29, 1958. Attorney for said carrier, Francis E. Barrett, Jr., 7 Water Street, Boston 9, Mass. Carrier proposes to operate as *a common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between the Eastern Terminus of the Connecticut Turnpike at Killingly, Conn., and Old Saybrook, Conn., as follows: from the Eastern Terminus of the Connecticut Turnpike over the Connecticut Turnpike and access routes to Old Saybrook and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Boston, Mass., and Philadelphia, Pa., over the following pertinent routes: from Boston over U.S. Highway 1 to Providence, R.I., thence over Rhode Island Highway 3 to Westerly, R.I., and thence over U.S. Highway 1 via Groton, Conn., to Philadelphia; and from Boston over Massachusetts Highway 1A to North Attleboro, Mass., thence over U.S. Highway 1 to Providence, R.I., thence over Rhode Island Highway 3 to Hopkinton, R.I., thence over Rhode Island Highway 84 to the Rhode Island-Connecticut State line, thence over Connecticut Highway 84 (renumbered 95) to Groton, and thence to Philadelphia as specified above.

No. MC 75981 (Deviation No. 2), WATT BROS. INC., 824 Lansdale Avenue, Central Falls, R.I., filed January 5, 1959. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between the Eastern Terminus of the Connecticut Turnpike at Killingly, Conn., and Waterford, Conn., as follows: from the Eastern Terminus of the Connecticut Turnpike and access routes to Waterford, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Boston, Mass., and Newark, N.J., over the following pertinent routes: from Boston over U.S. Highway 1 via Pawtucket, R.I., to Providence, R.I., thence over Rhode Island Highway 3 to junction Alternate Rhode Island Highway 3, thence over Alternate Rhode Island Highway 3 to junction Rhode Island Highway 3, thence over Rhode Island Highway 3 to Hopkinton, R.I., thence over Rhode Island Highway 84 (renumbered 95) to the Rhode Island-Connecticut State line, thence over Connecticut Highway 84 (renumbered 95) to New London, Conn., thence over U.S. Highway 1 to New York, N.Y., thence via the Holland Tunnel to Jersey City, N.J., and thence over U.S. Highway 9 to Newark.

No. MC 75981 (Deviation No. 3), WATT BROS. INC., 824 Lansdale Avenue, Central Falls, R.I., filed January 5, 1959. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between the Western Terminus of the New England Section of the New York State Thruway at the Intersection of Bruckner Boulevard and Westchester Avenue, in the Bronx, New York City, N.Y., and the junction of the Bryam River Bridge at the New York-Connecticut State line with the Western Terminus of the Connecticut Turnpike near Port Chester, N.Y., as follows: from the Western Terminus of the New England Section of the New York State Thruway over the New England Section of the New York State Thruway and access routes to the junction of the Bryam River Bridge with the Western Terminus of the Connecticut Turnpike and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Boston, Mass., and Newark, N.J., over the following pertinent route: from Boston over U.S. Highway 1 via Pawtucket, R.I., to Providence, R.I., thence over Rhode Island Highway 3 to junction Alternate Rhode Island Highway 3, thence over Alternate Rhode Island Highway 3 to junction Rhode Island Highway 3, thence over Rhode Island Highway 3 to Hopkinton, R.I., thence over Rhode Island Highway 84 (renumbered 95) to the Rhode Island-Connecticut State line, thence over U.S. Highway 1 to New York, N.Y., thence via the Holland Tunnel to Jersey City, N.J., and thence over U.S. Highway 9 to Newark.

No. MC 107586 (Deviation No. 2), CONSOLIDATED FREIGHTWAYS, INC., 431 Burgess Drive, Menlo Park, Calif., filed December 22, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over two deviation routes (A) between San Leandro, Calif., and junction U.S. Highway 99 and California Highway 152 as follows: from San Leandro, over U.S. Highway 50 to junction California Highway 120, thence over California Highway 120 to junction U.S. Highway 99 near Manteca, Calif., thence over U.S. Highway 99 to junction California Highway 152; and (B) between San Lorenzo, Calif., and junction U.S. Highway 99 and California Highway 152, as follows: from San Lorenzo over the Castro Valley Freeway and access routes to junction U.S. Highway 50, thence over U.S. Highway 50 to junction California Highway 120, thence over California Highway 120 to junction U.S. Highway 99 near Manteca, Calif., thence over U.S. Highway 99 to junction California Highway 152; and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Los Angeles, Calif., and San Francisco, Calif., over the following pertinent route: from Los Angeles over U.S. Highway 99 to junction California Highway 152, thence over California Highway 152 to Gilroy, Calif., thence over U.S. Highway 101 to San Jose, Calif., thence over California Highway 17 to Oakland, Calif., thence over U.S. Highway 40 to San Francisco.

No. MC 111231 (Deviation No. 6), JONES TRUCK LINES, INC., 514 East Emma Avenue, Springdale, Ark., filed November 17, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Sherman, Tex., and the Dallas-Fort Worth Commercial Zone, as follows: from Sherman over U.S. Highway 82 to junction Texas Highway 289, thence over Texas Highway 289 to junction Texas Highway 121, thence over Texas Highway 121 to the Dallas-Fort Worth Commercial Zone and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Atoka, Okla., and Dallas, Tex., over the following pertinent route: from Atoka over U.S. Highway 75 via Denison, Tex.,

to Sherman, Tex., thence over U.S. Highway 82 to Bells, Tex. (also from Denison, Tex., over U.S. Highway 69 to Bells, Tex.), thence over U.S. Highway 69 to Whitewright, Tex., thence over Texas Highway 160 to Farmersville, Tex., thence over Texas Highway 78 to Garland, Tex., thence over U.S. Highway 67 to Dallas.

MOTOR CARRIERS OF PASSENGERS

No. MC 1501 (Deviation No. 25), THE GREYHOUND CORPORATION (CENTRAL GREYHOUND LINES DIVISION), 509 Sixth Avenue North, Minneapolis 5, Minn., filed January 2, 1959. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers* over two deviation routes, (A) between junction New U.S. Highway 169 and By-Pass U.S. Highway 71, and junction New U.S. Highway 169 and Alternate U.S. Highway 71, as follows: from junction New U.S. Highway 169 and By-Pass U.S. Highway 71 over New U.S. Highway 169 and access routes to junction Alternate U.S. Highway 71; and (B) between junction Alternate U.S. Highway 71 and U.S. Highway 71, and Kansas City, Mo., as follows: from junction Alternate U.S. Highway 71 and U.S. Highway 71 over Alternate U.S. Highway 71 and access routes to Kansas City; and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers over the following pertinent routes: (1) between junction By-Pass U.S. Highway 71 and U.S. Highway 169, and Kansas City, Mo., as follows: from junction By-Pass U.S. Highway 71 and U.S. Highway 169 over By-Pass U.S. Highway 71 to junction unnumbered highway, thence over unnumbered highway (Oak Street) to Kansas City; and (2) between junction U.S. Highway 71 and Alternate U.S. Highway 71, and Kansas City, Mo., over U.S. Highway 71.

By the Commission

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-368; Filed, Jan. 14, 1959; 8:47 a.m.]

[Notice 71]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 12, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 61834. By order of January 9, 1959, the Transfer Board approved the transfer to Griffith & Williams, Inc., 138 Seneca Street, Utica, N.Y., of Certificate in No. MC 40139, issued May 22, 1942, to Richard G. Griffith, doing business as Griffith & Williams, 138 Seneca Street, Utica, N.Y., authorizing the transportation of: *Household goods*, between Utica, N.Y., and points within 10 miles of Utica, on the one hand, and, on the other, points in Rhode Island, Massachusetts, Connecticut, Pennsylvania and New Jersey.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-369; Filed, Jan. 14, 1959; 8:48 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 12, 1959.

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. 35176: *Liquified Petroleum Gas from and to points in WTL Territory.* Filed by Western Trunk Line Committee, Agent (No. A-2036), for interested rail carriers. Rates on liquefied petroleum gas, in tank-car loads from and to points in western trunk line territory.

Grounds for relief: Truck and pipeline competition, short-line distance formula, and grouping.

Tariff: Supplement 19 to Western Trunk Line Committee, Agent, tariff I.C.C. A-4240 and other tariffs as outlined in the application.

FSA No. 35177: *Caustic soda—Port Neches, Tex., to Natchez, Miss.* Filed by Southwestern Freight Bureau, Agent (No. B-7457), for interested rail carriers. Rates on liquid caustic soda, in tank-car loads from Port Neches, Tex., to Natchez, Miss.

Grounds for relief: Market competition.

Tariff: Supplement 541 to Southwestern Lines tariff I.C.C. 4139.

FSA No. 35178: *Barite from Barite, Idaho, to Louisiana and Texas.* Filed by Southwestern Freight Bureau, Agent (No. B-7458), for interested rail carriers. Rates on barite (barytes), ground, in carloads from Barite, Idaho to points in Louisiana and Texas.

Grounds for relief: Rates constructed on the basis of a short-line distance scale.

Tariff: Supplement 79 to Southwestern Lines tariff I.C.C. 4252.

FSA No. 35179: *Barite—Arkansas and Missouri to Boeuf, La.* Filed by Southwestern Freight Bureau, Agent (No. B-7461), for interested rail carriers. Rates on barite (barytes), ground, in carloads from points in Arkansas and Missouri to Boeuf, La.

Grounds for relief: Market competition.

Tariff: Supplement 6 to Southwestern Lines tariff I.C.C. 4304.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-367; Filed, Jan. 14, 1959; 8:47 a.m.]