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FEDERAL REGISTER

VOLUME 28 NUMBER 32

Washington, Thursday, February 14, 1963

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FEDERAL REGISTER

Telephone WOrth 3-3261

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

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Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3519

PAN AMERICAN DAY AND PAN AMERICAN WEEK, 1963

By the President of the United States of America

A Proclamation

WHEREAS April 14, 1963, will mark the seventy-third anniversary of the inter-American system established by the American Republics and by them designated as the Organization of American States; and

WHEREAS the United States of America is, and has been from the beginning, an integral part of this organization of free Republics of the Western Hemisphere, whose collective interdependence maintains and strengthens their individual independence; and

WHEREAS these Republics are now actively allied in an unparalleled cooperative effort to achieve individually and collectively the economic growth and social progress which will open to the citizens of this Hemisphere frontiers of opportunity beyond any yet known to mankind; and

WHEREAS the United States of America has supported consistently and uninterruptedly in our hemisphere relationships the basic ideal of freedom with order through which the American Republics achieved their independence and on which their progress is firmly based:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, do hereby proclaim Sunday, April 14, 1963, as Pan American Day, and the week from April 14 through April 20, 1963, as Pan American Week; and I call upon the Governors of the fifty States of the Union, the Governor of the Commonwealth of Puerto Rico, and the Governors of all other areas under the United States flag to issue similar proclamations.

In the interest of inter-American friendship and solidarity, I urge all United States citizens and interested organizations to contribute enthusiastically, by words and works, toward making Pan American Day and Pan American Week occasion for rejoicing that our free Republics during the past year have strongly reaffirmed the will for freedom and the determination to stand together in its defense, and a resolute intent to create in this hemisphere, through our Alliance for Progress, an invigorating environment of hope, confidence, and achievement.

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 eleventh day of February in the year of our Lord nineteen hundred and sixty-three, [SEAL] and of the Independence of the United States of America the one hundred and eighty-seventh.

JOHN F. KENNEDY

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 63-1685; Filed, Feb. 12, 1963; 2:04 p.m.]

Rules and Regulations

Title 41—PUBLIC CONTRACTS

Chapter 9—Atomic Energy Commission

PART 9–16—PROCUREMENT FORMS

Part 9–16 is added to read as follows:

AUTHORITY: §§ 9–16.000 to 9–16.5002–7 issued under sec. 161, 68 Stat. 948; 42 U.S.C. 2201; sec. 205, 63 Stat. 390; 40 U.S.C. 486.

§ 9–16.000 Scope of part.

This part implements FPR 1–16 which prescribes the standard forms for use in connection with the procurement of supplies, nonpersonal services, and construction and supplements FPR 1–16 by prescribing certain AEC additions to the standard forms which are used for such procurements and by setting forth AEC contract outlines for various categories of contracts.

§ 9–16.050 General policy.

It is the policy of AEC to use standard forms prescribed by FPR 1–16 wherever practicable. Uniformity in form and substance tends to insure impartial treatment of all contractors, expedites negotiation and contract review, and facilitates contract administration.

§ 9–16.051 Applicability.

This part and FPR 1–16 are applicable to all AEC direct procurements of supplies, nonpersonal services, and construction. Appropriate adaptations of the standard forms in FPR 1–16 and the AEC additions to such forms which are set forth in this part shall be used by AEC cost-type contractors where practicable.

§ 9–16.052 Deviations.

Deviations in the standard forms set forth in FPR 1–16 shall be made only in accordance with FPR 1–1.009 and AECPR 9–1.109. Deviations in the AEC additions to the standard forms prescribed by this part may be made if necessary in individual cases, if approved by Counsel. A notation of the reasons for deviating from the AEC additions to the standard forms shall be included in the justification in support of the contract. Deviations in the text of articles may be made in accordance with AECPR 9–1.109 and 9–7.5003. If it becomes necessary to deviate as a matter of standard practice from the AEC additions to the standard forms prescribed by this part such changes shall be reported to the Headquarters Director, Division of Contracts, so that consideration can be given to modification of the AEC additions to the standard forms. The AEC contract outlines set forth in this part are suggested as models for certain categories of contracts with a view to standardization, to the extent practicable, of contracts in general use. If it becomes necessary to depart as a matter of standard practice from these suggested contract outlines, suggested revisions shall be reported to the Headquarters Director, Division of Contracts in order that appropriate changes in the outlines may be made from time to time.

Subpart 9–16.1—Forms for Advertised Supply Contracts

§ 9–16.100 Scope of subpart.

This subpart prescribes the AEC additions to the standard forms prescribed by FPR 1–16.1 for use in procuring supplies by formal advertising.

§ 9–16.104–50 AEC additions to Standard Form 32, General Provisions (Supply Contract) (September 1961 edition).

(a) The following additional articles and provisions shall be added to Standard Form 32:

22. Alterations and additions.

The following alterations in or additions to the provisions of Standard Form 32, General Provisions, of this contract were made prior to execution of the contract by the parties:

1. Definitions.

(i) The following new paragraph (b) is substituted for paragraph (b) of this clause:

"(b) The term 'contracting officer' means the person executing this contract on behalf of the Government and includes his successors or any duly authorized representative of any such person."

(ii) The following paragraph (d) is added to this clause:

"(d) The term 'Commission' means the United States Atomic Energy Commission or any duly authorized representative thereof, including the Contracting Officer except for the purpose of deciding an appeal under the article entitled 'Disputes'."

23. Patent Indemnity.

The Contractor agrees to indemnify the Government, its officers, agents, servants and employees against liability of any kind (including costs and expenses incurred) for the use of any invention or discovery and for the infringement of any Letters Patent (not including) liability, arising pursuant to Section 183, Title 35, (1952) U.S. Code, prior to the issuance of Letters Patent) occurring in the performance of this contract or arising by reason of the use or disposal by or for the account of the Government of items manufactured or supplied under this contract.

24. Reporting of Royalties.

If this contract is in an amount which exceeds $10,000 and if any royalty payments are directly involved in the contract or are reflected in the contract price to the Government, the contractor agrees to report in writing to the Commission (Assistant General Counsel for Patents) during the performance of this contract and prior to its completion or final settlement the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of this contract together with the names and addresses of licensors to whom such payments are made and either the patent numbers involved or such other information as will permit identification of the patents or other basis on which the royalties are to be paid. The approval of the Commission of any individual payments or royalties shall not estop the Government at any time from con-

testing the enforceability, validity or scope of, or title to, any patent under which a royalty or payments are made.

25. Renegotiation (AECPR 9–7.5004–20).

26. Federal, State, and Local Taxes (FPR 1–11.401–1).

[Consistent with the language of this article, a provision may be added on advice of Counsel specifically excluding from the contract price designated state and local taxes. Such added provision will not be regarded as a deviation.]

27. Notice of Labor Disputes (AECPR 9–7.5004–12).

28. Utilization of Concerns in Labor Surplus Areas (FPR 1–1.805–39, under the circumstances set forth in that section).

29. Termination for the Convenience of the Government (FPR 1–8.701 or 1–8.705–1, as appropriate).

30. Permits (AECPR 9–7.5004–9).

(b) Such of the following clauses as are appropriate shall also be added to Standard Form 32 and numbered in the proper sequence:

1. Special clauses not inconsistent include:

(i) Security (AECPR 9–7.5004–11) Specific security requirements not disclosed in this clause, such as physical security requirements shall be included or incorporated by reference in specifications to the maximum extent feasible and made readily available to prospective bidders.

(ii) Small Business Subcontracting Program (FPR 1–1.710–3(b), under the circumstances set forth in that section).

(iii) Labor Surplus Area Subcontracting Program (FPR 1–1.805–3(b), under the circumstances set forth in that section).

(iv) Classification (AECPR 9–7.5004–21).

(c) Additional special clauses not inconsistent with the above may be added with the approval of Counsel.

Subpart 9–16.3—Purchase and Delivery Order Forms

§ 9–16.300 Scope of subpart.

This subpart supplements FPR 1–16.3 by prescribing the administrative requirements for the use of AEC Standard Order Form 103 (May 1962). Illustration of this form is contained in AECPR 9–16.951 and 9–16.951–2.

§ 9–16.350 Applicability.

AEC Standard Order Form 103 (May 1962) shall be used only for direct AEC procurement.

§ 9–16.351 AEC Standard Order Form 103 (May 1962)—Instructions for Use.

AEC Standard Order Form 103 (May 1962) is a combination purchase order delivery order and is designed for the following uses incident to direct AEC procurement actions:

(a) As a delivery order, regardless of amount, for ordering supplies or services:

(1) Under existing contracts, including contracts or agreements made by other Government agencies, provided the order is issued in accordance with and subject to the terms and conditions of the basic contract or agreement to which specific reference is made on the form;

(2) From other Government agencies.

(b) As a purchase order for open market or negotiated purchases when the amount is not in excess of $2,500 and when use of GSA Standard Form 44 (Purchase Order—Invoice—Voucher), or Standard Form 147 (Order, Invoice, Voucher) is not practicable.

(c) As a purchase order for negotiated purchases when the amount exceeds $2500. When so used, the terms and conditions of the forms should be supplemented by the applicable requirements of a negotiated fixed-price supply contract, set forth in outline of a negotiated fixed-price supply contract AECPR 9–16.5002–1. Contracting officers should satisfy themselves that the Government's interests are adequately protected through use of the AEC Standard Order Form 103 rather than a more formal contractual document.

(d) GSA Standard Form 36 (Continuation Sheet, Supply Contract) shall be used as a continuation sheet when required.

§ 9–16.352 Requisitioning of AEC Standard Order Form 103.

(a) AEC offices requiring 8 copies or less of AEC Standard Order Form 103, may requisition interleafed carbon, snap-out forms in accordance with instructions for ordering AEC forms (see AEC Manual Chapter 0260 "Requisitioning of Printing from the Government Printing Office, Washington, D.C."). Specifications shall include information as to color of copies and distribution; i.e., original, consignee copy, purchase file copy, receiving report copy, fiscal copy, property records copy, memorandum copy, or any other copy desired.

(b) AEC offices requiring more than 8 copies of AEC Standard Order Form 103 shall use the form prescribed in AECPR 9–16.951–1 and 9–16.951–2 for local reproduction as required. Local reproduction shall be in accordance with the applicable provisions of the Government Printing and Binding Regulations.

§ 9–16.353 Numbering AEC Standard Order Form 103.

AEC Standard Order Form 103 shall be numbered in accordance with the instructions in AECPR 9–53 "Numbering and Distribution of Contracts and Orders."

Subpart 9–16.4—Forms for Advertised Construction Contracts

§ 9–16.400 Scope of subpart.

This subpart prescribes the AEC additions to the standard forms prescribed by FPR 1–16.4 for use in procuring construction by formal advertising.

§ 9–16.404 Terms, conditions, and provisions.

The deletion of the words in clause 5 of Standard Form 23A authorized by FPR 1–16.404(e) shall not be made without the prior approval of the Headquarters Director, Division of Contracts.

§ 9–16.404–50 AEC authorized additions to Standard Form 19.

(a) Although certain additions to Standard Form 19 are authorized by this section, employing them tends to defeat the purpose of the short form, and careful consideration should be given to the need for any addition before it is included.

(b) The following additional clauses in Standard Form 19 are authorized, if required or deemed appropriate under certain circumstances:

(1) Safety, Health and Fire Protection (AECPR 9–7.5004–8).

(2) Security (AECPR 9–7.5004–11).

(3) Assignment (AECPR 9–7.5004–7).

(4) Renegotiation (AECPR 9–7.5004–20).

(5) Price adjustment for suspension, delay, or interruption of the work (FPR 1–7.602–1).

(6) The following wage determination clause:

The wage rates set forth are the minimum rates which may be paid to the classifications of laborers and mechanics designated therein pursuant to the Davis-Bacon Act (Act of March 3, 1931, as amended; 40 U.S.C. 276a and following). The Commission does not represent that said minimum wage rates do now, nor that they will at any time in the future, prevail in the locality of the work for such laborers or mechanics; nor that such mechanics or laborers are or will be obtainable at said rates for work under this contract; nor that said rates represent the most recent wage determination by the Secretary of Labor with respect to such classifications of laborers or mechanics in the locality of the work.

§ 9–16.404–51 AEC addition to Standard Form 20.

The following addition shall be made to Standard Form 20:

Wage determination. The wage rates set forth are the minimum rates which may be paid to the classifications of laborers and mechanics designated therein pursuant to the Davis-Bacon Act (Act of March 3, 1931, as amended; 40 U.S.C. 276a and following). The Commission does not represent that said minimum rates do now, nor that they will at any time in the future, prevail in the locality of the work for such laborers or mechanics; nor that such mechanics or laborers are or will be obtainable at said rates for work under this contract; nor that said rates represent the most recent wage determination by the Secretary of Labor with respect to such classifications of laborers or mechanics in the locality of the work.

§ 9–16.404–52 AEC additions to Standard Form 23A, General Provisions (Construction Contract) (April 1961 edition).

(a) The following additional articles and provisions shall be added to Standard Form 23A:

22. Alterations and additions.

The following alterations in or additions to the provisions of Standard Form 23A, General Provisions, of this contract were made prior to execution of the contract by the parties:

1. Definitions. The following paragraph (c) is added to this clause:

"(c) The term 'Commission' means the United States Atomic Energy Commission or any duly authorized representative thereof, including the Contracting Officer except for the purpose of deciding an appeal under the article entitled 'Disputes'."

23. Safety, health, and fire protection (AECPR 9–7.5004–8).

24. Termination for convenience of the Government (FPR 1–8.703).

25. Federal, State, and Local Taxes (FPR 1–11.401–1).

[Consistent with the language of this clause, a provision may be added on advice of Counsel specifically excluding from the contract price designated State and local

taxes. Such added provision will not be regarded as a deviation.]

26. Renegotiation (AECPR 9–7.5004–20).

27. Notice of labor disputes (AECPR 9–7.5004–12).

28. Utilization of Small Business Concerns (FPR 1–1.710–3(a), under the circumstances set forth in that section).

(b) Such of the following clauses as are appropriate shall also be added to Standard Form 23A and numbered in proper sequence.

(1) Security (AECPR 9–7.5004–11). Specific security requirements not disclosed in this clause, such as physical security requirements, shall be included or incorporated by reference in specifications to the maximum extent feasible and made readily available to prospective bidders.

(2) Price Adjustment for Suspension, Delay, or Interruption of the Work (FPR 1–7.602–1).

(3) Classification (AECPR 9–7.5004–21).

(4) Small Business Subcontracting Program (FPR 1–1.710–3(b)).

(c) Additional special clauses not inconsistent with the above may be added with the approval of Counsel.

Subpart 9–16.9—Illustration of Forms

§ 9–16.950 Scope of subpart.

This subpart contains illustrations of AEC forms used in the procurement and contracting function.

§ 9–16.951 AEC Forms.

AEC forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The AEC forms set forth in the following subsections also show the AEC form numbers in parenthesis.[1]

Subpart 9–16.950—Illustration of Forms

§ 9–16.951–2 (AEC 103a) Purchase Order Terms.

1. *Definitions.* As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Commission" means the United States Atomic Energy Commission or any duly authorized representative thereof, including the Contracting Officer except for the purpose of deciding an appeal under the clause entitled "Disputes."

(b) The term "Contracting Officer" means the person executing this Contract on behalf of the Government, and includes his successors or any duly authorized representatives of any such person.

2. *Vendor's billing instructions.* Vendor's invoices shall contain the following information: Contract or proposal number (if any), order number, and item number, description of supplies or services, sizes, quantities, unit prices, and extended totals. Bill of lading number and weight of shipment will be shown for shipments made on Government bills of lading. If prepaid parcel-post charges are billed, the gross weight and shipping point must be shown on the invoice.

3. *Covenant against contingent fees.* The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

4. *Officials not to benefit.* No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

5. *Nondiscrimination in employment.* The nondiscrimination clause in FPR 1–7.101–18 "Nondiscrimination in Employment" is incorporated herein by reference and is applicable unless this contract is exempt under the rules and regulations of the President's Committee on Equal Employment Opportunity issued pursuant to Executive Order No. 10925 of March 6, 1961 (26 F.R. 1977).

6. *Convict Labor.* In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

7. *Buy American Act.* (a) In acquiring end products, the Buy American Act (41 U.S. Code 10 a–d) provides that the Government give preference to domestic source end products. For the purpose of this clause:

(i) "Components" means those articles, materials, and supplies, which are directly incorporated in the end products;

(ii) "End products" means those articles, materials, and supplies, which are to be acquired under this contract for public use; and

(iii) A "domestic source end product" means (A) an unmanufactured end product which has been mined or produced in the United States and (B) an end product manufactured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. For the purposes of this (a)(iii)(B), components of foreign origin of the same type or kind as the products referred to in (b) (ii) or (iii) of this clause shall be treated as components mined, produced or manufactured in the United States.

(b) The Contractor agrees that there will be delivered under this contract only domestic source end products, except end products:

(i) Which are for use outside the United States;

(ii) Which the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(iii) As to which the Commission determines the domestic preference to be inconsistent with the public interest; or

(iv) As to which the Commission determines the cost to the Government to be unreasonable.

(The foregoing requirements are administered in accordance with Executive Order No. 10582, dated December 17, 1954.)

8. *Discounts.* In connection with any discount offered, time will be computed from date of delivery of the supplies to carrier when delivery and acceptance are at point of origin, or from date of delivery at destination or port of embarkation when delivery and acceptance are at either of these points, or from date correct invoice or voucher is received in the office specified by the Government if the latter date is later than the date of delivery. Payment is deemed to be made for the purpose of earning the discount, on the date of mailing of the Government check.

9. *Inspection.* Except as may be otherwise provided in this contract, final inspection and acceptance will be made at destination. Supplies rejected at destination for nonconformance with specifications shall be removed by the Contractor at his expense promptly after notice of rejection.

10. *Work Hours Act of 1962—Overtime Compensation.* This contract, to the extent that it is of a character specified in the Work Hours Act of 1962 (Public Law 87–581, 76 Stat. 357–360) and is not covered by the Walsh-Healey Public Contracts Act (41 U.S.C. 35–45), is subject to the following provisions and to all other provisions and exceptions of said Work Hours Act of 1962.

(a) No contractor or subcontractor contracting for any part of the contract work shall require or permit any laborer or mechanic to be employed on such work in excess of eight hours in any calendar day or in excess of forty hours in any workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is the greater number of overtime hours.

(b) In the event of any violation of the provisions of paragraph (a), the Contractor and any subcontractor responsible for such violation shall be liable to any affected employee for his unpaid wages. In addition, such Contractor or subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a), in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of forty hours in a workweek without payment of the required overtime wages.

(c) The Contracting Officer may withhold, or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor, the full amount of wages required by this contract and such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for liquidated damages as provided in paragraph (b).

11. *Federal, State, and local taxes.* Except as may be otherwise provided in this contract, the contract price includes all applicable Federal taxes in effect on the date of this contract but does not include any State or local sales, use, or other tax directly applicable to the completed supplies or services covered by this contract nor any other tax from which the Contractor or this transaction is exempt. Upon request of the Contractor, the Government shall furnish a tax exemption certificate or similar evidence of exemption with respect to any such tax not included in the contract price pursuant to this clause. For the purpose of this clause, the term "date of this contract" means the date of the Contractor's quotation or, if no quotation, the date of this purchase order.

12. *Renegotiation.* If this contract is subject to the Renegotiation Act of 1951, as amended, the contract shall be deemed to contain all the provisions required by section 104 of said Act.

§ 9–16.951–3 Illustration of forms.

NOTE: See 29 F.R. 1294.

§ 9–16.951–4 Illustrations for preparation of Form AEC–330.

NOTE: See 29 F.R. 1294.

[1] Form AEC 103 can be obtained from AEC Headquarters.

Subpart 9–16.50—Contract Outlines

§ 9–16.5000 Scope of subpart.

This subpart contains AEC contract outlines for certain categories of contracts.

§ 9–16.5001 Applicability.

The AEC contract outlines set forth herein are applicable to all AEC direct procurement which is within the scope of the various categories covered by the outlines. Appropriate adaptation of these outlines should be used for corresponding types of subcontracts where practicable. The exchange of information between AEC Field Offices concerning adaptation of these forms for subcontract purposes is authorized and encouraged.

§ 9–16.5002 Contract outlines.

The AEC contract outlines are set forth in this section to show their format, text, and arrangement and to provide a ready source of reference. Clauses may be omitted or added with the approval of Counsel. The Director, Division of Contracts, may from time to time amend this section to provide contract outlines for additional categories of contracts.

§ 9–16.5002–1 Outline of a negotiated fixed-price supply contract.

(1) Appropriate provisions setting forth description of supplies, delivery requirements, shipping instructions, and price.

(2) Standard Form 32: General Provisions (Supply Contract).

(3) AEC additions to Standard Form 32, General Provisions (AECPR 9–16.104–50).

(4) Examination of Records (AECPR 9–7.5004–10).

§ 9–16.5002–2 Outline of a cost-plus-a-fixed-fee supply contract (performed by commercial concerns in contractor's facilities).

(1) Definition—§ 9–7.5005–4.

(2) Statement of work—§ 9–7.5006–28.

(3) Changes—§ 9–7.5006–4.

(4) Estimates of costs, obligation of funds and fixed fee—§ 9–7.5006–14.

(5) Allowable costs and fixed fee—§ 9–7.5006–10.

(6) Payments—§ 9–7.5006–25, or, if appropriate, Payments and advances—§ 9–7.5006–23.

(7) Accounts, records, and inspection—§ 9–7.5006–1.

(8) Drawings, designs, and specifications—§ 9–7.5006–13.

(9) Examination of records—§ 9–7.5004–10.

(10) Required bonds and insurance—Exclusive of Government property—§ 9–7.5004–19.

(11) Property—§ 9–7.5006–26.

(12) Taxes—Appropriate article in accordance with § 9–11.[1]

(13) Subcontracts and purchase orders—§ 9–7.5006–29.

(14) Patents—Appropriate patent article or articles in accordance with FPR 1–9 and AECPR 9–9.

(15) Security—§ 9–7.5004–11 When required.

(16) Work Hours Act of 1962—Overtime Compensation FPR Notice No. 3 (September 20, 1962) or Walsh Healey Public Contracts Act, FPR 1–12.604, if the contract exceeds $10,000.00.

(17) Notice of labor disputes—§ 9–7.5004–12.

(18) Buy American Act—§ 9–7.5004–16.

(19) Termination for Default or for Convenience of the Government—FPR 1–8.702.

(20) Litigation and claims—§ 9–7.5004–18.

(21) Renegotiation—§ 9–7.5004–20.

(22) Classification—§ 9–7.5004–21 in all contracts involving classified information.

(23) Disputes—§ 9–7.5004–3.

(24) Utilization of Small Business Concerns—FPR 1–1.710–3(a) as required by that section.

(25) Small Business Subcontracting Program—FPR 1–1.710–3(b), as required by that section.

(26) Utilization of Concerns in Labor Surplus Areas—FPR 1–805–3(a) as required by that section.

(27) Labor Surplus Area Subcontracting Program—FPR 1–1.805–3(b), as required by that section.

(28) Changes to Make-or-Buy Program—FPR 1–3.902–3, as required by that section.

(29) Covenant against contingent fees—§ 9–7.5004–1.

(30) Officials not to benefit—FPR 1–7.101–19.

(31) Nondiscrimination in employment—FPR 1–7.101–18.

(32) Convict labor—FPR 1–12.203.

(33) Assignment—FPR 1–7.101–8 or 9–7.5004–7 as appropriate.

§ 9–16.5002–3 Outline of negotiated fixed-price-construction contract.

1. Standard Forms 19, "Invitation, Bid and Award;" 19.A., "Labor Standards Provisions;" 23, "Construction Contract;" and 23.A., "General Provisions (Construction Contract)" and any AEC additions thereto which are authorized by this part may be used where the AEC enters directly into a fixed-price-construction contract, by competitive proposals or by other means of negotiation.

2. The Standard Forms should be modified in the following respects:

a. Delete the word "publicly" before the word "opened" wherever it appears.

b. Delete the word "bid" or "bids" wherever used and insert the word "proposed" or "proposals."

c. Delete the word "bidder" and insert the word "offeror" wherever it appears.

d. Delete the word "bidding" wherever it appears and insert the word "proposal."

3. Add the following clause to the Standard Forms:

a. Examination of Records (AECPR 9–7.5004–10).

§ 9–16.5002–4 Outline of a cost-plus-a-fixed-fee-construction contract.

This contract, entered into the _____, day of _____, 19__, effective as of the _____, day of _____, 19__, between the United States of America (hereinafter called the "Government"), acting through the United States Atomic Energy Commission (hereinafter called the "Commission"), and_____ _____ (hereinafter called the "Contractor").

Witnesseth that:

Whereas, the Commission finds that the common defense and security require the construction of certain facilities, hereinafter more particularly described, that _____ _____; and

(A statement of grounds which permit contracting without Federal advertising and render a contract on a lump sum or unit price basis impracticable, should be inserted in this recital.)

Whereas, the Contractor is willing to undertake the performance of such construction work on a cost-plus-a-fixed-fee basis; and

Whereas, the Commission finds that the Contractor is best qualified to perform the work, all relevant factors considered; and

Whereas, the Commission certifies that this negotiated contract is authorized by and executed under the Atomic Energy Act of 1954, as amended, in the interest of the common defense and security.

Now therefore, the parties hereto agree as follows:

Article I—Definitions. Insert contract clause set forth in AECPR 9–7.5005–4.

Article II—Statement of work. Insert contract clause set forth in AECPR 9–7.5006–28. [As full a description of the work as is feasible should be inserted in this clause.]

Article III—Changes. Insert contract clause set forth in AECPR 9–7.5006–4.

Article IV—Estimates of costs, obligation of funds, and fixed fee. Insert contract clause set forth in AECPR 9–7.5006–14.

Article V—Allowable costs and fixed fee. Insert contract clause set forth in AECPR 9–7.5006–9.

(Payments for the use of the contractor's own construction plant and equipment are made subject to an appendix to be attached at the time of execution of the construction contract or subsequently added by agreement of the parties. Payment for rental by the prime contractor of construction plant and equipment from third parties is made subject to rental agreements to be approved by the Contracting Officer. If such rental agreements are modified to include the services of operators, adjustments may be required to avoid conflicts with the labor provisions of the construction contract. See AECPR 9–58. Until this part is issued, use AEC Manual Chapter 9206.)

Article VI—Payments. Insert contract clause set forth in AECPR 9–7.5006–25 using 10 percent in the second sentence of subparagraph (b).

(NOTE A: An election is permitted between straight reimbursement for allowable costs incurred and claimed by the Contractor and the system approved by the AEC of advances to the Contractor. A firm agreement should be reached at the outset as to one or the other of these methods of making payment for allowable costs and the appropriate article included in the contract. Payments on account of the fixed fee will in any case be made only as earned and claimed, in accordance with contract provisions. See AECPR 9–18. Until this part is issued, use AEC Manual Chapter 9103.)

(NOTE B: If it is contemplated that advances will be made to the Contractor, substitute the clause set forth in AECPR 9–7.5006–23 and require special bank account agreement as set forth in AECPR 9–7.5006–24.)

Article VII—Assignment. Insert contract clause set forth in AECPR 9–7.5004–7.

Article VIII—Accounts, records, and inspection. Insert contract clause set forth in AECPR 9–7.5006–1.

(NOTE: The provisions in this clause relating to records and accounts are designed to permit the use of AEC's integrated accounting system whether the reimbursement method or the advances method of payment is employed.)

Article IX—Examination of records. Insert contract clause set forth in AECPR 9–7.5004–10.

Article X—Workmanship and materials. Insert contract clause set forth in AECPR 9–7.5006–32.

Article XI—Property. Insert contract clause set forth in AECPR 9–7.5006–26.

Article XII—Required bonds and insurance exclusive of Government property. Insert contract clause set forth in AECPR 9–7.5004–19.

Article XIII—State and local taxes. The Contractor agrees to notify the Contracting Officer of any tax, fee, or charge:

(a) From which exemption is granted by State or local law, or

(b) Which is invalid under any provision of the Constitution of the United States

[1] Until issued, use AEC Manual Chapter 9115.

levied or purported to be levied on the Contractor in respect of this Contract and to refrain from paying any such tax, fee, or charge unless otherwise authorized by the Contracting Officer. The Contractor further agrees to take such steps as may be required by the Contracting Officer to cause any such tax, fee, or charge to be paid under protest and, if so directed by the Contracting Officer, to cause to be assigned to the Government or its designee any and all rights to the abatement or refund of any such tax, fee, or charge, or to permit the Government to join with the Contractor in any proceedings for the recovery thereof or to sue for recovery in the Contractor's name.

The Government shall save the Contractor harmless from penalties and interest incurred through compliance with this article.

Article XIV—Litigation and claims. Insert contract clause set forth in AECPR 9-7.5004-18.

Article XV—Subcontracts and purchase orders. Insert contract clause set forth in AECPR 9-7.5006-29.

Article XVI—Safety, health, and fire protection. Insert contract clause set forth in AECPR 9-7.5004-8.

Article XVII—Contractor's organization. Insert contract clause set forth in AECPR 9-7.5006-6.

Article XVIII—Key personnel. Insert contract clause set forth in AECPR 9-7.5006-15.

Article XIX—Patent indemnity. Insert General Provision "15" of Standard Form 23A.

(NOTE A: Basically, no patent provisions beyond the usual indemnity clause should be included. Alteration of this clause as to specified items is a matter to be dealt with by negotiation, if the question is raised by a prospective contractor. In particular cases involving technical facilities, the inclusion of additional provisions relating to title and rights in inventions and discoveries, with appropriate alteration of the indemnity clause, will be required in the interest of the Government. The Patent Indemnity Clause may be modified by deleting the opening words, "Except as otherwise provided," and by adding at the end of the article an exception set forth in (1) or (2) below under circumstances therein.

(1) Certain construction contracts may call for items or parts thereof which are standard commercial supplies and also for items which require modifications in the course of the performance of the work. In such event the patent indemnity article set forth above may be appropriately modified. To cover such circumstances, the following modification should be added at the end of the patent indemnity article:

", except, however, infringement necessarily resulting from the contractor's compliance with written specifications or provisions for other than standard parts or components manufactured or supplied by the contractor or resulting from specific written instructions given by the Commission for the purpose of directing a manner of performance of the contract not normally utilized by the contractor."

(2) In some instances certain specific items should be excluded from the indemnification, and where such items or parts can be identified as nonstandard commercial components or parts, the following provision may be added at the end of the patent indemnity article:

"except that this indemnity shall not apply to the following items or parts (specifically identifying and listing the items or parts to be excluded)."

(NOTE B: The alterations of the indemnity clause should be made upon the advice of the Field Patent Group or, in the absence of such group, on the advice of the Headquarters Office of the Assistant General Counsel for Patents.)

Article XX—Security. Insert contract clause set forth in AECPR 9-7.5004-11.

(NOTE: The security clause includes a provision under which the contractor agrees to conform to all security regulations and requirements of the AEC. This provision will support security actions which are not expressly mentioned in the security article but are required by the AEC, whether in the form of general rules or "one-time" requirements. Examples are actions to promote physical security and control of classified matter.)

Article XXI—Disputes. Insert contract clause set forth in AECPR 9-7.5004-3.

Article XXII—Labor.

(a) *Davis-Bacon Act (Act of March 3, 1931, as amended; 40 U.S.C. 276a and following)*—Insert contract clause set forth in Standard Form 19A.

(NOTE: This clause includes provisions required by regulations of the Department of Labor. Part 3, Title 29, Subtitle A, Code of Federal Regulations (7 F.R. 687 as amended) and Part 5, Title 29, Subtitle A, Code of Federal Regulations (16 F.R. 4430) as amended.)

(b) *Work Hours Act of 1962—Overtime Compensation.* Insert contract clause set forth in Standard Form 19A. (Until modified, use the clause in FPR Notice No. 3, September 20, 1962.)

(c) *Apprentices*—Insert contract clause set forth in Standard Form 19A.

(d) *Payroll records and payrolls.* Insert contract clause set forth in Standard Form 19A.

(e) *Copeland (anti-kickback) Act—Nonrebate of wages.* Insert contract clause set forth in Standard Form 19A.

(f) *Withholding of funds to assure wage payment.* Insert contract clause set forth in Standard Form 19A.

(g) *Subcontracts — Termination.* Insert contract clause set forth in Standard Form 19A.

(h) *Nondiscrimination in employment.* Insert contract clause set forth in FPR 1-7.101-18.

(i) *Convict labor.* Insert contract clause set forth in FPR 1-12.203.

Article XXIII—Notice of labor disputes. Insert contract clause set forth in AECPR 9-7.5004-12.

Article XXIV—Covenant against contingent fees. Insert contract clause set forth in AECPR 9-7.5004-2.

(NOTE: In the event a contractor is unwilling to include a covenant against contingent fees in subcontracts and purchase orders, or if the Contracting Officer deems such inclusion inadvisable, the matter shall be brought to the attention of the Director, Division of Contracts with a statement of the reasons.)

Article XXV—Officials not to benefit. Insert contract clause set forth in AECPR 9-7.5004-5.

Article XXVI—Buy American Act. Insert contract clause set forth in AECPR 9-7.5004-17.

Article XXVII—Termination. Insert contract clause as set forth in AECPR 9-8.750. (Until this section is published, use AEC Manual Chapter 9112-073.)

Article XXVIII—Drawing, designs, specifications. Insert contract clause set forth in AECPR 9-7.5006-13.

Article XXIX—Permits. Insert contract clause set forth in AECPR 9-7.5004-9.

Article XXX—Renegotiation. Insert contract clause set forth in AECPR 9-7.5004-20, if the contract is subject to the Renegotiation Act of 1951, as amended.

Article XXXI—Alterations and additions. Insert contract clause set forth in AECPR 9-7.5006-2.

Article XXXII—Utilization of small business concerns. Insert contract clause set forth in FPR 1-1.710-3(a) under the conditions and in the manner prescribed in FPR 1-1.710-2.

Article XXXIII—Purchases from contractor-controlled sources. Insert contract clause set forth in AECPR 9-7.5006-33, if deemed necessary.

(NOTE: The clause set forth in AECPR 9-7.5006-33 shall be included in the contract, if it is contemplated that the contractor will be required to procure any equipment, materials, and supplies of the kind and character manufactured or sold by the divisions, departments, or affiliates of the contractor.)

In witness whereof, the parties hereto have executed this contract as of the day and year above written:

UNITED STATES OF AMERICA

By _____

_____

(Title)

UNITED STATES ATOMIC ENERGY COMMISSION

_____

(Contractor)

By _____

_____

(Title)

Witnesses as to signature of Contractor:

_____

_____

(Address)

_____

_____

(Address)

I, _____, certify that I am the _____ secretary of the Corporation named as Contractor herein; that _____ who signed this Contract on behalf of the Contractor, was then _____ of said Corporation; that said Contract was duly signed for and in behalf of said Corporation by authority of its governing body, and is within the scope of its corporate powers.

In witness whereof, I have hereunto affixed my hand and the seal of said corporation, this _____ day of _____, 19__.

_____

(Secretary)

[CORPORATE SEAL]

§ 9-16.5002-5 Outline of a cost-plus-a-fixed-fee architect-engineer contract.

This contract, entered into the_____day of_____, 19__, effective as of the_____ day of_____, 19__, between the United States of America (hereinafter called the "Government"), acting through the United States Atomic Energy Commission (hereinafter called the "Commission"), and _____ (hereinafter called the "Contractor").

Witnesseth that:

Whereas, the Commission finds that the common defense and security require the furnishing of architect-engineer services for a construction project, hereinafter more particularly described, that _____ _____ and

(A statement of grounds which render a contract on a lump-sum basis impracticable, should be inserted in this recital.)

Whereas, the Contractor is willing to undertake the performance of such architect-engineer services on a cost-plus-a-fixed fee basis; and

Whereas, the Commission, finds that the Contractor is best qualified to perform such services, all relevant factors considered; and

Whereas, the Commission certifies that this negotiated contract is authorized by and executed under the Atomic Energy Act of 1954, as amended, in the interest of the common defense and security;

Now therefore, the parties hereto agree as follows:

Article I—Definitions. Insert contract clause set forth in AECPR 9–7.5005–4.

Article II—Statement of work.

(a) *Description of construction project.* The construction project for which architect-engineer services are to be furnished comprises_____.

(NOTE: As full a description as is feasible of the construction project should be inserted. If the architect-engineer work is to cover auxiliary facilities required for construction, this paragraph should include a reference to such facilities.)

_____.

The construction project will be located at _____ on a site _____.

(b) *Statement of architect-engineer services.* The Contractor shall furnish for the construction project the architect-engineer services described in Title _____, below, subject to such further detailed requirements as may be appended to this Contract by agreement of the parties.

(NOTE: This paragraph shall be modified if necessary to omit inappropriate matter or to adapt it to particular circumstances. More detailed requirements, applying security, safety and other policy standards to the preparation of drawings and specifications may be incorporated in an appendix to the contract.)

TITLE I—PRELIMINARY SERVICES

(1) Conduct or arrange for, by subcontract or otherwise as approved by the Contracting Officer, and supervise all necessary topographical and other field surveys, the preparation of maps, and necessary test borings and other subsurface investigations.

(2) Consult and collaborate with the Commission or its designees to determine the requirements which will govern design of the project and to establish architectural and engineering criteria for such design.

(3) Conduct preliminary studies, and prepare preliminary sketches, drawings, layout plans, outline specifications and reports showing features and characteristics of the design proposed to meet the Commission's requirements.

(4) Prepare preliminary estimates of cost and time schedules for (i) completion of the design and working drawings and specifications, and (ii) construction.

(5) Prepare preliminary estimates of material quantities required for construction.

TITLE II—DESIGN SERVICES

(1) Upon approval by the Commission of preliminary plans and estimates, undertake the design of the construction project.

(2) Undertake restudy and redesign work due to such changes and deviations within the scope of the construction project from approved preliminary work as may be required by the Commission.

(3) Prepare and revise, for the approval of the Commission, and furnish working drawings, details and specifications for construction, and contract bidding documents in such form and quantity and including such provisions as may be required by law or the directions of the Commission.

(4) Prepare, or when directed by the Commission, participate with others in the preparation of, a detailed estimate of the cost of construction based on the approved design and working drawings and specifications.

(5) Assist the Commission and its designees in securing, analyzing, and evaluating proposals and bids for materials, equipment, and services required for construction.

(6) When requested, consult with and advise the Commission on any questions which may arise in connection with the architect-engineer services described in this Contract.

TITLE III—SUPERVISION OF CONSTRUCTION

(1) Furnish and maintain governing lines and bench marks to provide horizontal and vertical controls to which construction may be referred.

(2) Check and approve, or require revision of, all vendors' shop drawings to assure conformity with the approved design and working drawings and specifications.

(3) Inspect the execution of construction so as to assure adherence to approved drawings and specifications.

(4) Inspect construction workmanship and materials, and equipment, and report to the Commission as to their conformity or nonconformity to the approved drawings and specifications.

(5) Make or procure such field or laboratory tests of construction workmanship and materials, and equipment, as the Commission may require or approve.

(6) Prepare estimates of reasonable amounts of increase or decrease in contract price and/or contract completion term for contract modifications, evaluate proposals submitted by the constructor for such contract adjustments and make recommendations to the Contracting Officer for use in negotiating.

(7) Prepare reports and make recommendations on status of deliveries of materials and equipment as the Commission may require or approve.

(8) Prepare monthly and other reports of the progress of construction, as may be required and partial, interim and final estimates and reports of quantities and values of construction work performed, for payment or other purposes.

(9) Furnish _____ set(s) of reproducibles "as built" record drawings of the type specified by the Commission and _____ set(s) of marked up specifications showing construction as actually accomplished.

Article III—Changes. Insert contract clause set forth in AECPR 9–7.5006–4.

Article IV—Estimates of costs, obligation of funds, and fixed fee. Insert contract clause set forth in AECPR 9–7.5006–14.

Article V—Allowable costs and fixed fee. Insert contract clause as set forth in AECPR 9–7.5006–12.

NOTE: For on-site architect-engineer contracts central and branch office expenses may be included in allowable costs only if expressly authorized by the Contracting Officer.

Article VI—Payments. Insert clause set forth in AECPR 9–7.5006–25 using 10 percent in the second sentence of subparagraph (b).

(NOTE A: Normally, payment for architect-engineer allowable costs incurred and claimed, is made on the basis of straight reimbursement. Provision is made, however, for advancing funds to the contractor should that be deemed advisable. Payments on account of the fixed fee shall in any case be made only as earned and claimed in accordance with contract provisions. See AECPR 9–18. Until this part is issued, use AECM Chapter 9103.)

(NOTE B: If it is contemplated that advances will be made to the contractor, substitute the clause set forth in AECPR 9–7.5006–23 and require special bank agreement as set forth in AECPR 9–7.5006–24.)

Article VII—Assignment. Insert contract clause set forth in AECPR 9–7.5004–7.

Article VIII—Accounts, records, and inspection. Insert contract clause set forth in AECPR 9–7.5006–1.

(NOTE: The provisions relating to records and accounts are designed to permit the use of AEC's integrated accounting system whether the reimbursement method or the advance method of payment is employed.)

Article IX—Examination of records. Insert contract clause set forth in AECPR 9–7.5004–10.

Article X—Responsibility for design and working drawings and specifications. The granting of approvals by the Commission under the paragraph entitled "Statement of Architect-Engineer Services" of the article entitled "Statement of Work" shall not affect the responsibility of the Contractor for the design, nor for the correctness of working drawings and specifications.

Article XI—Property. Insert contract clause set forth in AECPR 9–7.5006–26.

Article XII—Drawings, designs, specifications. Insert contract clause set forth in AECPR 9–7.5006–13.

Article XIII—Bonds and insurance exclusive of Government property. Insert contract clause set forth in AECPR 9–7.5004–19.

Article XIV—State and local taxes. The Contractor agrees to notify the Contracting Officer of any tax, fee, or charge (a) from which exemption is granted by State or local law, or (b) which is invalid under any provision of the Constitution of the United States levied or purported to be levied on the Contractor in respect of this Contract and to refrain from paying any such tax, fee, or charge unless otherwise authorized by the Contracting Officer. The Contractor further agrees to take such steps as may be required by the Contracting Officer to cause any such tax, fee, or charge to be paid under protest and, if so directed by the Contracting Officer, to cause to be assigned to the Government or its designee any and all rights to the abatement or refund of any such tax, fee, or charge, or to permit the Government to join with the Contractor in any proceedings for the recovery thereof or to sue for recovery in the Contractor's name. The Government shall save the Contractor harmless from penalties and interest incurred through compliance with this article.

Article XV—Litigation and claims. Insert contract clause set forth in AECPR 9–7.5004–18.

Article XVI—Subcontracts and purchase orders—When subcontracts authorized—Requirements applicable to subcontracts and purchase orders. The Contractor shall, when ordered by the Contracting Officer, and may, but only when authorized by the Contracting Officer, enter into subcontracts in writing for the performance in whole or in part of the work described in paragraph entitled "Statement of Architect-Engineer Services" of the article entitled "Statement of Work." Purchase orders shall not be entered into by the Contractor for items whose purchase is expressly prohibited by the written directions of the Contracting Officer. All subcontracts for the performance in whole or in part of the work described in paragraph entitled "Statement of Architect-Engineer Services" of the article entitled "Statement of Work" shall be submitted to the Contracting Officer for approval. The Government reserves the right at any time to require that the Contractor submit any or all other contractual arrangements, including but not limited to purchase orders or classes of purchase orders, for approval, and provide information concerning methods, practices, and procedures used or proposed to be used in subcontracting and purchasing. The Contractor shall use methods, practices, or procedures in subcontracting or purchasing which are acceptable to the Commission. Subcontracts and purchase orders (NOTE A) shall be made in the name of the Contractor, shall not bind nor purport to bind the Government, shall not relieve the Contractor of any obligation under this Contract (including, among other things, the obligation properly to supervise and coordinate the work of subcontractors), and shall be in such form and contain such provisions as are required by this Contract or as the Contracting Officer may prescribe.

(NOTE: The words "shall be made in the name of the Contractor, shall not bind nor purport to bind the Government" are optional and may be used or omitted as appropriate.)

Article XVII—Safety, health, and fire protection. Insert contract clause set forth in AECPR 9–7.5004–8.

Article XVIII—Contractor's organization. Insert contract clause set forth in AECPR 9–7.5006–6.

(NOTE: For off-site-architect-engineer contracts, substitute the following for paragraph (b):

("A competent supervising representative of the Contractor satisfactory to the Contracting Officer shall be in charge of the work at all times.")

Article XIX—Key personnel. Insert contract clause set forth in AECPR 9–7.5006–15.

Article XX—Patents.

(a) Whenever any invention or discovery is made or conceived by the Contractor or its employees in the course of, in connection with, or under the terms of this Contract, the Contractor shall furnish the Commission with complete information thereon; and the Commission shall have the sole power to determine whether or not and where a patent application shall be filed, and to determine the disposition of the title to and rights under any application or patent that may result. The judgment of the Commission on these matters shall be accepted as final; and the Contractor, for itself and for its employees, agrees that the inventor or inventors will execute all documents and do all things necessary or proper to carry out the judgment of the Commission.

(b) No claim for pecuniary award or compensation under the provisions of the Atomic Energy Acts of 1946 and 1954 shall be asserted by the Contractor or its employees with respect to any invention or discovery made or conceived in the course of, in connection with, or under the terms of this Contract.

(c) Except as otherwise authorized in writing by the Commission, the Contractor will obtain patent agreements to effectuate the purposes of paragraphs (a) and (b) of this clause from all persons who perform any part of the work under this Contract, except such clerical and manual labor personnel as will not have access to technical data.

(d) Except as otherwise authorized in writing by the Commission, the Contractor will insert in all subcontracts provisions making this article applicable to the subcontractor and its employees.

(NOTE: The patent clause should not be departed from except upon the advice of the Field Patent Group or in the absence of such group on the advice of the Headquarters Office of the Assistant General Counsel for Patents. In each case it will be necessary to determine whether or not it will be appropriate to add the indemnity clause with or without modifications. The Patent Indemnity Clause is Clause 15 of Standard Form 23A. For modifications to indemnity clause see Note "A" under Article XIX, Patent Indemnity, AECPR 9–16.5002–4.)

Article XXI.—Security. Insert contract clause set forth in AECPR 9–7.5004–11.

(NOTE: The security clause includes a provision under which the contractor agrees to conform to all security regulations and requirements of the AEC. This provision will support security actions which are not expressly mentioned in the security clause but are required by the AEC, whether in the form of general rules or "one-time" requirements. Examples are actions to promote physical security and control of classified matter.)

Article XXII—Disputes. Insert contract clause set forth in AECPR 9–7.5004–3.

Article XXIII—Labor.

(a) Work Hours Act of 1962—Compensation. Insert contract clause set forth in FPR Notice No. 3 (September 20, 1962).

(b) *Nondiscrimination in employment.* Insert contract clause set forth in FPR 1–7.101–18.

(c) *Convict labor.* Insert contract clause set forth in FPR 1–12.203.

Article XXIV—Covenant against contingent fees. Insert contract clause set forth in AECPR 9–7.5004–2.

Article XXV—Officials not to benefit. Insert contract clause set forth in AECPR 9–7.5004–5.

Article XXVI—Buy American Act. Insert contract clause set forth in AECPR 9–7.5004–17.

Article XXVII—Termination. Insert contract clause as set forth in AECPR 9–8.751. (Until this section is published, use AEC Manual 9112–075.)

Article XXVIII—Permits. Insert contract clause set forth in AECPR 9–7.5004–9.

Article XXIX—Renegotiation. Insert contract clause set forth in AECPR 9–7.5004–20, if the contract is subject to the Renegotiation Act of 1951, as amended.

Article XXX—Classification. Insert contract clause as set forth in AECPR 9–7.5004–21 when required.

Article XXXI—Purchases from contractor controlled sources. Insert contract clause as set forth in AECPR 9–7.5006–33, if deemed necessary.

(NOTE: The clause set forth in AECPR 9–7.5006–33 shall be included in the contract, if it is contemplated that the contractor will be required to procure any equipment, materials, and supplies of the kind and character manufactured or sold by the divisions, departments, or affiliates of the contractor.)

Article XXXII—Alterations and additions. Insert contract clause set forth in AECPR 9–7.5006–2.

In the event the contractor will be required to perform procurement activities, the following articles shall be included in the contract as appropriate:

Article XXXIII—Utilization of small business concerns. Insert contract clause set forth in FPR 1–1.710–3(a) under the conditions and in the manner prescribed in FPR 1–1.710–2.

Article XXXIV—Small business subcontracting program. Insert contract clause set forth in FPR 1–1.710–3(b) under the conditions and in the manner prescribed in FPR 1–1.710–2.

Article XXXV—Utilization of concerns in labor surplus areas. Insert contract clause set forth in FPR 1–1.805–3(a) under the conditions and in the manner prescribed in FPR 1–1.805–2.

Article XXXVI—Labor surplus area subcontracting program. Insert contract clause set forth in FPR 1–1.805–3(b) under the conditions and in the manner prescribed in FPR 1–1.805–2.

In witness whereof, the parties hereto have executed this Contract as of the day and year above written:

UNITED STATES OF AMERICA

By _____

_____

(Title)

UNITED STATES ATOMIC ENERGY COMMISSION

_____

(Contractor)

By _____

_____

(Title)

Witnesses as to signature of Contractor:

_____

_____

(Address)

_____

_____

(Address)

I, _____, certify that I am the _____ secretary of the Corporation named as Contractor herein; that _____ who signed this Contract on behalf of the Contractor, was then _____ of said Corporation; that said Contract was duly signed for and in behalf of said Corporation by authority of its governing body, and is within the scope of its corporate powers.

In witness whereof, I have hereunto affixed my hand and the seal of said Corporation, this _____, day of _____, 19__.

_____

(Secretary)

[CORPORATE SEAL]

§ 9–16.5002–6 Outline of a lump-sum architect-engineer contract (with cost reimbursement features).

NOTE: The outline provides for lump-sum compensation for certain services and cost reimbursement for other services. If it is desired that the cost reimbursement portion be made on a lump-sum basis or on the basis of negotiated rates (e.g., a fixed amount per day) appropriate revisions in the form of contract will be required (including revision of the introductory recitals and of the articles entitled "Payment" and "Termination").

This contract, entered into the _____ day of _____, 19 __, effective as of the _____day of _____, 19 __, between the United States of America (hereinafter called the "Government"), acting through the United States Atomic Energy Commission (hereinafter called the "Commission"), and _____ (hereinafter called the "Contractor").

Witnesseth that:

Whereas, the Commission finds that the common defense and security require the furnishing of architect-engineer services for a construction project, hereinafter more particularly described; and

Whereas, the Contractor is willing to undertake the performance of certain services on a lump-sum basis and of certain other services on a cost-reimbursable basis; and

Whereas, the Commission finds that the Contractor is best qualified to perform such services, all relevant factors considered; and

Whereas, the Commission certifies that this negotiated contract is authorized by and executed under the Atomic Energy Act of 1954, as amended, in the interest of the common defense and security;

Now therefore, the parties hereto agree as follows:

Article I—Definition. Insert contract clause in accordance with AECPR 9–7.5005–4.

Article II—Statement of work.

(a) *Description of construction project.* The construction project for which architect-engineer services are to be furnished comprises—

(As full a description as is feasible should be inserted. If the architect-engineer work is to cover auxiliary facilities required for construction, this paragraph should include a reference to such facilities.)

_____.

The construction project will be located at _____ on a site _____.

(b) *Statement of architect-engineer services.* The Contractor shall, within the shortest reasonable time, furnish for the construction project the architect-engineer

services described in Title ------, below, subject to such further detailed requirements as may be appended to this Contract by agreement of the parties.

(This paragraph [entitled "Statement of Architect-Engineer Services" of the clause entitled "Statement of Work"] shall be modified if necessary to omit inappropriate matter, or to adapt it to particular circumstances. More detailed requirements, applying security, safety, and other policy standards to the preparation of drawings and specifications, may be incorporated in an appendix to the contract.)

(NOTE: This form of contract provides for completion of the architect-engineer services "within the shortest reasonable time." The form may be modified to provide for completion of separable parts of the work at different times. Modifications of this character will require corresponding modifications of the default provisions of the clause entitled "Termination.")

TITLE I—PRELIMINARY SERVICES

(1) Conduct or arrange for, by subcontract or otherwise as approved by the Contracting Officer, and supervise all necessary topographical and other field surveys, the preparation of maps, and necessary test borings and other subsurface investigations.

(2) Consult and collaborate with the Commission or its designee to determine the requirements which will govern the design of the project and to establish architectural and engineering criteria for such design.

(3) Conduct preliminary studies, and prepare preliminary sketches, drawings, layout plans, outline specifications and reports, showing features and characteristics of the design proposed to meet the Commission's requirements. If more than three studies, including sketches, drawings, plans, outline specifications, or documents are required because of changes initiated by the Commission, an equitable adjustment in the lump-sum compensation will be made in accordance with provisions of the changes article.

(4) The drawings, plans, and outline specifications and documents shall be prepared in such form and furnished in such quantity as directed by the Commission.

(Specific quantities of the drawings, plans, outline specifications, and documents should be indicated here or elsewhere in the contract.)

(5) Prepare preliminary estimates of cost and time schedules for (i) completion of the design and working drawings and specifications, and (ii) construction.

(6) Prepare preliminary estimates of material quantities required for construction.

TITLE II—DESIGN SERVICES

(1) Upon approval by the Commission of preliminary plans and estimates, undertake the design of the construction project.

(2) Undertake restudy and redesign work due to minor deviations from the approved preliminary work as may be required by the Commission.

(3) Prepare and revise, for the approval of the Commission, and furnish complete sets of contract bidding documents including, working drawings, details and specifications for construction, in such form and quantity and including such provisions as may be required by law or the directions of the Commission.

(Specific quantities of drawings and specifications should be indicated here, or elsewhere in the contract.)

(4) Prepare, or when directed by the Commission participate with others in the preparation of, a detailed estimate of the cost of a construction based on the approved design and working drawings and specifications.

(5) Assist the Commission and its designees in securing, analyzing, and evaluating construction bids or proposals.

(6) When requested, consult with and advise the Commission on, any questions which may arise in connection with the architect-engineer services described in this Contract.

TITLE III—SUPERVISION OF CONSTRUCTION

(1) Furnish and maintain governing lines and bench marks to provide horizontal and vertical controls to which construction may be referred.

(2) Check and approve, or require revision of, all vendors' shop drawings to assure conformity with the approved design and working drawings and specifications.

(3) Inspect the execution of construction so as to assure adherence to approved working drawings and specifications.

(4) Inspect construction workmanship and materials, and equipment, and report to the Commission as to their conformity or nonconformity to the approved working drawings and specifications.

(5) Make or procure such field or laboratory tests of construction workmanship and materials, and equipment, as the Commission may require or approve.

(6) Prepare estimates of reasonable amounts of increase or decrease in Contract price and/or Contract completion time for contract modifications, evaluate proposals submitted by the constructor for such contract adjustments and make recommendations to the Contracting Officer for use in negotiating.

(7) Prepare reports and make recommendations on status of deliveries of materials and equipment as the Commission may require or approve.

(8) Prepare monthly and other reports of the progress of construction, as may be required, and partial, interim and final estimates and reports of quantities and values of construction work performed, for payment or other purposes.

(9) Furnish ------ set(s) of reproducible "as-built" record drawings of the type specified by the Commission and ------ set(s) of marked-up specifications, showing construction as actually accomplished.

Article III—Drawings, designs, specifications. Insert contract clause set forth in AECPR 9–7.5006–13.

Article IV—Changes. The Contracting Officer may at any time issue written directions requiring additional work or directing the omission of or variations in work covered by this Contract and within the general scope thereof. If any such direction results in a change in the amount of character of the work covered by the lump-sum compensation provided for herein, an equitable adjustment in such compensation shall be made and the contract modified in writing accordingly. Any claim of the Contractor for adjustment under this article must be asserted in writing within 30 days from the date of receipt by the Contractor of the notification of change. Provided, however, that the Contracting Officer, if he determines that the facts justify such action, may receive and consider, and adjust any such claim asserted at any time prior to the date of final settlement of the Contract. If the parties fail to agree upon the adjustment to be made the dispute shall be determined as provided in the article entitled "Disputes." Nothing provided in this clause shall excuse the Contractor from proceeding with the prosecution of the work as changed. Except as otherwise herein provided, no charge for any extra work or material will be allowed.

Article V—Payment.

(a) *Lump-sum compensation.* The Contractor shall be paid the lump sum of $------ which shall constitute full compensation for all services and materials furnished under this Contract except for the costs hereinafter specified in the paragraph entitled "Reimbursement for Certain Costs."

(b) *Reimbursement for certain costs.* The Contractor shall be entitled, in addition to payment of the lump sum hereinbefore provided for, to reimbursement for the following costs to the extent approved by the Contracting Officer, but not to exceed a total of $------.

(1) The actual costs of labor, materials, and equipment use and traveling expenses, and approved subcontracts and transportation of things, required for topographical and other field surveys, the preparation of maps, and test borings and other subsurface investigations under this Contract.

(2) The actual costs of labor, and materials and equipment use and traveling expenses for the resident engineer in charge, field engineers and inspectors, part-time inspectors from the home or branch office, and the supporting Field Office force as required at the site of the construction project for inspection of construction;

(3) The actual costs of labor and materials and traveling expenses for expediting or inspecting material and equipment, and checking or expediting shop drawings at vendors' plants;

(4) The actual cost of on-site transportation for services listed in (1) through (3) above;

(5) The actual costs of labor, materials, and equipment use, or an allowance in lieu of such actual cost at a rate or rates approved in advance by the Contracting Officer, for copies in excess of twenty of prints of drawings, specifications, invitations for bid, or other related documents, and revisions thereto, which are reproduced after Title II design is approved by the Commission and which are for use by the Commission and its construction contractors. (This does not include "as-built" record drawings and specifications as required under Title III services.)

(6) Compensation paid for such outside expert technical assistance, including the services of materials testing laboratories, as is approved in writing by the Contracting Officer in connection with the performance of any of the work under this Contract; and

(7) expenses of such travel of the Contractor's responsible supervising representative that might be required in addition to the normal supervision furnished under the fee or specified in the Contract.

(NOTE A: If some payments are to be made either on the basis of actual costs or negotiated rates (e.g. a fixed amount per man-day), a limit to the total amount that may be so paid without a modification to the contract should be provided in the payment article for control purposes.)

(NOTE B: Include other items listed under AECPR 9–3.403–50 that are applicable. Until this part is issued, use AEC Manual Chapter 9203–0410.)

(NOTE C: Include the definitions for "labor cost" and "traveling expenses" as set forth in AECPR 9–3.403–50(f). Until this part is issued, use AEC Manual Chapter 9203–0410.)

(c) *Partial Payments on Account of Lump-Sum Compensation.* Ninety (90) percent of the lump-sum compensation shall become due and payable in monthly installments in amounts based on the proportion of the work then completed, as determined by the Contracting Officer, and the balance upon completion and acceptance of all work under this Contract.

(d) *Reimbursement Payments.* (1) Payments for costs which are reimbursable under the provisions of the paragraph entitled "Reimbursement for Certain Costs" shall be made to the Contractor at intervals stipulated by the Contractor and the Contracting Officer and upon completion and acceptance of the work under this Contract.

(2) Notwithstanding any other provision of this Contract, when the amount for which the Contractor shall be entitled to reimbursement equals the maximum amount the Government has agreed to reimburse the Contractor under this Contract and any modification thereto, the Contractor shall not be expected or required to incur further expenses or obligations under paragraph (b) of this Article unless and until the Government first increases the maximum amount stipulated in paragraph (b) by appropriate modification thereof, nor shall the Government be obligated to reimburse the Contractor for expenses beyond that amount.

(e) *Final payment.* Upon completion of the work and its acceptance by the Government, and upon the furnishing by the Contractor of a release, in such form and with such exceptions as may be approved by the Contracting Officer, of all claims against the Government under or arising out of this Contract, the Government shall promptly pay to the Contractor the unpaid balance of the lump-sum compensation and reimbursable costs less (i) deductions due under the terms of this Contract, and (ii) any sum required to settle any unsettled claim which the Government may have against the Contractor in connection with this Contract.

(f) *Supporting documents.* Claims for payment shall be accompanied by such supporting documents and justifications as the Contracting Officer shall prescribe.

(g) *Records and accounts relating to reimbursable costs—Inspection and audit.* The Contractor agrees to keep books of account, records, documents, and other evidence bearing on costs which are reimbursable under the provisions of the paragraph entitled "Reimbursement for Certain Costs." The method of accounting employed by the Contractor with reference to such costs shall be subject to the approval of the Commission, but no material change shall be required therein if it conforms to generally accepted accounting practice. All such books of account, records, documents, and other evidence relating to such reimbursable costs shall be subject to inspection and audit by the Commission at all reasonable times, and the Contractor shall afford the Commission proper facilities for such inspection and audit. Subject to such other disposition as may be agreed upon by the Contractor and the Commission, the Contractor shall, for a period of six (6) years after completion or termination of this Contract, preserve such of the books of account, records, documents, and other evidence relating to reimbursable costs as are not furnished by the Contractor to the Government in support of payments under the Contract.

Article VI—Examination of records. Insert contract clause as set forth in AECPR 9–7.5004–10.

Article VII—State and local taxes. Insert contract clause as set forth in FPR 1–11.401–1.

Article VIII—Assignment. Insert contract clause set forth in AECPR 9–7.5004–7.

Article IX—Responsibility for design and working drawings and specifications. The granting of approvals by the Commission under the paragraph entitled "Statement of Architect-Engineer Services" of the clause entitled "Statement of Work" shall not affect the responsibility of the Contractor for the design, nor for the correctness of working drawings and specifications.

Article X—Subcontracts. The Contractor shall not enter into any contractual commitment to a third party which involves the performance in whole or in part of a specific part of the work described in paragraph entitled "Statement of Architect-Engineer Services" in the article entitled "Statement of Work" without the written approval of the Contracting Officer. However, this article is not applicable to a contract of employment.

Article XI—Contractor's organization. Insert contract clause set forth in AECPR 9–7.5006–6.

(NOTE: For off-site-architect-engineer contracts, substitute the following for paragraph (b):

"A competent supervising representative of the Contractor satisfactory to the Contracting Officer shall be in charge of the work at all times.")

Article XII—Key personnel. Insert contract clause set forth in AECPR 9–7.5006–15.

Article XIII—Patents.

(a) Whenever any invention or discovery is made or conceived by the Contractor or its employees in the course of, in connection with, or under the terms of this Contract, the Contractor shall furnish the Commission with complete information thereon; and the Commission shall have the sole power to determine whether or not and where a patent application shall be filed, and to determine the disposition of the title to and rights under any applications or patent that may result. The judgment of the Commission on these matters shall be accepted as final; and the Contractor, for itself and for its employees, agrees that the inventor or inventors will execute all documents and do all things necessary or proper to carry out the judgment of the Commission.

(b) No claim for pecuniary award or compensation under the provisions of the Atomic Energy Acts of 1946 and 1954 shall be asserted by the Contractor or its employees with respect to any invention or discovery made or conceived in the course of, in connection with, or under the terms of this Contract.

(c) Except as otherwise authorized in writing by the Commission, the Contractor will obtain patent agreements to effectuate the purposes of paragraphs (a) and (b) of this clause from all persons who perform any part of the work under this Contract, except such clerical and manual labor personnel as will not have access to technical data.

(d) Except as otherwise authorized in writing by the Commission, the Contractor will insert in all subcontract provisions making this clause applicable to the subcontractor and its employees.

(NOTE: The patent clause should not be departed from except on the advice of the Field Patent Group, or in the absence of such Group, on the advice of the Office of the Assistant General Counsel for Patents. In each case it will be necessary to determine whether or not it will be appropriate to add the indemnity clause, with or without modifications. Note: The Patent Indemnity Clause is Clause 15 of Standard Form 23A. For modifications to this indemnity clause see Note "A" under Article XIX, Patent Indemnity, AECPR 9–16.5002–4.)

Article XIV—Security. Insert contract clause set forth in AECPR 9–7.5004–11.

(NOTE: The security clause includes a paragraph to the effect that the Contractor agrees to conform to all security regulations and requirements of the AEC. To the maximum extent feasible, specific security regulations and requirements, which are not expressly set forth in the security clause but to which the Contractor may become subject under the paragraph referred to above, shall either be set forth or incorporated by reference in an appendix to the Contract.)

Article XV—Disputes. Insert contract clause set forth in FPR 1–7.101–12.

Article XVI—Labor.

(a) *Work Hours Act of 1962—Overtime Compensation.* Insert contract clause set forth in FPR Notice No. 3 (September 20, 1962).

(b) *Nondiscrimination in employment.* Insert contract clause set forth in FPR 1–7.101–18.

(c) *Convict labor.* Insert contract clause set forth in FPR 1–12.203.

Article XVII—Convenant against contingent fees. Insert contract clause set forth in FPR 1–1.503.

Article XVIII—Officials not to benefit. Insert contract clause set forth in FPR 1–7.101–19.

Article XIX—Safety, health, and fire protection. Insert contract clause set forth in AECPR 9–7.5004–8.

Article XX—Permits. Insert contract clause set forth in AECPR 9–7.5004–9.

Article XXI—Termination.

(a) *Notice of termination for default or convenience.* The Contracting Officer may at any time terminate performance of the work under this Contract in whole or in part for the default of the Contractor, or in whole or from time to time in part for the convenience of the Government, by written notice to the Contractor stating the ground for termination. Such termination shall be effective in the manner and upon the date specified in said notice and shall be without prejudice to any claims which the Government may have against the Contractor. Upon receipt of such notice, the Contractor shall, unless the notice directs otherwise, immediately discontinue all work and the placing of all orders for materials, facilities and supplies in connection with performance of this Contract and shall proceed to cancel promptly all existing orders and terminate all subcontracts insofar as such orders or subcontracts are chargeable to this Contract.

(b) *Termination for default.* The performance of the work may be terminated for default if the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within a reasonable time: Provided, that the performance of the work shall not be terminated for default because of any delays in the completion of work due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts the Government in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors or suppliers arising from unforseeable causes beyond the control and without the fault or negligence of both the contractor and subcontractors or suppliers, if the Contractor shall within ten (10) days from the beginning of any such delay (unless the Contracting Officer shall grant a further period of time prior to the date of final settlement of the Contract) notify the Contracting Officer in writing of the causes of delay, who shall ascertain the facts and the extent of the delay and extend the time for completing the work when in his judgment the findings of fact justify such an extension, and his findings of fact thereon shall be final and conclusive on the parties hereto, subject only to appeal by the Contractor to the Commission in accordance with the article entitled "Disputes."

(c) *Liability for excess costs on default.* If performance of the work under this Contract is terminated for the default of the Contractor, the Government may complete or employ any other person or persons to complete the work, and the Contractor shall be liable to the Government for any excess cost occasioned the Government thereby.

(d) *Other remedies.* The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

(e) *Termination and settlement for the convenience of the Government.* If performance of work is terminated for the convenience of the Government, and equitable downward adjustment in the Contract price resulting in a revised price that compensates the Contractor fairly under all the circumstances for work performed under the Contract (except services and materials the cost of which are, and shall continue to be reimbursable under the article of this Contract entitled "Payment") shall be established in accordance with the agreement of the parties. Failure to agree on such equitable adjustment and revised price under this clause shall be deemed to be a dispute within the meaning of the clause of this Contract entitled "Disputes." The Contractor shall make similar provisions covering termination for convenience with respect to all subcontracts and orders for supplies and materials.

Article XXII—Renegotiation. Insert contract clause set forth in AECPR 9–7.5004–20 if the Contract is subject to the Renegotiation Act of 1951, as amended.

Article XXIII—Classification. Insert contract clause as set forth in AECPR 9–7.5004–21 when required.

Article XXIV—Purchases from contractor controlled sources. Insert contract clause as set forth in AECPR 9–7.5006–33, if deemed necessary.

In the event the Contractor will be required to perform procurement activities, the following articles shall be included in the Contract as appropriate:

Article XXV—Utilization of small business concerns. Insert contract clause set forth in FPR 1–1.710–3(a) under the conditions and in the manner prescribed in FPR 1–1.710–2.

Article XXVI—Small business subcontracting program. Insert contract clause set forth in FPR 1–1.710–3(b) under the conditions and in the manner prescribed in FPR 1–1.710–2.

Article XXVII—Utilization of concerns in labor surplus areas. Insert contract clause set forth in FPR 1–1.805–3(a) under the conditions and in the manner prescribed in FPR 1–1.805–2.

Article XXVIII—Labor surplus area subcontracting program. Insert contract clause set forth in FPR 1–1.805–3(b) under the conditions and in the manner prescribed in FPR 1–1.805–2.

Article XXIX—Property. If the Government furnishes the Contractor property, or authorizes the Contractor to procure property (such as office furniture and equipment), a property clause should be included similar to the one in AECPR 9–7.5006–27.

Article XXX—Reports. (The nature and quantity of any reports, such as the nature and quantity of any reports, such as reports of the progress of the architect-engineer work, which will be required of the Contractor shall be set forth in this article or incorporated by reference in this article and in an appendix to be attached to the Contract. Contracting Officers will be expected to require in most cases that reports be furnished at intervals disclosing the progress of the architect-engineer work.)

Article XXXI—Alterations and additions. The following alterations in or additions to the provisions of this form of Contract were made prior to execution of the Contract by the parties:

In witness whereof, the parties hereto have executed this Contract as of the day and year above written.

UNITED STATES OF AMERICA

By ----------

(Title)

UNITED STATES ATOMIC ENERGY COMMISSION

(Contractor)

By ----------

(Title)

Witnesses as to signature of Contractor:

(Address)

(Address)

I, ----------, certify that I am the ---------- secretary of the Corporation named as a Contractor herein; that ---------- who signed this Contract on behalf of the Contractor, was then ---------- of said Corporation; that said Contract was duly signed for and in behalf of said Corporation by authority of its governing body, and is within the scope of its corporate powers.

In witness whereof, I have hereunto affixed my hand and the seal of said Corporation, this ------ day of ----------, 19--.

(Secretary)

[CORPORATE SEAL]

§ 9–16.5002–7 Outline of a letter contract.

1. Contract number, date, name, and address of Contractor.

2. Direction to Contractor to proceed immediately to furnish the supplies or to perform the work specified, followed by as detailed description of the supplies to be furnished or work to be performed as is practicable, together with desired delivery date or date of completion.

3. Provision that letter contract contains and resulting definitive contract will contain all applicable provisions required by Federal Law, Executive Order, or regulations.

4. Provision for (a) submission by the Contractor of a quotation and/or estimate supported by a cost breakdown and agreement to enter into negotiation of a definitive contract immediately and (b) type of definitive contract to be used.

5. Provision for (a) approval by the Contracting Officer of subcontracts and purchase orders of specified types and dollar limits as required by AECPR 9–51.2 and (b) dollar limitation on total amount the Contractor may expend or obligate pending execution of the definitive contract.

6. Time limit within which letter contract will be superseded by definitive contract (normally within 120 days). Provision for termination either (a) at any time for the convenience of the Government, or (b) in event the parties fail to agree upon the terms of, and to execute, a definitive contract within the time specified on any extension.

7. Provision for the reimbursement of the Contractor for all reasonable and necessary costs for work performed when the termination is for the convenience of the Government or in the event the parties fail to agree upon the terms of a definitive contract within the time specified, or any extension thereof. In the latter case the provision should exclude the payment of profit or fee.

8. The total payments under paragraph 7 above shall be limited to the total dollar amount authorized to be expended by the letter contract and shall be contingent upon transfer of title to the Government of all material (including specifications and drawings), tools, machinery, and work in process for which the Contractor is receiving reimbursement or the obtaining of an appropriate disposal credit to the Government for them.

9. Appropriate security provisions.

10. Appropriate tax provisions.

11. Appropriate disputes provisions.

12. Appropriate examination of records provisions.

13. Provision against assignment without prior approval in writing of the Contracting Officer.

b. Ordinarily, letter contracts will not contain any provision for payments to the Contractor, except in the event of its termination, since it is contemplated that a definitive contract will be executed within a short period of time. If it becomes necessary to provide for such payments in the letter contract, such additional provisions as are necessary for the protection of the Government's interest shall be included.

Effective date. These regulations shall become effective 45 days following the date of publication in the FEDERAL REGISTER but may be observed earlier.

Dated at Germantown, Md., this 5th day of February 1963.

For the Atomic Energy Commission.

JOHN V. VINCIGUERRA,
Director, Division of Contracts.

[F.R. Doc. 63–1590; Filed, Feb. 13, 1963; 8:45 a.m.]

Title 7—AGRICULTURE

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

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Canned Orange Juice [1]

FLAVOR

On December 8, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 12190) regarding proposed amendments to the United States Standards for Grades of Canned Orange Juice (§§ 52.1551–52.1562).

Statement of consideration leading to the amendments. The amendments as proposed in the aforesaid notice were made at the specific request of producers of canned orange juice in Florida and with the approval of those in Texas, states which have produced approximately 98 percent of the total U.S. pack in the five years ending with the 1961–62 season. It was contended that minimum acid requirements in the effective U.S. grade-standards were too restrictive to

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

properly classify a significant portion of the canned orange juice produced in those states. Consumer preference studies made by the Agricultural Marketing Service substantiate this contention. Arguments submitted indicated that acid levels in the effective standards encouraged the blending of immature fruit with mature oranges in order to meet the minimum acid requirements—a practice which tends to degrade the natural flavor of the mature fruit.

In the absence of data in support of such an action on a national basis the reductions in acid as proposed would have applied only to canned orange juice packed from fruit grown in Florida or Texas.

Strong approval was given the Department's proposal by Florida producing interests. There was opposition from Western interests. It may well be that canned orange juice of very good flavor and at the reduced acid levels which were proposed for Florida and Texas fruit could also be produced from oranges grown in other sections of the country. No data, opinions, or arguments, however, were submitted to support this possibility. The reduced acid requirements of the amendments, therefore, are made to apply, as in the proposal, to canned orange juice packed from oranges grown in Florida or Texas only.

The amendments affect the analytical requirements under the factor of flavor. They eliminate the provisos which have allowed a minimum of 0.70 gram of acid per 100 ml. of juice in Grade A sweetened and unsweetened juice when the color score was 38 to 40 points. For canned orange juice produced from oranges grown in Florida or Texas, they reduce the acid requirement for U.S. Grade A unsweetened orange juice and sweetened orange juice from a minimum of 0.75 gram (or 0.70 gram in the case of highly colored orange juice) to 0.65 gram per 100 ml. of juice; and that of U.S. Grade C sweetened orange juice from 0.65 gram to 0.60 gram per 100 ml. of juice.

After consideration of all relevant matters presented including the proposal set forth in the aforesaid notice, the following amendments to the United States Standards for Grades of Canned Orange Juice, in the same form and manner as set forth in the aforesaid notice, are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627):

The amendments are as follows:

1. Subdivision (ii) of § 52.1559(a)(1) is amended to read as follows:

(ii) *Acid.* Not less than 0.75 gram nor more than 1.45 grams per 100 ml. of juice, except that when the canned orange juice is produced from oranges grown in Florida or Texas, the acid may be less than 0.75 gram but not less than 0.65 gram per 100 ml. of juice; and

2. Subdivision (ii) of § 52.1559(a)(2) is amended to read as follows:

(ii) *Acid.* Not less than 0.75 gram nor more than 1.45 grams per 100 ml. of juice, except that when the canned orange juice is produced from oranges grown in Florida or Texas, the acid may be less than 0.75 gram but not less than 0.65 gram per 100 ml. of juice; and

3. Subdivision (ii) of § 52.1559(b)(2) is amended to read as follows:

(ii) *Acid.* Not less than 0.65 gram nor more than 1.65 grams per 100 ml. of juice, except that when the canned orange juice is produced from oranges grown in Florida or Texas the acid may be less than 0.65 gram but not less than 0.60 gram per 100 ml. of juice; and

It is hereby found that good cause exists for not postponing the effective date of these amendments beyond the date of their publication in the FEDERAL REGISTER (5 U.S.C. 1003) in that (1) the processing of canned orange juice is now in progress; (2) labeling and marketing decisions in connection with this product have been held in abeyance since the publication of the Notice of Proposed Rule Making on December 8, 1962, pending final action on the matter; (3) no time or preparation is required for compliance by anyone who might be affected by the action; and (4) the entire industry is aware of the nature of the changes.

(Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627)

Dated: February 8, 1963, to become effective upon publication in the FEDERAL REGISTER.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 63–1629; Filed, Feb. 13, 1963; 8:49 a.m.]

Chapter II—Agricultural Marketing Service (School Lunch Program), Department of Agriculture

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Correction

In F.R. Doc. 63–1431, appearing at page 1247 of the issue for Friday, February 8, 1963, the following correction is made in § 210.9(a)(2): The phrase reading "in subparagraph (i), (ii), (iii), and (v) of this subparagraph", should read "in subparagraph (1) (ii), (iii), and (v) of this paragraph".

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 2]

PART 719—RECONSTITUTION OF FARMS, FARM ALLOTMENTS, AND FARM HISTORY AND SOIL BANK BASE ACREAGES

Miscellaneous Amendments

Basis and purpose. This amendment is issued pursuant to section 375(b) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1375(b)), section 124 of the Soil Bank Act (7 U.S.C. 1812), the Agricultural Act of 1961 (Public Law 87–128, approved August 8, 1961), and the Food and Agriculture Act of 1962 (Public Law 87–703, approved September 27, 1962, and Public Law 87–801, approved October 11, 1962) for the purpose of: (1) prescribing the effective date of reconstitutions as related to the agricultural conservation program; (2) prescribing the method for apportioning the "wheat acreage" when small wheat farms are reconstituted by division; (3) removing all references to "wheat marketing quota exemption acreages" since this term is no longer applicable; (4) prescribing the rules for determining farm bases, farm allotments, history acreages, and other basic data where the reconstitution is by combination; (5) prescribing the amount by which an allotment will be reduced in any cancellation of a transfer of the allotment; and (6) defining the term "final acreage" to be used for wheat in determining diversion credit for participation in the conservation reserve or Great Plains program.

1. Section 719.4(g) (27 F.R. 6482) is amended to read as follows:

§ 719.4 Guides for applying farm definition.

* * * * *

(g) *Timing and effective date of reconstitutions.* Farms shall be reconstituted as soon as it is determined that the land areas are not properly constituted in accordance with the farm definition: *Provided, however,* That a reconstitution made after the planting of an allotment crop has been completed on the farm, or after the plantings of barley or corn and grain sorghums have been completed on a farm which is participating in the feed grain program, shall not be effective for that crop for the current year unless the conditions supporting the reconstitution existed at the time such crop was planted on the farm and a change in operation had occurred prior to the beginning of such planting but had not been reported to the county office: *And provided further,* That a reconstitution shall not be effective with respect to the conservation reserve program for the current year if, at the time a reconstitution of the farm(s) is required, the action would cause noncompliance with the terms and conditions of the conservation reserve contract(s) for the current year. Notwithstanding this provision, a reconstitution resulting from a division of a parent farm shall be effective for the current year for conservation reserve purposes unless (1) all of the persons having control of the land being subdivided are eligible and enter into a common modified contract covering the parent farm for the year in which loss of control occurs and (2) simultaneously with the execution of the common modified contract, individual contracts covering the reconstituted farms are entered into and approved to become effective on the following January 1. A farm reconstitution made after the first request for cost-sharing under the agricultural conservation program has been approved for the parent farm(s) for the current program year shall not be effective for the agricultural conservation

program for that year unless the reconstitution is made because the parent farm on which cost-sharing was approved was not properly constituted at the time of approval of the first request for cost-sharing or all persons on the farm who are eligible to receive cost-shares file a request in writing that such reconstitution become effective for the agricultural conservation program for that program year and the county committee determines that failure to make such reconstitution effective for such program for that program year will make one or more of such persons ineligible for cost-sharing which otherwise could be approved under that program. A reconstitution which does not become effective for the current year under the provisions of this paragraph shall become effective beginning with the next succeeding crop year (succeeding program year in case of the conservation reserve and agricultural conservation programs).

2. Section 719.9(d) (27 F.R. 6482) is amended to read as follows:

§ 719.9 Reconstitution of farm allotments, history acreages, and farm bases.

* * * * *

(d) *Determination of allotment crop history acreages and other basic data for divided farms.* The history acreages and other basic data (including "wheat acreage" for farms with a wheat allotment of 15 acres or less) required in establishing commodity allotments, or in determining "small farm bases" for wheat farms, for the tracts resulting from the division of a parent farm for each year of the base period for which such acreages are required by the respective commodity or program regulations shall be determined as prescribed in subparagraphs (1), (2), (3), and (4) of this paragraph.

(1) *For allotment farms.* The same basis as that applicable to the apportionment of allotments for the parent farm among the tracts shall be used in determining history acreages and other basic data: *Provided, however,* That where the parent farm allotments are divided on the basis of the contribution method, the history acreage and the final planted acreage (plus conservation reserve, Great Plains, and wheat stabilization programs credit) for each identical tract for each year of the base period prior to combination shall be the history acreage and the final planted acreage determined for the tract prior to combination.

(2) *For nonallotment wheat farms.* If the farm being divided does not have a wheat allotment but wheat was planted for harvest as grain during 1959 and subsequent program years, the 1959 and subsequent years wheat acreage shall be apportioned among the tracts resulting from the division by use of the cropland method: *Provided, however,* That the wheat acreage apportioned to any tract which was a separate farm in 1959 or a subsequent year shall be the wheat acreage determined for the tract in such year.

(3) *Alternate method for small wheat farms.* Notwithstanding the foregoing provisions for apportioning the wheat acreage for 1959 and subsequent years for farms with allotments of 15 acres or less or farms with no wheat allotments, if the county committee determines that the use of one of the methods prescribed in subparagraphs (d)(1) or (2) would result in an inequitable distribution of the wheat acreage, the apportionment for each year may be made on the basis of the acreage which the county committee determines is fair and equitable based on the operations normally carried out on the separate tracts.

(4) *Special provision for conservation reserve and Great Plains program farms.* In determining allotment crop history acreages for the farm(s) or tract(s) resulting from the division of a parent conservation reserve or Great Plains farm, the potential allotment history credit determined under § 719.13 of this part shall accrue to the farm(s) or tract(s) on which such permanent vegetation is physically located.

3. Section 719.10 (27 F.R. 6482) is amended to read as follows:

§ 719.10 Rules for determining feed grain bases, farm allotments, and farm history and soil bank base acreages where the reconstitution is by division.

(a) *Method for reconstituting farm allotments and history acreages—(1) General.* Allotment and history acreages for a farm which resulted from a combination that became effective during the six-year period immediately prior to the current year and which is being divided into two or more tracts shall be reconstituted under the contribution method of division. The contribution method for dividing allotment and history acreages may be employed beyond the six-year period prescribed above in cases where the county committee determines that division by the cropland or history method would result in allotments not representative of the allotments established for the separate tracts prior to combination and a record of the contribution of the separate tracts at the time of combination is aavilable to support the action taken. If the contribution method is not applicable, the county committee will next apply the cropland method and, finally, if the contribution and cropland methods do not apply, the acreage shall be divided by the history method: *Provided, however,* That the division of allotment and history acreages for a farm which was formed by a combination approved during the period September 1, 1958, through January 3, 1960, may at the election of the producers involved, be made in accordance with the regulations in effect at the time of the combination if a request in writing, signed by all interest producers involved, is filed at the county office prior to approval of the division and the county committee determines that apportionment under such previous regulations would be representative of the farming operations normally carried out on each part. Feed grain bases and soil bank base acreages shall be apportioned in accordance with paragraph (b) of this section. The provisions for dividing a farm to settle an estate may be applied whenever appropriate. The sum of allotment and history acreages, feed grain bases, soil bank base acreages, and other basic data apportioned to the respective tracts in the process of division shall equal the respective crop acreages for the parent farm except in the case of allotment acreages when the minimum and maximum allotment provisions apply.

(2) *Contribution method.* If the farm to be divided is the result of a combination which became effective during the six-year period immediately prior to the current year and for such additional period as is determined to be applicable under the provisions prescribed in subparagraph (1) of this paragraph, each tract which is identical to a tract which went into the combination and which is being separated from the parent farm in whole or in part shall share in the allotments and history acreages for the parent farm for the current year in the same proportion that each tract contributed to the allotments for the parent farm at the time of combination. The allotments used in making these determinations shall be the allotment established prior to release or reapportionment. Notwithstanding the foregoing provision, division shall be made by the cropland or history method, as applicable, rather than by the contribution method in cases involving (i) a further division of the allotment and history acreages for any such identical tract, (ii) the division of allotment and history acreages for any commodity for which the allotment was not established at the time of combination, (iii) the division, in case of wheat, of allotment and history acreages for any farm for which the tracts were in an approved odd and even rotation seeding pattern in the year of combination, and (iv) a parent farm, in case of rice, which includes one or more tracts on which an established crop-rotation system was being carried out at the time of the combination. When a further division of an identical tract is required in accordance with the provisions of this subparagraph and the total of all allotments assigned to such tract exceeds the cropland available for planting such allotments, the allotments, history acreages, and other pertinent data for the identical tract shall be apportioned among the reconstituted parts on the basis of the acreage determined by the county committee to be representative of the planting of the allotment crops on each part prior to the reclassification of all or part of the land as noncropland.

(3) *Cropland method.* If the contribution rule is not applicable, the current year allotments and allotment crop history acreages determined for the parent farm, shall, except as otherwise provided under contribution and history methods, be apportioned among the tracts in the same proportion that the acreage of cropland (acreage of developed rice land for rice) in each such tract bears to the

cropland (developed rice land for rice) for the parent farm: *Provided, however,* That upon request in writing by the owners and operators, the allotments and history acreages may be apportioned on the basis of the cropland normally considered as available for and adapted to the production of the allotment crops on each tract, as determined by the county committee.

(4) *History method.* The allotments and history acreages for the parent farm may be divided among the tracts resulting from a division on the basis of the history acreage determined to be representative of the operations normally carried out on each tract when:

(i) The county committee determines that because of a substantial physical difference in the soil, topography of the land, location of facilities, or cultural practices, the division of allotments and history acreages by the cropland method would result in allotments and history acreages not representative of the operations normally carried out on each of the tracts, or

(ii) The county committee determines that the division of allotments and history acreages between Federal or State-owned land and privately owned land (reconstituted in accordance with the provisions of § 719.2(1)(2)(v) by the cropland method) would result in allotments and history acreages not representative of the farming operations previously carried out on each part during the respective base periods used for establishing current allotments.

(b) *Methods for reconstituting feed grain bases and soil bank base acreages.* The feed grain or soil bank base for a farm which is being divided into two or more tracts shall be apportioned among such tracts which are being separated from the parent farm as follows:

(1) The history acreages of allotment crops included in the soil bank base determined for the parent farm shall be apportioned on the same basis as the allotments and history acreages for such allotment crops are apportioned under regulations in this part.

(2) If a base was established for each component part of a parent farm prior to or at the time of combination, the base for each identical tract being separated from the parent farm shall be the base established for such tract prior to or at the time of combination.

(3) If the parent farm which is being divided was not a result of a combination which became effective subsequent to the establishment of the applicable bases, or if the tract which is being divided involves a further division of an identical tract for which the base was apportioned under the provisions of subparagraph (2) of this paragraph, the feed grain base established for the parent farm, or the identical tract and the history acreage in the soil bank base established for the parent farm, or the identical tract, equal to the acreage of nonallotment crops shall be apportioned among the tracts resulting from the division in the same proportion as the acreage of cropland for each tract bears to the cropland for the farm being divided: *Provided, however,* That the feed grain base and the nonallotment crop soil bank history acreage may be divided among the respective tracts on the basis of the feed grain acreage or the soil bank history acreage, as applicable, which is determined to be representative of the operations normally carried out on the tract when:

(i) The allotment and allotment crop history acreages for the parent farm are divided by the history method; or

(ii) The county committee determines that due to plantings carried out during the applicable base period or because of substantial physical differences in the soil, topography of the land, location of facilities, or cultural practices, division by the cropland method would result in acreages not representative of the operations normally carried out on each of the tracts.

(4) Notwithstanding the provisions of this paragraph (b), if the farm is covered by a conservation reserve contract under which 1960 or a prior year is the first year of the contract period, the acreage of the soil bank base equal to the acreage of non-allotment crops, may, at the election of the producer holding the contract be apportioned in accordance with the regulations in effect at the time such contract was entered into unless the county committee determines that such apportionment would not be representative of the farming operations normally carried out on each part.

(5) In no event may the sum of the feed grain bases and the soil bank base acreages for the respective tracts of a division exceed the feed grain base and soil bank base acreages for the parent farm.

(c) *Farms to be divided in settling an estate.* Notwithstanding any other provision of the regulations in this part, if a farm is to be divided among the heirs in settling an estate, the allotment, feed grain bases, history acreages, soil bank base acreages, and the 1959 and subsequent years "wheat acreage" for small wheat farms, upon approval of the county committee, may be apportioned among the tracts on the basis of a written agreement signed by all interested persons.

4. Section 719.11 (27 F.R. 6482) is amended to read as follows:

§ 719.11 Rules for determining farm bases, farm allotments, and history acreages where reconstitution is by combination.

If two or more tracts which were operated as separate farms or parts of farms in the preceding year are combined and operated as a single farm for the current year, the current year's allotments and farm bases and the history and final planted acreages (including conservation reserve, Great Plains, and wheat stabilization programs credit) for the years in the base period for the respective commodity for the reconstituted farm shall be the sum of the allotments, farm bases (excluding small farm bases for wheat farms) and history and final planted acreages for each of the tracts comprising the combination, subject to the provisions of § 719.9(e).

5. Section 719.12(f)(6) (27 F.R. 6482) is amended to read as follows:

§ 719.12 Pooling and transfer of farm acreage allotments where the farm owner is displaced by a Federal, State, or other agency having the right of eminent domain.

* * * * *

(f) * * *

(6) *Cancellation of transfers of allotments.* If any allotment is transferred under this paragraph and it is later determined by the receiving county or State committee, or the deputy administrator, that the transfer was obtained by misrepresentation by or on behalf of the displaced owner, or the conditions applicable under subparagraph (3) of this paragraph are not met, the allotment for the receiving farm shall be reduced for each year the transfer purportedly was in effect by the amount attributable to the acreage transferred from the pool; and if the time for withdrawal from the pool has not expired, the amount of acreage initally transferred from the pool shall be returned to the pool after the period of time has expired in which the producer could exercise his rights of review and court action. Any cancellation of transfer of allotment by the receiving county committee shall be subject to approval by the receiving State committee. The receiving county committee shall issue any notice of marketing quota and penalty as may be required in accordance with applicable commodity regulations.

6. Section 719.13(a) (27 F.R. 6842) has been amended to read as follows:

§ 719.13 Determination of commodity allotment diversion credit for participation in the conservation reserve or Great Plains program.

(a) *General rules.* The acreage on any farm which is determined to have been diverted from the production of any commodity subject to acreage allotments or marketing quotas in order to carry out the provisions of a conservation reserve or Great Plains contract or in order to maintain, for the applicable period of extended protection, previously established permanent vegetation designated under the contract or any change in land use from cropland to permanent vegetation cover, including trees, carried out under the contract shall be considered as acreage devoted to the commodity for purposes of establishing future State, county, and farm acreage allotments under the provisions of the Agricultural Adjustment Act of 1938, as amended. A period of extended protection shall be a period after the expiration of a conservation reserve or Great Plains contract equal to the period of the contract: *Provided, however,* That in the case of a conservation reserve contract, the period of extended protection shall be a period equal to the number of years the land was continually under contract, except that such period shall not exceed 10 years unless the land was approved to be devoted to tree cover: *And provided further,* That if the contract is applicable to separate land areas on the farm for different periods of time

each such land area shall be considered separately in determining the period of extended protection. The period of extended protection for any given land area shall not apply if the contract applicable to that area is cancelled or terminated prior to the end of the period of years approved under the terms of the contract. In the determination of allotment crop history acreages for the farm(s) or tract(s) resulting from the division of a parent farm, the potential allotment history credit determined under provisions of this § 719.13 shall accrue to the farm(s) or tract(s) on which the permanent vegetation is physically located. The term "final acreage" when used in making apportionments under the provisions of paragraphs (d) and (e) of this section shall be the acreage of the crop as finally determined for the farm except that such acreage shall be the planted acreage in case of cotton and, in case of wheat, such acreage, for 1962 and subsequent years, shall be the final acreage determined for the farm plus the acreage diverted from the allotment for farms participating in the wheat stabilization program. The "final acreage" shall be the acreage determined for the farm prior to any adjustments for abnormal conditions affecting acreage.

(Secs. 16(d), 75 Stat. 302, 375, 52 Stat. 66, as amended, 378, 72 Stat. 988, 124, 70 Stat. 198; 16 U.S.C. 590p, 7 U.S.C. 1375, 1378, 1812)

Effective date. Since the constitution and reconstitution of farms is a continuous process and reconstitutions which effect 1963 operations have been and are currently being made, it is imperative that notice of these amendments be given as soon as possible. Accordingly, it is hereby found that compliance with the notice, public procedure, and effective date provisions of the Administrative Procedure Act (5 U.S.C. 1003) is impracticable and contrary to the public interest. The provisions of §§ 719.9(d), 719.10, and 719.11 apply generally to reconstitutions effective for the 1963 program year. Otherwise, the provisions of these amendments become effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on February 11, 1962.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 63-1649; Filed, Feb. 13, 1963; 8:51 a.m.]

PART 730—RICE

Subpart—1963–64 Marketing Year

PROCLAMATION OF RESULTS OF MARKETING QUOTA REFERENDUM

Section 730.1409 is issued to announce the results of the rice marketing quota referendum for the marketing year August 1, 1963, through July 31, 1964, under the provisions of the Agricultural Adjustment Act of 1938, as amended. The Secretary proclaimed a marketing quota for rice for the 1963–64 marketing year and announced that a referendum would be held on January 11, 1963 (27 F.R. 12654), to determine whether rice producers were in favor of or opposed to marketing quotas for the marketing year August 1, 1963, through July 31, 1964. Since the only purpose of this proclamation is to announce results of the referendum, it is found and determined that with respect to this proclamation application of the notice and procedure provisions of the Administrative Procedure Act is unnecessary.

§ 730.1409 Proclamation of the results of the rice marketing quota referendum for the marketing year 1963–64.

In a referendum of farmers engaged in the production of rice for the 1963 crop held on January 11, 1963, 9,990 farmers voted. Of those voting 8,774 or 87.8 percent favored quotas for the marketing year beginning August 1, 1963. Therefore, rice marketing quotas will be in effect for the 1963–64 marketing year.

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

Signed at Washington, D.C., on February 11, 1963.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 63-1648; Filed, Feb. 13, 1963; 8:51 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Tree Nuts), Department of Agriculture

PART 918—HANDLING OF FRESH PEACHES GROWN IN GEORGIA

Districts and Districts Representation on Industry Committee

Notice is hereby given of the approval of an amendment, hereinafter set forth, to the rules and regulations (7 CFR 918.100–918.131) of the Industry Committee, currently in effect pursuant to the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of fresh peaches grown in Georgia, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The amendment (1) redefines the districts into which the area (the State of Georgia) has been divided in the amended marketing agreement and order and (2) changes the representation from the districts on the Industry Committee.

Notice that such action was being considered was published in the FEDERAL REGISTER issue of January 23, 1963 (28 F.R. 594). No written data, views, or arguments pertaining thereto were received.

After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice which were submitted by the Industry Committee (established pursuant to the said marketing agreement and order as the agency to administer the provisions thereof), it is hereby found that the amendment, as hereinafter set forth, of the said rules and regulations is in accordance with the provisions of the said marketing agreement and order and will tend to effectuate the declared purposes of the Agricultural Marketing Agreement Act of 1937, as amended.

It is hereby further found that good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that: (1) the South Georgia District has increased peach production so that it presently is not adequately represented on the Industry Committee; (2) the terms of office of the said committee expire February 28, 1963; (3) appointment of members of the Industry Committee for the term of office beginning March 1, 1963, will soon be made by the Secretary; (4) such appointments should be on the basis of the new districts and representation set forth in the amendment; and (5) the amendment does not require any special preparation for compliance therewith which cannot be completed by the effective time thereof.

The amendment is as follows:

1. Delete § 918.110 and substitute therefore the following:

§ 918.110 Change in representation by districts on the Industry Committee.

The representation or membership on the Industry Committee is changed to provide for:

(a) One (1) member to represent the South Georgia District;

(b) Four (4) members to represent the Central Georgia District; and

(c) Three (3) members to represent the North Georgia District.

2. Add the following new § 918.111:

§ 918.111 Redefinition of districts.

The districts into which the area is divided are redefined as follows:

(a) "South Georgia District" shall include the counties of Quitman, Coffee, Miller, Jeff Davis, Baker, Toombs, Terrell, Ware, Mitchell, Pierce, Worth, Evans, Brooks, Liberty, Turner, Glynn, Irwin, Echols, Atkinson, Early, Wheeler, Decatur, Montgomery, Randolph, Bacon, Dougherty, Wayne, Crisp, Charlton, Thomas, Bryan, Tift, McIntosh, Ben Hill, Berrien, Lanier, Clay, Telfair, Seminole, Clinch, Calhoun, Appling, Lee, Tattnall, Grady, Brantley, Colquitt, Long, Cook, Chatham, Wilcox, Camden, and Lowndes;

(b) "Central Georgia District" shall include the counties of Muscogee, Bleckley, Marion, Laurens, Schley, Johnson, Macon, Candler, Houston, Glascock, Bullock, Twiggs, Stewart, Wilkinson, Taylor, Washington, Crawford, Emanuel, Peach, Jefferson, Burke, Effingham, Chattahoochee, Pulaski, Webster, Dodge, Sumter, Treutlen, Bibb, Jenkins, Dooly, and Screven; and

(c) "North Georgia District" shall include the counties of Harris, Talbot, Upson, Monroe, Jones, Baldwin, Hancock, Warren, McDuffie, Polk, Troup, Gwinnett, Lamar, Jackson, Fayette, Forsyth, Jasper, Franklin, Douglas, Gordon, Henry, Dade, Green, Whitfield, Lincoln, Haralson, Paulding, Cobb, De Kalb, Rockdale, Walton, Oconee, Oglethorpe, Floyd, Richmond, Cherokee, Pike, Clarke,

Coweta, Elbert, Butts, Banks, Carroll, Chattooga, Clayton, Dawson, Morgan, Catoosa, Wilkes, Gilmer, Fannin, Lumpkin, Union, White, Towns, Habersham, Stephens, Rabun, Columbia, Bartow, Meriwether, Barrow, Heard, Madison, Spalding, Hall, Putnam, Hart, Fulton, Pickens, Newton, Walker, Taliaferro, and Murray.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated February 11, 1963, to become effective upon publication in the FEDERAL REGISTER.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 63–1646; Filed, Feb. 13, 1963; 8:51 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Treasury Department

Effective upon publication in the FEDERAL REGISTER, subparagraph (18) of paragraph (a) and subparagraph (2) of paragraph (b) of § 6.303 are revoked.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 63–1630; Filed, Feb. 13, 1963; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER E—AIRSPACE [NEW]

[Airspace Docket No. 62–EA–84]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

Alteration of Control Zone

The purpose of this amendment to Part 71 [New] of the Federal Aviation Regulations is to alter the Washington, D.C., control zone.

The Washington control zone is designated, in part, with reference to the Washington radio range. The Federal Aviation Agency is converting the radio range to a combined transcribed weather broadcast and radio beacon. The action taken herein reflects this conversion in the description of the Washington control zone and, in addition, reduces the linear dimensions of the control zone extensions presently designated in accordance with existing air traffic control operational requirements. Controlled airspace requirements for this area will be further reviewed at a later date under the CAR Amendment 60–21/60–29 implementation program.

Since the change effected by this amendment reduces a burden on the public, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than thirty days after publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), the following action is taken:

In § 71.171 (27 F.R. 220–91, November 10, 1962), the Washington, D.C., control zone is amended to read:

Washington, D.C.

Within a 5-mile radius of Washington National Airport (latitude 38°51'05" N., longitude 77°02'20" W.), excluding the portion within P–56; within 2 miles NW and 2.6 miles SE of the Washington VOR 060° radial extending from the 5-mile radius zone to 5 miles NE of the VOR; within 2 miles either side of the Washington VOR 179° radial extending from the 5-mile radius zone to 14.3 miles S of the VOR and within 2 miles either side of the 174° and 354° bearings from the Washington ILS LOM extending from the 5-mile radius zone to 8 miles S of the LOM.

This amendment shall become effective 0001 e.s.t., April 4, 1963.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on February 7, 1963.

W. THOMAS DEASON,
Assistant Chief, Airspace Utilization Division.

[F.R. Doc. 63–1594; Filed, Feb. 13, 1963; 8:46 a.m.]

[Airspace Docket No. 62–WE–49]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

Alteration of Federal Airways

The purpose of these amendments to Part 71 [New] of the Federal Aviation Regulations is to reduce the width of low altitude VOR Federal airway Nos. 23 and 25 east alternate to 4 miles from the centerline on the northeast side between the Long Beach, Calif., VORTAC and the intersection of the Long Beach VORTAC 287° and the Los Angeles, Calif., VOR 138° True radials; reduce the width of low altitude VOR Federal airway No. 208 to 4 miles on the east side between the Los Angeles VORTAC and the Santa Catalina, Calif., VOR; and to realign and extend low altitude VOR Federal airway No. 64 from the Long Beach VORTAC via the Ling Intersection (intersection of the Long Beach VORTAC 266° and the Los Angeles VOR 185° True radials); to the Los Angeles VOR and to reduce the width of Victor 64 to 4 miles on the east side between the Ling Intersection and the Los Angeles VOR. Part 71 [New] was published in the FEDERAL REGISTER on October 24, 1962, as a part of the Agency's recodification program. This new part contains the regulatory material formerly found in Parts 600 and 601 of the regulations of the Administrator. It became effective on December 12, 1962 (27 F.R. 10352, 220–2, November 10, 1962).

The alteration of Victors 23 and 25 will permit operations to be conducted along these airway segments simultaneously with aircraft maneuvering in the Downey, Calif., holding pattern at 10,000 feet MSL and below. The alteration of Victor 208 will permit operations to be conducted along this airway segment simultaneously with aircraft maneuvering in the San Pedro, Calif., holding pattern at 10,000 feet MSL and below. The alteration of Victor 64 will reduce clearance phraseology for the preferred eastbound route out of Los Angeles which is presently via Victors 208, 8 and 64, and will be compatible with the reduced width of Victor 208. The route presently served by Victor 64 is also served by Victor 23.

The actions taken herein relate to the navigable airspace both within and outside the United States and are in consonance with ICAO Standards and Recommended Practices. Application of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 and Annex 11 to the Convention on International Civil Aviation (ICAO) which pertains to the establishment of air navigation facilities and services necessary to promote safe, orderly and expeditious flow of civil air traffic. Since these amendments relate to the navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order No. 10854.

Since these amendments are minor in nature and impose no additional burden on any person, compliance with Section 4 of the Administrative Procedure Act is unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), the following actions are taken:

1. In § 71.123 (27 F.R. 220–6, November 10, 1962, 27 F.R. 11497, 28 F.R. 721) V–23 "thence INT of Long Beach 287° and Los Angeles, Calif., 138° radials;" is deleted and "thence 4 miles on the NE and 5 miles on the SW of the centerline to INT of Long Beach 287° and Los Angeles, Calif., 138° radials; thence" is substituted therefor.

2. In § 71.123 (27 F.R. 220–6, November 10, 1962) V–25 "The airspace below 2,000 feet outside the United States is excluded." is deleted and "The airspace below 2,000 feet MSL outside the United States and the airspace more than 4 miles NE of the airway centerline between Long Beach and INT of Long

Beach 287° and Los Angeles 138° radials is excluded." is substituted therefor.

3. Section 71.123 (27 F.R. 220–6, November 10, 1962), V–64 is amended as follows:

V–64 from Los Angeles, Calif., via INT of Los Angeles 185° and Long Beach, Calif., 266° radials; Long Beach; Thermal, Calif.; to Blythe, Calif. The airspace more than 4 miles E of the airway centerline between Los Angeles and INT of Los Angeles 185° and Long Beach 266° radials is excluded.

4. In § 71.123 (27 F.R. 220–6, November 10, 1962), V–208 all after "Peach Springs, Ariz." is deleted and "The airspace within R–2503, the airspace below 2,000 feet MSL outside the United States, and the airspace more than 4 miles E of the airway centerline between Los Angeles and Santa Catalina is excluded." is substituted therefor.

These amendments shall become effective 0001 e.s.t., April 4, 1963.

(Secs. 307(a) and 1110, 72 Stat. 749 and 800; 49 U.S.C. 1348 and 1510, and Executive Order No. 10854, 24 F.R. 9565)

Issued in Washington, D.C., on February 7, 1963.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 63–1595; Filed, Feb. 13, 1963; 8:46 a.m.]

[Airspace Docket No. 60–KC–95]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

Revocation of Federal Airway and Reporting Points

On April 13, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 3561) stating that the Federal Aviation Agency proposed to revoke Amber Federal airway No. 4, its associated control areas and reporting points from Chanute, Kans., to the intersection of the northeast course of the Chanute radio range and the southwest course of the Kansas City, Mo., radio range, and from Omaha, Nebr., to Minot, N. Dak.; and to redescribe the Olathe, Kans., control area extension.

Subsequent to the issuance of the notice, Parts 600 and 601 of the regulations of the Administrator have been consolidated and recodified into a new Part 71 of the Federal Aviation Regulations which became effective December 12, 1962 (27 F.R. 10352, 220–2, November 4, 1962). The airspace actions taken herein reflect the new format and numbering system adopted for these parts.

Because of objections from the Director, North Dakota Aeronautics Commission, action on the segment of A–4 between Omaha and Minot was withheld until an informal airspace meeting could be held in Minot, N. Dak. The purpose of this meeting was to inform as many interested persons as possible of the intentions of the Federal Aviation Agency in regard to installation, decommissioning or conversion of navigation aids and designation and revocation of Federal airways in North Dakota and to hear comments on the proposal to revoke the segment of A–4 north of Omaha.

The balance of the actions proposed in the Notice were promulgated in Airspace Docket No. 62–CE–28 (27 F.R. 9699, 12438).

As a result of the notice and the informal airspace meeting, the Air Transport Association of America concurred with the proposed revocation of A–4 between Omaha and Minot. The Director, North Dakota Aeronautics Commission, and other users in the area persisted in their objections. The concensus of the objections was that the objectors were of the opinion that if A–4 were revoked, it would follow that the associated navigation aids would also be decommissioned.

The objectors were again informed that the associated navigation aids would not be decommissioned concurrently with the revocation of A–4, and that if the Agency proposed to decommission any aid, the proposal would be circularized separately and due consideration would be given to all relevant comments, and that no navigation aid would be decommissioned if its continued operation would be in the public interest.

Since the latest Federal Aviation Agency IFR peak day airway traffic survey showed no aircraft movements on A–4 between Omaha and Minot, this airway is unjustified as an assignment of airspace. Accordingly, action is taken herein to revoke A–4.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant mattter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated herein and in the notice, the following actions are taken:

1. In § 71.105 (27 F.R. 220–3, November 10, 1962, 27 F.R. 12438) A–4 is revoked.

2. In § 71.203 (27 F.R. 220–157, November 10, 1962, 27 F.R. 12438) the following are revoked:

a. Aberdeen, S. Dak., RR.
b. Huron, S. Dak., RR.
c. Sioux Falls, S. Dak., RR.

These amendments shall become effective 0001 e.s.t., April 4, 1963.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on February 7, 1963.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 63–1599; Filed, Feb. 13, 1963; 8:46 a.m.]

[Airspace Docket No. 62–WA–84]

PART 75—ESTABLISHMENT OF JET ROUTES [NEW]

Alteration of Jet Route and Jet Advisory Area

On December 1, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 11901) stating that the Federal Aviation Agency (FAA) proposed extension of Jet Route No. 13 from Great Falls to the United States Canadian Border toward Lethbridge, Canada, and designation of an enroute radar jet advisory area along the entire length of J–13.

The Air Transport Association endorsed this proposal. No other comments were received.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following action is taken:

1. In § 75.100 jet routes (28 F.R. 19–50, January 26, 1963), Jet Route No. 13 is amended as follows:

In the caption "to Great Falls, Mont." is changed to read "to the United States/Canadian Border".

In the text "Billings, Mont., to Great Falls, Mont." is deleted and "Billings, Mont.; Great Falls, Mont.; via the Great Falls 339° radial to the United States/Canadian Border." is substituted therefor.

2. In § 75.200 en Route jet advisory areas (28 F.R. 19–60, January 26, 1963), Jet Route No. 13 jet advisory area is changed to read:

Jet Route No. 13 jet advisory area. Radar—El Paso, Texas, to the United States/Canadian Border, excluding the portion below flight level 270 between Crazy Woman, Wyo., and Billings, Mont.

These amendments shall become effective 0001 e.s.t., April 4, 1963.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on February 7, 1963.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 63–1596; Filed, Feb. 13, 1963; 8:46 a.m.]

[Airspace Docket No. 62–WE–116]

PART 75—ESTABLISHMENT OF JET ROUTES [NEW]

Alteration of Jet Route and Jet Advisory Areas

On December 1, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 11901) stating that the Federal Aviation Agency (FAA) proposed to extend Jet Route No. 30, and its associated jet advisory area westward from Denver, Colo., to Salt Lake City, Utah.

The Air Transport Association of America endorsed the proposal. No other comments were received.

Although not mentioned in the notice, the Salt Lake City, Utah, terminal jet advisory area § 75.300 Provo, Utah, to Myton, Utah; thence via Myton 069° radial to intersection with Jet Route No. 56 is no longer required and action is

taken herein to revoke the designation thereof.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following actions are taken:

1. In § 71.100 jet routes (28 F.R. 19–50, January 26, 1963) Jet Route No. 30 is amended as follows:

a. The caption is changed to read: "Jet Route No. 30 (Salt Lake City, Utah, to Appleton, Ohio)."

b. In the text "From Denver, Colo., via" is deleted and "From Salt Lake City, Utah, via Provo, Utah; Myton, Utah; Kremmling, Colo.; Denver, Colo.;" is substituted therefor.

2. In § 75.200 en route jet advisory areas (28 F.R. 19–60, January 26, 1963) Jet Route No. 30 jet advisory area is amended to read:

Jet Route No. 30 jet advisory area. Radar—Salt Lake City, Utah, to Sioux Falls, S. Dak.

3. In § 75.300 terminal jet advisory areas (28 F.R. 19–66, January 26, 1963) the Salt Lake City, Utah, jet advisory area "e. Provo, Utah, to Myton, Utah; thence via Myton 069° radial to INT with Jet Route No. 56." is deleted.

These amendments shall become effective 0001 e.s.t., April 4, 1963.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on February 7, 1963.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 63–1597; Filed, Feb. 13, 1963; 8:45 a.m.]

[Airspace Docket No. 61–LA–64]

PART 75—ESTABLISHMENT OF JET ROUTES [NEW]

Alteration and Designation of Jet Routes and Jet Advisory Areas

On December 1, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 11900) stating that the Federal Aviation Agency (FAA) proposed the alteration, designation and revocation of jet routes and jet advisory areas in the vicinity of Portland, Oreg.

Subsequent to the publication of the notice, the procedures for handling Air Defense Command jet fighters at the Portland Airport were changed, and it has been found that retention of the existing alignment of some of the jet routes under consideration in the Notice would promote greater efficiency in the management of all air traffic in the Portland area. Therefore, the FAA is withdrawing the following proposals from Airspace Docket No. 61–LA–64:

1. The proposal to alter Jet Route No. 1.

2. The proposal to revoke Jet Route No. 93.

3. The proposal to redescribe the starting point for Jet Route No. 70.

4. The proposal to extend Jet Route No. 16 from the Portland VORTAC to the site of the Newport, Oreg., VOR.

The Air Transport Association of America approved of the proposed amendments. No other comments were received.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated herein and in the notice, the following actions are taken:

1. In § 75.100 jet routes (28 F.R. 19–50, January 26, 1963) the following changes are made:

(a) In the caption of Jet Route No. 15 "Boise, Idaho" is deleted and "Newberg, Oreg." is substituted therefor.

(b) In the text of Jet Route No. 15 "Ogden, Utah, to Boise, Idaho." is deleted and "Ogden, Utah; Boise, Idaho; INT of the Boise 294° and the Newberg, Oreg., 106° radials; to Newberg." is substituted therefor.

(c) In the text of Jet Route No. 16 "via the INT of the Portland 098° and the Pendleton, Oreg., 256° radials;" is deleted and "via The Dalles, Oreg.; INT of The Dalles 096° and the Pendleton, Oreg., 254° radials;" is substituted therefor.

(d) The following is added:

Jet Route No. 73 (Boise, Idaho, to The Dalles, Oreg.).

From Boise, Idaho, via the INT of the Boise 294° and The Dalles, Oreg., 139° radials; to The Dalles.

2. In § 75.200 en route jet advisory areas (28 F.R. 19–60, January 26, 1963) the following changes are made:

(a) Jet Route No. 15 is amended to read:

Jet Route No. 15 jet advisory area. Radar—Wink, Tex., to Albuquerque, N. Mex.; from 163 nmi NW of Boise, Idaho, to Newberg, Oreg., Non-Radar—Boise, Idaho, to 163 nmi NW of Boise.

(b) The following is added:

Jet Route No. 73 jet advisory area. Radar—From 163 nmi NW of Boise, Idaho, to The Dalles, Oreg. Non-Radar—Boise, Idaho, to 163 nmi NW of Boise.

These amendments shall become effective 0001 e.s.t., April 4, 1963.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on February 7, 1963.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 63–1598; Filed, Feb. 13, 1963; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket C–303]

PART 13—PROHIBITED TRADE PRACTICES

Cal-Tech Systems, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.85 *Government approval, action, connection* or *standards:* § 13.85–60 *Standards, specifications, or source;* § 13.245 *Specifications or standards conformance;* § 13.265 *Tests and investigations.* Subpart—Misbranding or mislabeling: § 13.1330 *Specifications or standards conformance;* § 13.1340 *Tests.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1645 *Government standards or specifications;* § 13.1762 *Tests, purported.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Cal-Tech Systems, Inc. (Glendale, Calif.), et al., Docket C–303, Jan. 24, 1963]

In the Matter of Cal-Tech Systems, Inc., a Corporation, and Ivan A. Ezrine, Individually and as an Officer of Said Corporation, and Extrusion Corporation of America, a Corporation, and Frank J. Schnoor, Individually and as a Former Officer of Said Corporation, and Jack I. Salzberg, Individually and as an Officer of Each of Said Corporations

Consent order requiring Glendale, Calif., manufacturers of aluminum windows sold under the trade names "Realco" and "Rolleze," to cease representing falsely in advertising in trade papers, brochures, circulars, etc., on labels and by statements of salesmen that their windows equaled or exceeded specifications adopted by the Aluminum Window Manufacturers Association or the Federal Housing Administration, and had been regularly tested and approved by an independent testing agency or other organization.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents, Cal-Tech Systems, Inc., a corporation, and its officers and Ivan A. Ezrine, individually and as an officer of said corporation, and Extrusion Corporation of America, a corporation, and its officers, and the aforesaid corporate respondents' successors and assigns, and Frank J. Schnoor, individually, and Jack I. Salzberg, individually and as an officer of each of said corporations, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of aluminum windows or any related product or products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication,

a. That respondents' windows equal or exceed the specifications adopted by the Aluminum Window Manufacturers Association, unless, in fact, each such window sold conforms in every respect to said specifications.

b. That respondents' windows equal or exceed the specifications adopted by the Federal Housing Administration, unless, in fact, each such window sold conforms in every respect to said specifications.

c. That respondents' products conform to the specifications, standards or qualifications adopted or approved by any industry or governmental agency or other organization unless, in fact, such products conform in every respect to such specifications, standards or qualifications.

d. That respondents' products have been regularly tested or approved by an independent testing agency, or any other organization, unless said products have, in fact, been so tested or approved.

2. Misrepresenting in any manner the construction or performance of respondents' products, or the results of any test made thereon, or the extent of any approval given thereto.

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

Issued: January 24, 1963.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 63-1611; Filed, Feb. 13, 1963; 8:47 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[9th Gen. Rev. of Export Regs.]

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

Revision of Export Regulations; Amendment No. 60

Section 373.65 *Ultimate consignee and purchaser statement* is amended in the following particulars:

1. Paragraph (b)(5) *Amendments to statements* is amended by adding at the end thereof the following sentence: "However, no amendment will be granted to extend the validity period of a Multiple Transactions Statement, Form FC-843."

2. Paragraph (c)(4) *Method of extension of validity period of Multiple Transactions Statement* is deleted.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487; E.O. 11038, 27 F.R. 7003)

RAUER H. MEYER,
Acting Director,
Office of Export Control.

[F.R. Doc. 63-1633; Filed, Feb. 13, 1963; 8:49 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 522—EMPLOYMENT OF LEARNERS

Apparel Industry

Pursuant to notice published in the FEDERAL REGISTER (27 F.R. 346) regarding the regulations governing the employment of learners at special minimum wage rates in the apparel industry under section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214), both oral and written data, views, and arguments were received concerning several subjects and issues specifically noticed for consideration. After having given careful consideration to all relevant information received concerning the issues presented, I issued a second notice (27 F.R. 11968) proposing revisions of 29 CFR 522.23, 522.24, and 522.25. Written views and arguments have been received concerning these proposals, and after having given careful consideration to all of them, I have decided to adopt the proposed regulations without substantial change in this revision of 29 CFR 522.20 through 522.25 which deals specifically with the apparel industry.

Accordingly, pursuant to section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and General Order No. 45-A of the Secretary of Labor (15 F.R. 3290), I hereby revise 29 CFR 522.20 through 522.25 as set forth below.

As these rules involve only statements of policy to be applied in the future, no delay in their effective date is required by section 4 of the Administrative Procedure Act (5 U.S.C. 1003). I have decided to make them effective on and after March 4, 1963.

The amended sections shall read as follows:

§ 522.20 Applicability of general learner regulations.

The employment of learners pursuant to the provisions of §§ 522.20 through 522.24 shall be subject to all provisions of the general regulations governing the employment of learners (§§ 522.1 through 522.9), except to the extent to which any provision of such general regulations is inconsistent with any provisions of §§ 522.20 through 522.25.

§ 522.21 Applicability of §§ 522.20 to 522.25.

For purposes of §§ 522.20 to 522.25, the apparel industry consists of the following six divisions:

(a) Women's apparel, defined as follows: The production of women's, misses' and juniors' dresses; washable service garments; blouses from woven or purchased knit fabric; women's, misses', children's and infants' underwear, nightwear and negligees from woven fabrics; corsets and other body supporting garments from any material; infants' and children's outerwear; and other garments similar to the foregoing.

(b) Single pants, shirts and allied garments, defined as follows: The production of men's and boys' single pants, washable service garments, work shirts, overalls, overall jackets and coveralls from any material; dress and sport shirts from woven fabric or purchased knit fabric; and collars and sleeping wear from woven fabric.

(c) Sportswear and other odd outerwear, defined as follows: The manufacture of men's, women's and children's sportswear and other odd outerwear, including windbreakers, lumberjackets, mackinaws and mackinaw coats, melton jackets, blanket-lined and similar coats, leatherette coats and jackets, hunting coats and vests, riding clothing, ski-suits and snow-suits (except children's ski-suits and snow-suits), and similar garments from any woven materials or from purchased knitted materials.

(d) Rainwear, defined as follows: The manufacture of waterproofed garments and raincoats from oiled cloth or other materials, whether vulcanized, rubberized, cravenetted, or otherwise processed.

(e) Robes, defined as follows: The manufacture of robes from any woven material or from purchased knitted materials, including, without limitation, men's, women's and children's bath, lounging and beach robes and dressing gowns.

(f) Leather and sheep-lined clothing, defined as follows: The manufacture of leather, leather-trimmed and sheep-lined garments for men, women or children.

§ 522.22 Number or proportion of learners.

(a) The number of learners which any employer may be authorized to employ by any special certificate issued to meet normal labor turnover needs shall not exceed on any one workday ten percent of the total number of factory production workers in the plant: *Provided,* That, in plants employing less than 100 workers, a maximum of ten learners may be authorized.

(b) Special certificates may be issued to new or expanding plants authorizing the employment of learners in authorized occupations to the extent of need.

§ 522.23 Learner occupations and learning periods.

(a) In the occupations of sewing machine operating, final pressing, handsewing, and finishing operations involving hand-sewing, learners may be employed under a certificate at special minimum wage rates as provided in § 522.24 for a period not to exceed 320 hours. In the occupation of pressing

(other than final pressing), a learner may be employed at such rates for a period not to exceed 160 hours.

(b) In the occupations of final inspection of assembled garments and of other machine operating (except the "cutting room" operations of knife or diecutting, spreading, and marking, wherever performed in the plant), a learner may be employed under a certificate at special minimum wage rates as provided in § 522.24 for a period not to exceed 160 hours: *Provided, however,* That these occupations shall be authorized under a certificate only in exceptional circumstances upon a showing by an individual employer making application for a special certificate that the occupation(s) as performed in the plant do in fact require substantial skill, training and judgment, and that opportunities for employment will in fact be curtailed in the absence of a certificate specifically authorizing the employment of learners at special minimum wage rates in these occupations.

(c) No worker shall be employed as a learner at special minimum rates in more than two of the learner occupations authorized by this section.

(d) If, within the previous three years, a worker has been employed in any division of the apparel industry, or in the manufacturing of men's and boys' underwear from any woven fabric in establishments in the knitted wear industry, in an authorized learner occupation for less than the maximum period authorized for that occupation, the number of hours of previous employment shall be deducted from the learning period applicable to that occupation.

§ 522.24 Special minimum wage rates.

(a) A learner employed in occupations for which a 320-hour period is authorized under § 522.23(a) shall be paid not less than $1.00 per hour during that period.

(b) An experienced worker in any one of the occupations shown in § 522.23(a) for which a 320-hour learning period is authorized, who is being retrained under the terms of a learner certificate in any other occupation shown in that paragraph having such a 320-hour maximum period, shall be paid not less than $1.00 an hour for the first 160 hours and not less than $1.05 for the remaining 160 hours.

(c) A learner employed in the occupation of final inspection of assembled garments under § 522.23(b) shall be paid during the authorized 160-hour learning period, not less than $1.05 per hour.

(d) A learner employed in any occupation, other than final inspection of assembled garments, for which a 160-hour learning period is authorized in § 522.23 (a) or (b) shall be paid not less than $1.00 an hour during such period.

(e) The earnings of learners employed in occupations in which experienced workers are compensated on a piece-rate basis shall be based on those piece rates when they yield more than the authorized special minimum wage rates, in accordance with § 522.6(j).

(f) No experienced worker shall be employed under the terms of a learner certificate, except as provided in paragraph (b) of this section and in paragraph (c) of § 522.23.

§ 522.25 General denial and restriction policies.

(a) All applications for special certificates authorizing the employment of learners at special minimum wage rates in the manufacture of products in the following divisions shall be denied:

(1) The rainwear division of the apparel industry as defined in § 522.21(d);

(2) The leather and sheep-lined clothing division of the apparel industry as defined in § 522.21(f).

(b) Applications for special certificates authorizing the employment of learners at special minimum wage rates shall also be denied:

(1) In the women's apparel division of the apparel industry as defined in § 522.21(a) for the manufacture of women's, misses', and juniors' dresses selling at or above $6.75 per dress or $81.00 per dozen wholesale, before any discount, and for the manufacture of women's, misses', and juniors' blouses selling at or above $3.00 per blouse or $36.00 per dozen wholesale, before any discount;

(2) For the manufacture of the products of the robes division of the apparel industry as defined in § 522.21(e) unless the individual applicant provides substantial and preponderant evidence that opportunities for employment will in fact be curtailed in the absence of a certificate authorizing the employment of learners at special minimum wage rates.

(Sec. 14, 52 Stat. 1068, as amended; 29 U.S.C. 214)

Signed at Washington, D.C., this 8th day of February 1963.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 63-1623; Filed, Feb. 13, 1963; 8:48 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2932]

[Nevada 013136, 041789]

NEVADA

Partly Revoking Public Land Order No. 1632 of May 7, 1958, and Extending the Jurisdiction and Use Otherwise Granted by That Order

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

1. Public Land Order No. 1632 of May 7, 1958, so far as it withdrew about 272,000 acres of public land in Nevada for use of the Department of the Navy as the Black Rock Desert Gunnery Range, is hereby revoked. The lands released from withdrawal by this revocation are located in Pershing and Humboldt Counties and are unsurveyed. If surveyed, they would probably be described as follows:

MOUNT DIABLO MERIDIAN

T. 34 N., R. 25 E. (unsurveyed),
Secs. 1 to 23, incl.;
Secs. 27 to 32, incl.
T. 35 N., R. 25 E. (unsurveyed).
T. 34 N., R. 26 E. (unsurveyed),
Secs. 4 to 8, incl.
T. 35 N., R. 26 E. (unsurveyed).
T. 35 N., R. 27 E. (unsurveyed),
Secs. 1 to 24, incl.;
Secs. 29 and 30.
T. 36 N., R. 27 E. (unsurveyed).
T. 37 N., R. 27 E (unsurveyed),
Secs. 1 to 3, incl.;
Secs. 10 to 15, incl.;
Secs. 22 to 27, incl.;
Secs. 34 to 36, incl.
T. 38 N., R 27 E. (unsurveyed),
Secs. 1 to 3, incl.;
Secs. 10 to 15, incl.;
Secs. 22 to 27, incl.;
Secs. 34 to 36, incl.
T. 35 N., R. 28 E. (unsurveyed),
Secs. 4 to 9, incl.
T. 35½ N., R. 28 E. (unsurveyed),
Secs. 28 to 33, incl.
Tps. 26, 27, 38 and 39 N., R. 28 E. (unsurveyed).
T. 40 N., R. 28 E. (unsurveyed),
Secs. 1 and 2;
Secs. 3 and 10, E½;
Secs. 11 to 14, incl.;
Secs. 15 and 22, E½;
Secs. 23 to 26, incl.;
Secs. 27 and 34, E½;
Secs. 35 and 36.
Tps. 39 and 40 N., R. 29 E. (unsurveyed).
T. 41 N., R. 29 E. (unsurveyed),
Secs. 29 to 32, incl.

2. The jurisdiction and use granted to the Department of the Navy by Public Land Order No. 1632, over and for the 519,106 acres in Pershing County, Nevada, known as the Sahwave Mountain Gunnery Range, is hereby extended from and after May 7, 1963 to and including May 6, 1968, subject to the terms and conditions contained in Public Land Order No. 1632.

3. This order shall not otherwise be effective to change the status of the lands described in paragraph 1, hereof, until 10:00 a.m. on March 16, 1963. At that time the lands shall be open to such forms of disposition as may by law be made of unsurveyed lands, including locations under the United States mining laws. All applications presented prior to 10:00 a.m. on March 16, 1963, shall be considered as simultaneously filed at that time. Those recorded on and after that time shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Reno, Nevada.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

FEBRUARY 8, 1963.

[F.R. Doc. 63-1615; Filed, Feb. 13, 1963; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 120—ANNUAL, SPECIAL OR PERIODICAL REPORTS

Railroad Lessor Company Annual Report Form E

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 1st day of February A.D. 1963.

The matter of annual reports from lessors to railroad companies being under further consideration, and the changes to be effectuated by this order being minor changes in the data to be furnished, rule-making procedures under section 4 of the Administrative Procedure Act, 5 U.S.C. 1003, beig deemed unnecessary:

It is ordered, That the order of January 2, 1959, in the matter of Railroad Lessor Company Annual Report Form E, be, and it is hereby, modified and amended with respect to annual reports for the year ended December 31, 1962, and subsequent years, to read as shown below.

It is further ordered, That 49 CFR 120.14, be, and it is hereby, modified and amended to read as follows:

§ 120.14 Form prescribed for lessors to railroads.

Commencing with the year ended December 31, 1962, and for subsequent years thereafter, until further order, all lessors to railroad companies subject to the provisions of section 20, Part I, of the Interstate Commerce Act, are required to file annual reports in accordance with Annual Report Form E, Railroad Lessor Companies, which is attached hereto and made a part of this section.[1] Such annual reports 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 year to which it relates.

And it is further ordered, That copies of this order and of Annual Report Form E shall be served on all lessors to railroad companies subject to the provisions of section 20, part I, of the Interstate Commerce Act, and that notice of this order shall be given to the general public by depositing a copy 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.

(Sec. 12, 24 Stat. 383, as amended, sec. 201, 54 Stat. 933; 49 U.S.C. 12, 904. Interpret or apply sec. 20, 24 Stat. 386, as amended, 54 Stat. 944; 49 U.S.C. 20, 913)

By the Commission, Division 2.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 63-1632; Filed, Feb. 13, 1963; 8:49 a.m.]

[1] Filed as part of the original document.

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Wildlife Refuges in Tennessee, North Carolina, and Arkansas

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

TENNESSEE

REELFOOT NATIONAL WILDLIFE REFUGE

Sport fishing on the Reelfoot National Wildlife Refuge, Tennessee, is permitted only on the areas designated by signs as open to fishing. This open area, comprising 9,092 acres or 92 percent of the total area of the refuge, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta 23, Georgia. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Largemouth bass, crappie, bluegill, and minor species as permitted by State regulations.

(b) Open season: January 30, 1963, through October 23, 1963.

(c) Daily creel limits: Largemouth bass—10; no limit on other species.

(d) Methods of fishing:

(1) Tackle: hook and line, live and artificial bait permitted.

(2) Boats: boats with outboard motors and inboard motors of not more than six (6) horsepower may be used.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective to October 24, 1963.

TENNESSEE

LAKE ISOM NATIONAL WILDLIFE REFUGE

Sport fishing on the Lake Isom National Wildlife Refuge, Tennessee, is permitted only on the areas designated by signs as open to fishing. This open area, comprising 750 acres or 41 percent of the total area of the refuge, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta 23, Georgia. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Largemouth bass, crappie, bluegill, and other minor species as permitted by State regulations.

(b) Open season: March 16, 1963, through September 30, 1963. Sunrise to sunset.

(c) Daily creel limits: Largemouth bass—10; no limit on other species.

(d) Methods of fishing:

(1) Tackle: Pole and line, artificial and live baits permitted.

(2) Boats: Rowboats and canoes without motors permitted.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective to October 1, 1963.

NORTH CAROLINA

MATTAMUSKEET NATIONAL WILDLIFE REFUGE

Sport fishing on the Mattamuskeet National Wildlife Refuge, North Carolina, is permitted only on the areas designated by signs as open to fishing. This open area, comprising 40,000 acres or 80 percent of the total area of the refuge, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta 23, Georgia. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Black bass, white perch, pan fish (crappie, yellow perch, pickerel, and sunfish), and other minor species permitted by State regulations.

(b) Open season: February 15, 1963, through the day before the opening of the waterfowl hunting season.

(c) Daily creel limits: Black bass—8, white perch—no limit, panfish—25 (in aggregate), other minor species as prescribed by State regulations.

(d) Methods of fishing:

(1) Rod and reel, pole and line, artificial and live bait permitted.

(2) Boats and motors, without size limitations, permitted.

(3) Guide services are available.

(e) Other provisions:

(1) The provisions of this special reguluation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

(2) Certain areas will be posted as closed to motor boats to prevent disturbance in prime spawning zones.

(3) A Federal permit is not required to enter the public fishing area.

(4) The provisions of this special regulation are effective to December 1, 1963.

ARKANSAS

WHITE RIVER NATIONAL WILDLIFE REFUGE

Sport fishing on the White River National Wildlife Refuge, Arkansas, is permitted only on the areas designated by signs as open to fishing. This open area, comprising 2,592 acres or .022 percent of

the total area of the refuge, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta 23, Georgia. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Black bass, bream, crappie, perch, catfish, and pike; and other minor species permitted by State regulations.

(b) Open season: March 16, 1963, through October 31, 1963.

(c) Daily creel limits: Bass—10; crappie—20; catfish—10; pike—6; bream, perch, and sunfish—50.

(d) Methods of fishing:

(1) Pole and line, rod and reel, trot lines, limb lines, artificial and live bait permitted.

(2) Rowboats, canoes, other type boats and motors are permitted to use refuge waters provided owner identification is affixed to the boat. Boat without name plates prohibited.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

(2) Taking of frogs, water skiing, and firearms prohibited.

(3) A Federal permit is not required to enter the public fishing area.

(4) The provisions of this special regulation are effective to November 1, 1963.

WALTER A. GRESH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 63-1619; Filed, Feb. 13, 1963; 8:47 a.m.]

PART 33—SPORT FISHING

McNary National Wildlife Refuge, Washington

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

WASHINGTON

MC NARY NATIONAL WILDLIFE REFUGE

Sport fishing on the McNary National Wildlife Refuge, Washington, is permitted only on the areas designated by signs as open to fishing. This open area, comprising 400 acres or 14 percent of the total area of the refuge, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1002 Northeast Holladay, Portland 8, Oregon.

(a) Species permitted to be taken: Catfish, bullheads, bluegills, crappie, and other minor species permitted under state regulations.

(b) Open season: April 21, 1963, through September 30, 1963, daylight hours only.

(c) Daily creel limits: No catch or size limit on catfish, bullheads, bluegills, and crappie. Creel limits on other minor species as prescribed for state regulations.

(d) Methods of fishing:

1. Tackle: One line or rod in hand only.

2. Bait: The use of live fish for bait is prohibited.

3. Boats: The use of boats, with motors of 7½ h.p. or less, is permitted for the purpose of fishing only in Area "B", as posted. The use of boats or floating devices of any description is prohibited.

(e) Other provisions:

1. The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

2. A Federal permit is not required to enter the public fishing area.

3. The provisions of this special regulation are effective to October 1, 1963.

PAUL T. QUICK,
Regional Director, Bureau of Sport Fisheries and Wildlife.

FEBRUARY 4, 1963.

[F.R. Doc. 63-1620; Filed, Feb. 13, 1963; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 115]

REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

Permits for Rights-of-Way for Logging Roads

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Act of January 21, 1895 (28 Stat. 635) it is proposed to amend paragraphs (a) and (b) of 43 CFR 115.171 as set forth below. The purpose of this amendment is to provide a change in the basic fee requirement when road use fees are also required to be paid, and to allow for recognition of other uses in determining the road use fees to be paid for logging use.

It is the policy of the Department of the Interior whenever practicable to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Bureau of Land Management, Washington 25, D.C., within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

1. Paragraphs (a) and (b) of section 115.171 are amended to read as follows:

§ 115.171 Payment to the United States for road use.

(a) A permittee shall pay a basic fee of five dollars per year per mile or fraction thereof for the use of any existing road or of any road constructed by the permittee upon the right-of-way. If the term of the permit is for five years or less, the entire basic fee must be paid in advance of the issuance of the permit. If the term of the permit is longer than five years, the basic fee for each five-year period or for the remainder of the last period, if less than five years, must be paid in advance at five-year intervals: *Provided, however,* That in those cases where the permittee has executed under § 115.162 an agreement respecting the use of roads, rights-of-way or lands, no such basic fee shall be paid: *Provided further,* This paragraph shall not apply where payment for road use is required under paragraph (b) of this section.

(b) Where the permittee receives a right to use a road constructed or acquired by the United States, which road is under the administrative jurisdiction of the Bureau of Land Management, the permittee will be required to pay to the United States a fee to be determined by the authorized officer who may also fix the rate at which payments shall be made by the permittee during his use of the road. The authorized officer shall base his determination upon the amortization of the replacement costs for a road of the type involved, together with a reasonable interest allowance on such costs plus costs of maintenance if furnished by the United States and any extraordinary costs peculiar to the construction or acquisition of the particular road. Where such road is subject to recreational and other authorized uses, an allowance, representing a reasonable allocation for such uses, shall be deducted from the replacement costs of the road before the amortization item is computed. In arriving at the amortization item, the authorized officer shall take into account the probable period of time, past and present, during which such road may be in existence, and the volume of timber which has been moved, and the volume of timber currently merchantable which probably will be moved from all sources over such road: *Provided, however,* That this paragraph shall not apply where the permittee transports forest products purchased from the United States through the Bureau of Land Management, or where payment for such road use to another permittee is required under §§ 115.154 to 115.179: *Provided further,* That where the United States is entitled to charge a fee for the use of a road, the authorized officer may waive such fee if the permittee grants to the United States and its licensees the right to use, without charge, permittee's roads of approximately equal value as determined under the methods provided in this paragraph and paragraph (b) of § 115.166, as may be applicable.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

FEBRUARY 8, 1963.

[F.R. Doc. 63-1618; Filed, Feb. 13, 1963; 8:47 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 71 [New]]

[Airspace Docket No. 62-CE-71]

CONTROLLED AIRSPACE

Proposed Designation of Control Zone and Transition Area

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.65), notice is hereby given that the Federal Aviation Agency is considering amendments to §§ 71.171 and 71.181 of the Federal Aviation Regulations, the substance of which is stated below.

The Federal Aviation Agency has under consideration the designation of a control zone and a transition area at Brainerd, Minn. The proposed control zone would be designated from 0700 to 2000 hours local time, daily, within a 5-mile radius of the Crow Wing County Airport, Brainerd, Minn. (latitude 46°-23'25" N., longitude 94°08'20" W.) and within 2 miles either side of the 297° True radial of a VOR which became operational on February 3, 1963, in the vicinity of Brainerd, Minn., at latitude 46°20'55" N., longitude 94°01'35" W. extending from the 5-mile radius zone to the VOR. This control zone would provide protection for aircraft executing prescribed Crow Wing County Airport instrument arrival and departure procedures. The time of designation would coincide with the hours of operation of the aviation weather reporting service to be provided by North Central Airlines.

The proposed transition area would be designated to extend upward from 700 feet above the surface within a 7-mile radius of the Crow Wing County Airport, Brainerd, Minn. (latitude 46°23'25" N., longitude 94°08'20" W.), and upward from 1,200 feet above the surface within 5 miles southwest and 8 miles northeast of the Brainerd VOR 117° and 297° True radials extending from 5 miles northwest to 13 miles southeast of the VOR.

The portion of the proposed transition area with a floor of 700 feet above the surface would provide protection for aircraft executing prescribed Crow Wing County Airport instrument arrival and departure procedures during the period of time the Brainerd control zone would not be effective. The portion extending upward from 1,200 feet above the surface would provide protection for aircraft executing the VOR holding pattern procedure to be prescribed at the Crow Wing County Airport.

Communications within the proposed transition area and control zone would be provided by remoted receiver and voice facilities controlled by the FAA's Hibbing, Minn., Flight Service Station.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Central Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A–103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on February 7, 1963.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 63–1593; Filed, Feb. 13, 1963; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 14185]

RADIO BROADCAST SERVICES

Proposed Allocation and Technical Standards; Extension of Time for Filing Comments

In the matter of revision of FM broadcast rules, particularly as to allocation and technical standards, Docket No. 14185; petition of FM Unlimited, Inc., for changes in FM station assignment rules, RM–94.

1. By petitions filed February 6, 1963, Ralph D. Epperson and The Valley Broadcasting Company, both AM licensees desirous of finding FM channels for use in their communities, have requested extensions of time in which to file comments and reply comments herein (Epperson's request is for an extension of approximately 30 days; Valley requests two weeks). Both petitions refer to the absence of any assignments for their communities in our proposed Table of FM assignments, and to the need for extensive engineering studies to determine whether such channels can be provided, and if so on what basis.

2. In view of the importance and complexity of the issues involved in this proceeding, and other matters such as the necessity for further negotiations with Canada, it appears that good cause exists for an extension of time of approximately 30 days.

3. In view of the foregoing: *It is ordered*, This 7th day of February 1963, that the "Petition for Extension of Time", etc., and "Request for Extension of Time", etc., filed February 6, 1963, by Ralph D. Epperson and The Valley Broadcasting Company, respectively, are granted; and the time for filing comments and reply comments in this proceeding is extended to and including March 18 and April 17, 1963, respectively.

4. Authority for the action taken herein is contained in sections 4(i) and 303 (r) of the Communications Act of 1934, as amended, and § 0.241(d)(8) of the Commission's rules.

Released: February 11, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63–1641; Filed, Feb. 13, 1963; 8:50 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

BRENTON COMPANIES, INC. AND FIRST NATIONAL BANK OF DAVENPORT

Application of Bank Holding Company To Acquire Bank Stock; Notice of Report of Views and Recommendations

On January 4, 1963, the Board of Governors of the Federal Reserve System, pursuant to 12 U.S.C. 1842(b), requested the views and recommendations of the Comptroller of the Currency on the application of Brenton Companies, Inc., Des Moines, Iowa, a bank holding company, to acquire 60 percent or more of the voting shares of the First National Bank of Davenport, Davenport, Iowa, a proposed new bank.

On February 1, 1963, the Comptroller of the Currency reported that since Iowa law precludes bank expansion through branching and the State's growing economy demands more adequate financial resources, competition will be encouraged by the acquisition. He recommended that the acquisition be approved.

Copies of this report are available on request to the Comptroller of the Currency, Washington 25, D.C.

Dated: February 11, 1963.

[SEAL] A. J. FAULSTICH,
Administrative Assistant to the Comptroller of the Currency.

[F.R. Doc. 63-1638; Filed, Feb. 13, 1963; 8:50 a.m.]

DENVER U.S. BANCORPORATION, INC., ET AL.

Application of Bank Holding Company To Acquire Bank Stock; Notice of Report of Views and Recommendations

On November 21, 1962, The Board of Governors of the Federal Reserve System, pursuant to 12 U.S.C. 1842(b), requested the views and recommendations of the Comptroller of the Currency on the proposal of Denver U.S. Bancorporation, Inc., to become a bank holding company through the acquisition of a minimum of 67 percent of the voting shares of Denver United States National Bank, Denver, Colorado, and of Arapahoe County Bank, Littleton, Colorado, and a minimum of 75 percent of the voting shares of the Bank of Aurora, Aurora, Colorado.

On January 30, 1963, the Comptroller of the Currency reported that since the Colorado law prohibits branch banking and the population and commercial growth of the Denver area demands more adequate financial resources, approval of the acquisition would contribute both to competition and the economic growth of Colorado.

Copies of this report are available on request to the Comptroller of the Currency, Washington 25, D.C.

Dated: February 11, 1963.

[SEAL] A. J. FAULSTICH,
Administrative Assistant to the Comptroller of the Currency.

[F.R. Doc. 63-1639; Filed, Feb. 13, 1963; 8:50 a.m.]

FIRST COLORADO BANKSHARES, INC. AND SECURITY NATIONAL BANK

Application of Bank Holding Company To Acquire Bank Stock; Notice of Report of Views and Recommendations

On December 7, 1962, the Board of Governors of the Federal Reserve System, pursuant to 12 U.S.C. 1842(b), requested the views and recommendations of the Comptroller of the Currency on the application of First Colorado Bankshares, Inc., a bank holding company, for prior approval of the acquisition of not less than 67 percent of the voting shares of Security National Bank, Denver, Colorado, a proposed new bank.

On February 4, 1963, the Comptroller of the Currency reported that since the Colorado law prohibits branch banking and the population and commercial growth of the area demands more adequate financial resources, competition will be encouraged by the acquisition. He recommended that the acquisition be approved.

Copies of this report are available on request to the Comptroller of the Currency, Washington 25, D.C.

Dated: February 11, 1963.

[SEAL] A. J. FAULSTICH,
Administrative Assistant to the Comptroller of the Currency.

[F.R. Doc. 63-1640; Filed, Feb. 13, 1963; 8:50 a.m.]

FIRST NATIONAL BANK OF DOLGEVILLE AND ONEIDA NATIONAL BANK AND TRUST COMPANY OF CENTRAL NEW YORK

Notice of Decision Granting Application To Merge

On December 6, 1962, The Oneida National Bank and Trust Company of Central New York, Utica, New York, and the $6.5 million First National Bank of Dolgeville, Dolgeville, New York, applied to the Comptroller of the Currency for permission to merge under the charter and title of the former.

On January 23, 1963, the Comptroller of the Currency granted this application, effective on or after January 30, 1963.

Copies of this decision are available on request to the Comptroller of the Currency, Washington 25, D.C.

Dated: February 11, 1963.

[SEAL] A. J. FAULSTICH,
Administrative Assistant to the Comptroller of the Currency.

[F.R. Doc. 63-1635; Filed, Feb. 13, 1963; 8:49 a.m.]

FIRST NATIONAL EXCHANGE BANK OF VIRGINIA AND DOMINION NATIONAL BANK OF BRISTOL

Notice of Decision Granting Application To Merge

On December 28, 1962, The First National Exchange Bank of Virginia, Roanoke, Virginia, and the $23 million Dominion National Bank of Bristol, Bristol, Virginia, applied to the Comptroller of the Currency for permission to merge under the charter and title of the former.

On February 6, 1963, the Comptroller of the Currency granted this application, effective on or after February 13, 1963.

Copies of this decision are available on request to the Comptroller of the Currency, Washington 25, D.C.

Dated: February 11, 1963.

[SEAL] A. J. FAULSTICH,
Administrative Assistant to the Comptroller of the Currency.

[F.R. Doc. 63-1636; Filed, Feb. 13, 1963; 8:50 a.m.]

UNITED STATES NATIONAL BANK OF SAN DIEGO AND FIRST NATIONAL BANK OF LA VERNE

Notice of Decision Granting Application To Merge

On November 20, 1962, the $194 million United States National Bank of San Diego, San Diego, California, and the $7.9 million First National Bank of La Verne, La Verne, California, applied to the Comptroller of the Currency for permission to merge under the charter and with the title of the former.

On February 1, 1963, the Comptroller of the Currency granted this application, effective on or after February 8, 1963.

Copies of this decision are available on request to the Comptroller of the Currency, Washington 25, D.C.

Dated: February 11, 1963.

[SEAL] A. J. FAULSTICH,
Administrative Assistant to the Comptroller of the Currency.

[F.R. Doc. 63-1637; Filed, Feb. 13, 1963; 8:50 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Bureau Order 551, Amdt. 80]

FUNCTIONS RELATING TO LAW AND ORDER

Redelegation of Authority

JANUARY 30, 1963.

Section 150 (16 F.R. 5456) of Order 551 is amended to read as follows:

SEC. 150. *Appointment, Approval, and Removal, Judges, Indian Courts and Tribal Courts.* The appointment, suspension and removal for cause of judges of Courts of Indian Offenses, pursuant to the provisions of 25 CFR Part 11, and of judges of Tribal Courts as provided by any law and order code. The approval of the appointment of judges of Tribal Courts as provided by any law and order code.

JOHN O. CROW,
Acting Commissioner.

[F.R. Doc. 63-1614; Filed, Feb. 13, 1963; 8:47 a.m.]

Bureau of Land Management

[Notice No. 34]

ALASKA

Notice of Filing of Alaska Protraction Diagram, Anchorage Land District

FEBRUARY 6, 1963.

Notice is hereby given that effective with this publication, the following revised protraction diagrams are officially filed of record in the Anchorage Land Office, 555 Cordova Street, Anchorage, Alaska. In accordance with 43 CFR 192.42a(c), (24 F.R. 4140, May 22, 1959), these protractions will become the basic record for the description of oil and gas lease offers, State selection applications under 43 CFR 76.9(a)(4), (24 F.R. 4657), and other authorized uses filed at and subsequent to 10:00 a.m., on the thirty-first day after the publication of this notice.

These revised protraction sheets supercede the original approved protraction sheets of the same number.

ALASKA PROTRACTION DIAGRAM (UNSURVEYED)

Approved January 25, 1963

SEWARD MERIDIAN

S 12-9, Tps. 5 to 8 N., Rs. 17 to 20 W.
S 12-16, Tps. 1 to 4 N., Rs. 17 to 20 W.
S 13-2, Tps. 13 to 16 N., Rs. 5 to 8 W.
S 13-3, Tps. 13 to 16 N., Rs. 9 to 12 W.
S 13-5, Tps. 9 to 12 N., Rs. 13 to 16 W.
S 13-6, Tps. 11 to 12 N., Rs. 10 to 12 W.
S 13-12, Tps. 6 to 8 N., Rs. 14 to 16 W.
S 13-13, Tps. 3 to 5 N., Rs. 15 to 16 W.

Copies of these diagrams are for sale at one dollar ($1.00) per sheet by the Cadastral Engineering Office, Bureau of Land Management, mailing Address: 555 Cordova Street, Anchorage, Alaska.

WARNER T. MAY,
Manager.

[F.R. Doc. 63-1622; Filed, Feb. 13, 1963; 8:47 a.m.]

[Group 336]

ARIZONA

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

FEBRUARY 8, 1963.

1. Plats of survey of the lands described below will be officially filed in the Land Office, Phoenix, Arizona effective at 10 a.m., on March 18, 1963:

GILA AND SALT RIVER MERIDIAN

T. 38 N., R. 15 W.,
Sec. 1: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 3: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 4: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 5: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 6: Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼, SE¼NW¼, E½SW¼;
Sec. 7: Lots 1, 2, 3, 4, E½W½, E½;
Sec. 8;
Sec. 9;
Sec. 10: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 11;
Sec. 12;
Sec. 13;
Sec. 14;
Sec. 15;
Sec. 17;
Sec. 18: Lots 1, 2, 3, 4, E½W½, E½;
Sec. 19: Lots 1, 2, 3, 4, E½W½, E½;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 23;
Sec. 24;
Sec. 25;
Sec. 26;
Sec. 27;
Sec. 28;
Sec. 29;
Sec. 30: Lots 1, 2, 3, 4, E½W½, E½;
Sec. 31: Lots 1, 2, 3, 4, E½W½, E½;
Sec. 32;
Sec. 33;
Sec. 34;
Sec. 35;
Sec. 36.

T. 39 N., R. 15 W.,
Sec. 1: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 2: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 3: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 4: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 5: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 6: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, SE¼NW¼, E½SW¼, S½NE¼, SE¼;
Sec. 7: Lots 1, 2, 3, 4, 5, 6, 7, 8, E½W½, E½;
Sec. 8;
Sec. 9;
Sec. 10;
Sec. 11;
Sec. 12;
Sec. 13;
Sec. 14;
Sec. 15;
Sec. 16;
Sec. 17;
Sec. 18: Lots 1, 2, 3, 4, 5, 6, 7, 8, E½W½, E½;
Sec. 19: Lots 1, 2, 3, 4, 5, 6, 7, 8, E½W½, E½;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 23;
Sec. 24;
Sec. 25;
Sec. 26;
Sec. 27;
Sec. 28;
Sec. 29;
Sec. 30: Lots 1, 2, 3, 4, 5, 6, 7, 8, E½W½, E½;
Sec. 31: Lots 1, 2, 3, 4, 5, 6, 7, 8, E½W½, E½;
Sec. 32;
Sec. 33;
Sec. 34;
Sec. 35;
Sec. 36.

The areas described aggregate 45,468.67 acres of public lands.

2. The lands in T. 38 N., R. 15 W. consist mostly of canyon and mesa type topography, with some mountainous land in the northwest portion. The soils are for the most part shallow, gravelly and sandy clay. The topography of the lands in T. 39 N., R. 15 W. is mountainous, with narrow ridges, spurs and precipitous slopes. The soils are mostly shallow, gravelly and sandy clay.

3. The above-described lands are open to application, location, selection and petition as outlined in paragraph 4 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 the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

4. Subject to any existing valid rights and the requirements of applicable law, the lands described in paragraph 1 hereof, are hereby opened to filing of applications, selections and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, 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 and selections under the nonmineral public land laws presented prior to 10 a.m. on March 18, 1963, will be considered as simultaneously filed at that hour. Rights under such applications and selections and offers filed after that hour will be governed by the time of filing.

5. 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 pur-

suant to this notice can be found in Title 43 of the Code of Federal Regulations.

ROY T. HELMANDOLLAR,
Manager.

[F.R. Doc. 63-1617; Filed, Feb. 13, 1963; 8:47 a.m.]

IDAHO

Notice of Offer of Lands

FEBRUARY 8, 1963.

1. Pursuant to the provisions of the Act of May 31, 1962 (76 Stat. 89), the following lands, found upon survey to be omitted public lands of the United States, will be offered for sale.

BOISE MERIDIAN, IDAHO

T. 2 S., R. 35 E.,
Sec. 12: Lots 8, 11;
Sec. 13: Lots 7, 8, 10;
Sec. 14: Lot 6;
Sec. 23: Lots 7, 9, 10, 12, 13, 14, 16, 17, 18;
Sec. 24: Lots 4, 5, NW¼NW¼;
Sec. 27: Lots 8, 9, 10, 11, 12, 13, 14, 16;
Sec. 28: Lots 4, 5, 6;
Sec. 33: Lots 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 NE¼NE¼;
Sec. 34: Lots 4, 5, 6, 7, 8, 9, 10, NE¼NW¼.

The areas described aggregate 1,397.63 acres.

2. A plat of survey has been filed (see 26 F.R. 6998) in the Land Office, Boise, Idaho, at 10:00 a.m. on July 25, 1961.

3. Persons claiming a preference right in accordance with the provisions of the Act, must file with the Manager, Land Office, P.O. Box 2237, Boise, Idaho, before March 26, 1963, a notice of their intention to apply to purchase all or part of the lands as qualified preference-right claimants.

4. The Act grants a preference right to purchase the above lands to any citizens of the United States (including corporation, partnership, firm, or other legal entity having authority to hold title to lands in the State of Idaho) who, in good faith, under color of title or claiming as a riparian owner has, prior to March 30, 1961, placed valuable improvements upon, reduced to cultivation, or occupied any of the lands so offered for sale, or whose ancestors or predecessors in interest have taken such action.

5. The lands are determined to be suitable for sale and will be sold at their fair market value subject to:

(A) Qualified preference-right claims.

(B) A reservation to the United States of all the coal, oil, gas, shale, phosphate, potash, sodium, native asphalt, solid and semisolid bitumen and bitumen rock, including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried.

(C) A reservation of a right of access to the public through the lands and such other reservations as may be deemed appropriate and consonant with the public interest in preserving public recreational values in the lands.

MICHAEL T. SOLAN,
Land Office Manager.

[F.R. Doc. 63-1634; Filed, Feb. 13, 1963; 8:49 a.m.]

[Oregon 013117 (23.1) r]

OREGON

Notice of Proposed Withdrawal and Reservation of Lands

FEBRUARY 1, 1963.

The United States Army Corps of Engineers has filed an application, Serial No. Oregon 013117, for the withdrawal of the lands described below, subject to valid existing rights, from all forms of appropriation under the public land laws, including grazing, mineral leasing, and mining laws. Timber management and disposal of the O&C lands will remain under the jurisdiction of the Bureau of Land Management.

The applicant desires the land for reservoir use and relocation of the Fall Creek County road.

For a period of 30 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.

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, OREGON

T. 19 S., R. 1 E.,
Sec. 6: Lot 5.
T. 18 S., R. 1 E.,
Sec. 31: S½NE¼SW¼, SE¼NW¼SW¼, S½N½SE¼, S½N½NW¼SE¼.

The area totals 81.2 acres.

STANLEY D. LESTER,
Land Office Manager.

[F.R. Doc. 63-1616; Filed, Feb. 13, 1963; 8:47 a.m.]

[W-0183810]

WYOMING

Notice of Termination of Proposed Withdrawal and Reservation of Lands

FEBRUARY 7, 1963.

Notice of an application, serial number Wyoming 0183810, for withdrawal of lands from location under the mining laws for nonmetalliferous materials was published as Federal Register Document No. 62-7080 on page 6904 of the issue for July 20, 1962. The Act of September 28, 1962, Public Law 87-713, excludes lands with deposits of petrified wood from appropriation under the United States mining laws. Therefore, the proposed withdrawal is not necessary and the application has been canceled.

The lands involved in this termination are:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 51 N., R. 80 W.,
Sec. 31: SE¼NW¼, S½NE¼NW¼, S½NW¼NE¼, N½SW¼NE¼.

Containing 100 acres.

ED PIERSON,
State Director.

[F.R. Doc. 63-1621; Filed, Feb. 13, 1963; 8:47 a.m.]

Geological Survey

[Order Utah No. 107]

UTAH

Coal Land Classification

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SALT LAKE MERIDIAN, UTAH

Noncoal Lands

T. 37 S., R. 5 E., entire township.
T. 37 S., R. 6 E., entire township.
T. 38 S., R. 6 E., entire township.
T. 38 S., R. 7 E., entire township.

The area described aggregates 90,100 acres, more or less.

Dated: February 5, 1963.

THOMAS B. NOLAN,
Director.

[F.R. Doc. 63-1613; Filed, Feb. 13, 1963; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Amdt. 5]

NOTICE OF TERMS AND CONDITIONS FOR MAKING PAYMENTS UNDER SECTION 32 TOBACCO EXPORT PAYMENT PROGRAM, CMX 40a

Section 4 of terms and conditions published March 10, 1962 (27 F.R. 2329), as amended on March 22, 1962 (27 F.R. 2707), is further amended to add provisions specifying the rate of payment for flue-cured tobacco purchased on the basis of a revised selling list effective February 11, 1963. Accordingly, paragraph 4 is amended by designating the present paragraph as subparagraph (a) and by adding the following subparagraph (b):

(b) The rate of payment for eligible flue-cured tobacco purchased on the basis of a revised selling list effective as of February 11, 1963, will be 20 percent of the revised base prices, exclusive of any carrying charges, for the year and grade of tobacco exported.

STEPHEN E. WRATHER,
Director, Tobacco Division, Agricultural Marketing Service.

FEBRUARY 11, 1963.

[F.R. Doc. 63-1647; Filed, Feb. 13, 1963; 8:51 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-163]

GENERAL DYNAMICS CORP.

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued, effective as of the date of issuance, Amendment No. 5, set forth below, to Facility License No. R-67, as amended. The license authorizes General Dynamics Corporation to operate its TRIGA Mark F nuclear reactor located at Torrey Pines Mesa, California. The amendment authorizes General Dynamics Corporation to irradiate nuclear fuel samples while operating the reactor in a transient mode, as described in the licensee's application for license amendment dated January 10, 1963.

The Commission has found that:

(1) Operation of the reactor in accordance with the license as amended will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security;

(2) The application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

(3) Prior public notice of proposed issuance of this amendment is not necessary in the public interest since operation of the reactor in accordance with the license, as amended, will not present any substantial change in the hazards to the health and safety of the public from those considered and evaluated in connection with the previously approved operation.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's regulation (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) a related hazards analysis prepared by the Test and Power Reactor Safety Branch of the Division of Licensing and Regulation and (2) the licensee's application for license amendment dated January 10, 1963, both of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (1) above may be obtained at the Commission's Public Document Room, or upon request, addressed to the Atomic Energy Commission, Washington, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Maryland, this 6th day of February 1963.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor Safety Branch, Division of Licensing and Regulation.

[License No. R-67; Amdt. 5]

License No. R-67, as amended, issued to General Dynamics Corporation, is hereby amended in the following respects:

In addition to the activities previously authorized by the Commission in License No. R-67, as amended, General Dynamics Corporation is authorized to irradiate nuclear fuel samples while operating the reactor in a transient mode, in the Corporation's TRIGA Mark F reactor located at Torrey Pines Mesa, California, as described in its application for license amendment dated January 10, 1963.

This amendment is effective as of the date of issuance.

Date of issuance: February 6, 1963.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 63-1588; Filed, Feb. 13, 1963; 8:45 a.m.]

[Docket No. 50-202]

UNIVERSITY OF NEVADA

Notice of Issuance of Construction Permit

Please take notice that no request for a formal hearing having been filed following publication of notice of the proposed action in the FEDERAL REGISTER, the Atomic Energy Commission has issued Construction Permit No. CPRR-74 to University of Nevada, authorizing construction of an Atomics International Model L-77 solution-type reactor on the University's campus at Reno, Nevada.

The permit, as issued, is substantially as set forth in the notice of proposed issuance of construction permit published in the FEDERAL REGISTER January 19, 1963, 28 F.R. 532.

Dated at Germantown, Maryland, this 5th day of February 1963.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 63-1589; Filed, Feb. 13, 1963; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 14764-14766; FCC 63M-185]

JESUS VARGAS CANDELARIA ET AL.

Order Continuing Hearing

In re applications of Jesus Vargus Candelaria, Bayamon, Puerto Rico, Docket No. 14764, File No. BP-14334; International Broadcasting Corporation, Carolina, Puerto Rico, Docket No. 14765, File No. BP-15161; Mauricio Alvarez-Martin, Carolina, Puerto Rico, Docket No. 14766, File No. BP-15164; for construction permits.

The Examiner having under consideration a motion for continuance of hearing, and the informal agreement of all the parties assenting thereto;

It is ordered, This 8th day of February 1963, that said motion is granted, and the hearing herein scheduled for February 13, 1963, is postponed to February 28, 1963, at the time and place heretofore specified.

Released: February 11, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-1642; Filed, Feb. 13, 1963; 8:50 a.m.]

[Docket Nos. 14957, 14958; FCC 63-117]

CHISAGO COUNTY BROADCASTING CO., AND BRAINERD BROADCASTING CO. (KLIZ)

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Robert W. Koehn tr/as Chisago County Broadcasting Company, Lindstrom, Minnesota, Requests: 1380kc, 500w, Day, Docket No. 14957, File No. BP-14522; Brainerd Broadcasting Company (KLIZ), Brainerd, Minnesota, Has: 1380kc, 1kw, Day, Class III, Requests: 1380kc, 5kw, DA-N, U, Class III-A, Docket No. 14958, File No. BP-15140; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C. on the 6th day of February 1963;

The Commission having under consideration the above-captioned and described applications;

It appearing that, except as indicated by the issues specified below, each of the applicants is legally, technically and otherwise qualified to construct and operate as proposed; that the Chisago County Broadcasting Company is financially qualified, but that, for the reasons hereinafter indicated, it cannot be determined that Brainerd Broadcasting Company is financially qualified; and

It further appearing that the following matters are to be considered in connection with the aforementioned issues specified below:

1. (a) On June 12, 1961, the Greater Minnesota Broadcasting Corporation filed an application for a new standard broadcast facility (on 1340kc) to be located at Brainerd, Minnesota, File No. BP-14925. At that time, Station KLIZ was the sole station licensed in Brainerd. On October 13, 1961 Brainerd Broadcasting Company filed the above-captioned and described application. On May 24, 1962 (one day prior to the cut-off date of the Greater Minnesota appli-

cation), Brainerd filed an amendment which sought to change the above application to 1340kc. The Commission, however, on October 10, 1962, returned the amendment as inconsistent with the "freeze" Order of May 10, 1962, in that the amendment, in essence, constituted a new application.

(b) Subsequently, on November 9, 1962, Brainerd Broadcasting Company filed a "Petition For Reconsideration" directed against the Commission's rejection of the amendment, wherein petitioner states, in pertinent part:

> Petitioner recognizes that this action would place it on a mutually exclusive plane with the then pending application of Greater Minnesota Broadcasting Corporation. However, it believed that the determination of which applicant would best serve the community and area on an unlimited time basis could be better decided by the Commission on a comparative consideration than by subjecting the public to the competitive conflict of two fulltime stations in a market which could only support one. Petitioner, in reaching this decision, also took into account the fact that its chance of success in pursuing its application for a nighttime operation on 1380 might be adversely affected were the Commission, during the pendency of that application, to authorize another fulltime station in Brainerd.

In filing the amendment, an officer of Brainerd Broadcasting Company signed the statement contained in Section I of FCC Form 301, thereby representing, inter alia, that "* * * this application is not filed for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict."

(c) In light of the above, questions are raised as to whether the action taken by Brainerd Broadcasting Company constitutes obstruction of the disposition of another application and misrepresentation to the Commission and whether, therefore, the Brainerd Broadcasting Company, or its officers or directors, have the requisite character qualifications to continue to be a licensee of the Commission.

2. The above proposals involve mutual interference and the population loss caused to Chisago County Broadcasting Company appears to be excessive pursuant to the provisions of § 3.28(d) (3) of the Commission rules.

3. The proposed operation of Chisago County Broadcasting Company would cause objectionable interference to the existing operation of Station KLIZ; and therefore, Brainerd Broadcasting Company will be made a party to this proceeding with respect to its existing operation.

4. The normally protected nighttime interference-free service area of the proposed Class III–A operation of Brainerd Broadcasting Company would be 2.5 mv/m. According to the applicant's data, the nighttime interference-free service area will be limited to the 28.66 mv/m contour, thereby resulting in a loss of 88.6 percent of the area and 49.6 percent of the population within the 2.5 mv/m contour. Although the proposal complies with an exception to § 3.28(d) (3) of the Commission's rules in that it would provide the first local nighttime standard broadcast facility to Brainerd, a question arises as to whether the operation would be inefficient within the meaning of § 3.24(b) of the rules.

5. Brainerd Broadcasting Company proposes to finance its construction through a bank loan. The bank letter on file fails to indicate a definite amount or the terms of repayment as required. In answer to the Commission's inquiry of November 1, 1961, the applicant failed to set forth the terms of the loan and stated that part of the needed capital would be raised by the sale of additional stock to the present stockholders. However, neither subscription agreements nor substantiating balance sheets of prospective stock purchasers have been submitted. Thus, the applicant has failed to demonstrate the requisite financial ability to construct and operate as proposed.

6. It cannot be determined that the proposed antenna system of Brainerd Broadcasting Company would be reasonably free of deleterious effects from nearby structures or natural formations since the aerial site photograph submitted was made at too great an altitude to permit ready examination of the site terrain or identification of manmade structures in the immediate vicinity thereof.

It further appearing that in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below:

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from the proposed operation of Chisago County Broadcasting Company and the availability of other primary service to such areas and populations.

2. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station KLIZ and the availability of other primary service to such areas and populations.

3. To determine the nature and extent of the interference, if any, that each of the proposals would cause to and receive from each other and the interference that each of the proposals would receive from all other existing standard broadcast stations, the areas and populations affected thereby, and the availability of other primary service to the areas and populations affected by interference from either of the proposals.

4. To determine whether interference received from all sources would affect more than ten percent of the population within the normally protected primary service area of the proposed operation of Chisago County Broadcasting Company, in contravention of § 3.28(d) (3) of the Commission rules, and, if so, whether circumstances exist which would warrant a waiver of said section.

5. To determine whether the proposal of Chisago County Broadcasting Company would cause objectionable interference to Station KLIZ, Brainerd, Minnesota, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

6. To determine, because of the interference received, whether the nighttime proposal of Brainerd Broadcasting Company would be consistent with the requirements of § 3.24(b) of the Commission's rules.

7. To determine whether Brainerd Broadcasting Company is financially qualified to construct and operate its proposed station.

8. To determine whether the transmitter site proposed by Brainerd Broadcasting Company is satisfactory with particular regard to any conditions that may exist in the vicinity of the antenna system which would distort the proposed antenna radiation pattern.

9. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

10. To determine whether Brainerd Broadcasting Company tendered an amendment to its instant application on May 24, 1962, for the purpose of impeding, obstructing or delaying the disposition of another application.

11. To determine, if it is concluded pursuant to Issue No. 10 above, that the aforementioned amendment was, in fact, tendered for the purpose of impeding, obstructing or delaying the disposition of another application, whether by signing section I of FCC Form 301, Brainerd Broadcasting Company, through an officer or director, made intentional misrepresentations to the Commission.

12. To determine, in light of the evidence adduced with respect to the foregoing issues, whether Brainerd Broadcasting Company, or any of its officers or directors, possess the requisite character qualifications to be a licensee or permittee of the Commission.

13. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

It is further ordered, That Brainerd Broadcasting Company, licensee of Station KLIZ, Brainerd, Minnesota, is made a party to this proceeding with respect to its existing operation.

It is further ordered, That, in the event of a grant of either of the applications herein, the construction permit shall contain the following condition: Pending a final decision in Docket No. 14419 with respect to presunrise operation with daytime facilities, the present provisions of § 3.87 of the Commission rules are not extended to this authorization, and such operation is precluded.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and party re-

spondent herein, pursuant to section 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, either individually or, if feasible, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(h) of the rules.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: February 11, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-1643; Filed, Feb. 13, 1963; 8:50 a.m.]

[Docket No. 14692; FCC 63M-180]

PINELLAS RADIO CO.

Order Scheduling Hearing

In re application of William D. Mangold, d/b as Pinellas Radio Company, Pinellas Park, Florida, Docket No. 14692, File No. BP-14387; for construction permit.

The Hearing Examiner having under consideration certain agreements reached among the parties at a hearing session on February 6, 1963, which agreements should be formalized by order;

It is ordered, This 7th day of February 1963, that:

(1) The applicant's direct affirmative case on the issue added by the Memorandum Opinion and Order of the Review Board released December 19, 1962, shall be presented in oral form, but the applicant may present any portion thereof in the form of sworn written exhibits;

(2) Any surrebuttal evidence the applicant wishes to adduce with respect to Issues 1 through 6 contained in the order of designation released on July 3, 1962, shall be presented in the form of sworn written exhibits; and,

(3) If the applicant wishes to utilize exhibits pursuant to paragraphs 1 and 2, supra, copies thereof shall be supplied all other parties hereto and the Hearing Examiner on or before March 27, 1963;

It is further ordered, That the hearing herein shall resume on April 10, 1963, commencing at 10:00 a.m. in the offices of the Commission at Washington, D.C., and that the order of proceeding shall be as follows:

(1) The adduction of any evidence the applicant may wish to present in surrebuttal on Issues 1 through 6;

(2) The adduction of evidence on applicant's direct affirmative case on the issue added by the Review Board's Memorandum Opinion and Order released on December 19, 1963; and,

(3) The adduction by the other parties hereto of any evidence they may wish to offer in rebuttal of applicant's showing under the added issue.

Released: February 11, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-1644; Filed, Feb. 13, 1963; 8:50 a.m.]

[Docket No. 8342 etc.; FCC 63-115]

PEKIN BROADCASTING CO. (WSIV) ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Pekin Broadcasting Company (WSIV), Pekin, Illinois, Has: 1140 kc, 1 kw, Day, Requests: 1140 kc, 5 kw, 1 kw (CH), Day, Docket No. 8342, File No. BMP-2561; Tedesco, Inc. (KWKY), Des Moines, Iowa, Has: 1150 kc, 1 kw, DA-2, U, Requests: 1150 kc, 1 kw, 5 kw-LS, DA-2, U, Docket No. 14955, File No. BP-14183; Robert W. Sudbrink and Margareta S. Sudbrink d/b as Des Moines County Broadcasting Co., Burlington, Iowa, Requests: 1150 kc, 500 w, DA-D, Docket No. 14956, File No. BP-14193; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 6th day of February 1963;

The Commission having under consideration the above-captioned and described applications;

It appearing, that, except as indicated by the issues specified below, each of the applicants is legally, technically and otherwise qualified to construct and operate as proposed; Tedesco, Inc. and Pekin Broadcasting Company are financially qualified, but that for the reasons hereinafter indicated, it cannot be determined that Des Moines County Broadcasting Co. is financially qualified; and

It further appearing that the following matters are to be considered in connection with the aforementioned issues specified below:

1. The proposals of Tedesco, Inc. and Des Moines County Broadcasting Co. involve mutual interference which, aside from interference received from other sources, would result in a contravention of § 3.28(d)(3) of the rules by the latter.

2. The proposals of Des Moines County Broadcasting Co. and Pekin Broadcasting Company involve mutual interference which, although amounting to less than 10 percent, would add to the interference received by the proposal of Des Moines County Broadcasting Co. noted above.

3. The proposal of Des Moines County Broadcasting Co. would cause objectionable interference to the existing operation of Station WSIV; and therefore, Pekin Broadcasting Company will be made a party to this proceeding with respect to its existing operation.

4. Robert W. Sudbrink and Margareta S. Sudbrink, his wife, hereinafter referred to as the Sudbrinks, in addition to their interests in the subject application, own all of the following:

Call and location:	*Power*
WIOK, Normal, Ill.	1 kw
WBBY, Wood River, Ill.	500 w
WRMS, Beardstown, Ill.	500 w

Station WRMS is located 71 miles from Burlington and there is substantial overlap of the normally protected primary service areas (0.5 mv/m contours). In addition there is overlap of the 1 mv/m contours. Although the instant proposal involves overlap solely with WRMS, the service areas of the latter station and WBBY also overlap. It should also be noted that a grant of the subject application would result in the Sudbrinks owning four standard broadcast facilities within a radius of 85 miles of Beardstown (WRMS). Thus, in addition to the overlap situation, a substantial question exists regarding the geographical concentration of the broadcast interests of the Sudbrinks. Accordingly, in considering the Burlington proposal and § 3.35 of the rules, it appears appropriate to consider the size, extent and location of the areas served and to be served; the extent of the overlap involved; the number of persons residing within the overlap area; the classes of stations involved; the extent of other competitive service to the areas in question; the extent to which the stations will rely on the same revenues and program sources; the nature of the programming that the stations will present with particular reference to the needs of the communities they are designated to serve; the advertising practices of the stations; the source of program material and talent for each station; and such other facts as will tend to demonstrate that the overlap and/or concentration of control involved will or will not be in contravention of § 3.35 of the Commission's rules.

5. Since filing the instant application and within the past eighteen months, the Sudbrinks, of Des Moines County Broadcasting Co., have constructed Stations WBBY and WIOK. Thus, on the basis of the information associated with this application and of record, it cannot be determined that the applicant has adequate cast and/or liquid assets available to finance the construction and initial operation of the proposed facilities.

6. It has not yet been determined that the proposed antenna system of Des Moines County Broadcasting Co. would comply with the applicable Federal Aviation Agency Regulations and accordingly an appropriate hearing issue with respect thereto will be included.

7. The proposal of Pekin Broadcasting Company would cause slight objectionable interference to the existing operation of Station KMOX, St. Louis, Missouri.

It further appearing that Tedesco, Inc., is a party in two other hearings in which construction permits for standard broadcast facilities are being sought; one (Docket No. 14528) for a new station in Chisholm, Minnesota, the other (Docket Nos. 14739–14740) for a new station in Bloomington, Minnesota; that the former hearing includes an issue to determine whether Nicholas and Victor J. Tedesco, principals and officers of Tedesco, Inc., have "trafficked" or attempted to "traffick" in broadcast authorizations; while the latter hearing includes the following issues:

(a) To determine all the facts and circumstances surrounding the application by Tedesco, Inc. for assignment of license of Station KBLO, Hot Springs, Arkansas (BAL–4186), and appeals and pleadings related thereto;

(b) To determine, in light of the evidence adduced pursuant to the foregoing issue, whether Tedesco, Inc., has violated section 310(b) of the Communications Act of 1934, as amended;

(c) To determine, with particular reference to the evidence adduced pursuant to the foregoing issues, whether Tedesco, Inc. possesses the requisite character qualifications to be a licensee of the Commission.

Accordingly, a grant of the application of Tedesco, Inc. should be conditioned on the outcome of the aforementioned proceedings; and

It further appearing that Plough Broadcasting Co., Inc. (then WJJD, Inc.), licensee of Station WJJD, Chicago, Illinois, on November 7, 1950, filed engineering exhibits tending to show that objectionable interference would result to their operation in the event of a grant of the instant application of Pekin Broadcasting Company that the aforementioned exhibits were based on the old conductivity map and not on Figure M–3 of the rules; that recent studies by the Commission's staff indicate that no interference would result; and that therefore, Plough Broadcasting Co., Inc. will not be made a party to this proceeding; and

It further appearing that The Hearst Corporation, licensee of Station WISN, Milwaukee, Wisconsin, has filed petitions directed against the applications of Tedesco, Inc. and Des Moines County Broadcasting Co., alleging that the latter proposals, if operated before sunrise, would cause objectionable interference to the licensed presunrise operation of Station WISN; that petitioner requests that a grant of either of the applications be conditioned to preclude presunrise operation with daytime facilities, or, in the alternative, that the applications be designated for hearing with the petitioner as a party; and

It further appearing that the relief requested by The Hearst Corporation, with respect to the conditioning of any grants of the aforementioned applications, would be consistent with Commission policy; and

It further appearing, that, in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below:

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary service from Des Moines County Broadcasting Co. and the availability of other primary service to such areas and populations.

2. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operations of Stations KWKY and WSIV and the availability of other primary service to such areas and populations.

3. To determine the nature and extent of the interference, if any, that each of the proposals would cause to and receive from each other and the interference that each of the proposals would receive from all other existing standard broadcast stations, the areas and populations affected thereby, and the availability of other primary service to the areas and populations affected by interference from any of the proposals.

4. To determine whether interference received from all sources would affect more than ten percent of the population within the normally protected primary service area of the proposed operation of Des Moines County Broadcasting Co., in contravention of § 3.28(d)(3) of the Commission rules, and, if so, whether circumstances exist which would warrant a waiver of said section.

5. To determine whether the proposal of Des Moines County Broadcasting Co. would cause objectionable interference to Station WSIV, Pekin, Illinois, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

6. To determine whether a grant of the proposal of Des Moines County Broadcasting Co. would be in contravention of the provisions of § 3.35(a) of the Commission rules with respect to multiple ownership of standard broadcast stations.

7. To determine whether a grant of the proposal of Des Moines County Broadcasting Co. would be in contravention of § 3.35(b) of the Commission rules with respect to concentration of control.

8. To determine whether Des Moines County Broadcasting Co. is financially qualified to construct and operate its proposed station.

9. To determine whether there is a reasonable possiblity that the tower height and location proposed by Des Moines County Broadcasting Co. would constitute a menace to air navigation.

10. To determine whether the proposal of Pekin Broadcasting Company, would cause objectionable interference to Station KMOX, St. Louis, Missouri, or any other existing standard broadcast station, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

11. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

12. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if any, of the applications should be granted.

It is further ordered, That Columbia Broadcasting System, Inc., licensee of Station KMOX, St. Louis, Missouri, and Pekin Broadcasting Company, licensee of Station WSIV, Pekin, Illinois, are made parties to the proceeding with respect to their existing operations.

It is further ordered, That the Federal Aviation Agency is made a party to the proceeding.

It is further ordered, That, both of the pleadings entitled "Petition Under section 309(d)(1)" filed by The Hearst Corporation are granted insofar as indicated by the conditions below and are denied in all other respects.

It is further ordered, That in the event of a grant of the application of Tedesco, Inc., the construction permit shall contain the following conditions:

Final action with respect to this application shall be withheld until dispositive action is taken with respect to the proceedings in Docket No. 14528, and Docket Nos. 14739 and 14740.

Before program tests are authorized, permittee shall submit sufficient field intensity measurement data to establish that the nighttime radiation pattern remains adjusted within authorized limits.

To the extent that it permits operation with daytime facilities prior to local sunrise, § 3.87 of the Commission rules is not applicable to this authorization, and such operation is precluded.

It is further ordered, That, in the event of a grant of the application of Pekin Broadcasting Company, the construction permit shall contain the following conditions:

Permittee shall submit with the application for license antenna resistance measurements made in accordance with § 3.54 of the Commission rules.

Before program tests are authorized, permittee shall submit data made in accordance with §§ 3.48 and 2.524 of the rules for type acceptance of the proposed transmitter.

Pending a final decision in Docket No. 14419 with respect to presunrise operation with daytime facilities, the present provisions of § 3.87 of the Commission rules are not extended to this authorization, and such operation is precluded.

It is further ordered, That, in the event of a grant of the application of Des Moines County Broadcasting Company, the construction permit shall contain the following condition: To the extent that it permits operation with daytime facilities prior to local sunrise, § 3.87 of the Commission rules is not applicable

to this authorization, and such operation is precluded.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and parties respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, either individually or, if feasible, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(h) of the rules.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: February 11, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-1645; Filed, Feb. 13, 1963; 8:51 a.m.]

FEDERAL RESERVE SYSTEM

FIRST STATE BANK

Order Approving Acquisition of Bank's Assets

In the matter of the application of First State Bank for approval of acquisition of assets of Greenwood Branch of Security Trust Company of Rochester.

There has come before the Board of Governors, pursuant to the Bank Merger Act of 1960 (12 U.S.C. 1828(c)), an application by First State Bank, Canisteo, New York, a member bank of the Federal Reserve System, for the Board's prior approval of its acquisition of the assets of and assumption of deposit liabilities in the Greenwood Branch of Security Trust Company of Rochester, Rochester, New York, and, as an incident thereto, First State Bank has applied, under section 9 of the Federal Reserve Act, for the Board's prior approval of the establishment of a branch by that bank at the present location of Greenwood Branch (Greenwood, New York) of Security Trust Company of Rochester. Notice of the proposed acquisition of assets and assumption of deposit liabilities, in form approved by the Board of Governors, has been published pursuant to said Bank Merger Act.

Upon consideration of all relevant material, including the reports furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Department of Justice on the competitive factors involved in the proposed transaction.

It is hereby ordered, For the reasons set forth in the Board's Statement [1] of this date, that said applications be and hereby are approved, provided that said acquisition of assets and assumption of deposit liabilities and establishment of a branch shall not be consummated (a) within seven calendar days following the date of this Order, or (b) later than three months after said date.

Dated at Washington, D.C., this 8th day of February 1963.

By order of the Board of Governors.[2]

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 63-1609; Filed, Feb. 13, 1963; 8:46 a.m.]

PEOPLES BANK OF GLEN ROCK

Order Approving Merger of Banks

In the matter of the application of Peoples Bank of Glen Rock for approval of merger with Codorus National Bank in Jefferson.

There has come before the Board of Governors, pursuant to the Bank Merger Act of 1960 (12 U.S.C. 1828(c)), an application by Peoples Bank of Glen Rock, Glen Rock, Pennsylvania, for the Board's prior approval of the merger of that bank and Codorus National Bank in Jefferson, Codorus (Jefferson Borough), Pennsylvania, under the charter and title of the former. As an incident to the merger, the sole office of the latter bank would be operated as a branch of the former bank. Notice of the proposed merger, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Department of Justice on the competitive factors involved in the proposed merger,

It is hereby ordered, For the reasons set forth in the Board's Statement [3] of this date, that said application be and hereby is approved, provided that said merger shall not be consummated (a) within seven calendar days after the date of this Order or (b) later than three months after said date.

Dated at Washington, D.C., this 8th day of February 1963.

By order of the Board of Governors.[4]

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 63-1610; Filed, Feb. 13, 1963; 8:46 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington 25, D.C., or to the Federal Reserve Bank of New York.

[2] Voting for this action: Chairman Martin, and Governors Balderston, Mills, Robertson, Shepardson, and Mitchell. Absent and not voting: Governor King.

[3] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington 25, D.C., or to the Federal Reserve Bank of Philadelphia.

[4] Voting for this action: Governors Balderston, Mills, Robertson, and Shepardson. Absent and not voting: Chairman Martin, and Governors King and Mitchell.

FEDERAL POWER COMMISSION

[Docket No. RI63-308 etc.]

MILLS BENNETT ESTATE ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [5]

FEBRUARY 4, 1963.

Mills Bennett Estate, Docket No. RI63-308; W. C. McBride, Inc. (Operator), et al., Docket No. RI63-309; Harkins & Company (Operator), et al., Docket No. RI63-310; The Atlantic Refining Company, Docket No. RI63-311; The Atlantic Refining Company (Operator), et al., Docket No. RI63-312; Continental Oil Company, Docket No. RI63-313; Bright & Schiff, Docket No. RI63-314; Sinclair Oil & Gas Company, Docket No. RI63-315; H. B. Zachry (Operator), et al., Docket No. RI63-316; Skelly Oil Company, Docket No. RI63-317; General American Oil Company of Texas (Operator), et al., Docket No. RI63-318; Phillips Petroleum Company, et al., Docket No. RI63-319; Phillips Petroleum Company, Docket No. RI63-320; Peet Oil Company, Docket No. RI63-321; Edwin M. Jones Oil Company (Operator), et al., Docket No. RI63-322; Edwin M. Jones Oil Company, et al., Docket No. RI63-323; Northern Pump Company (Operator), et al., Docket No. RI63-324; Union Texas Petroleum, a Division of Allied Chemical Corporation, Docket No. RI63-325; Emerald Oil & Carbonic Company (Operator), et al., Docket No. RI63-326; T. C. Huddle, et al., Docket No. RI63-327; T. C. Huddle (Operator), et al., Docket No. RI63-328.

The above-named respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. All of the sales are made at a pressure base of 14.65 psia. The proposed changes, which constitute increased rates and charges, are designated as follows:

[5] This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI63-308	Mills Bennett Estate, 2001 Southern National Bank Bldg., Houston 2, Tex., Attn: Mr. R. A. Van Eaton.	1	15	Texas Eastern Transmission Corp. (San Domingo Field, Bee County, Tex.) (R.R. District No. 2).	$808	12-10-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
	Mills Bennett Estate	2	15	Texas Eastern Transmission Corp., (Strauch-Wilcox Field, Bee County, Tex.) (R.R. District No. 2).	1,122	12-10-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
	Do	3	15	Texas Eastern Transmission Corp. (Strauch-Wilcox Field, Bee County, Tex.) (R.R. District No. 2).	122	12-10-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
	Do	4	14	Texas Eastern Transmission Corp. (San Domingo Field, Bee County, Tex.) (R.R. District No. 2).	411	12-10-62	2- 5-63	7- 5-63	13.8733	[2] 14.3733	
RI63-309	W. C. McBride, Inc., (Operator), et al., 25 North Brentwood Boulevard, St. Louis 5, Mo.	6	9	Texas Eastern Transmission Corp. (West Weesatchee Field, Goliad County, Tex.) (R.R. District No. 2).	1,601	12-11-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
RI63-310	Harkins & Co., (Operator), et al., P.O. Box 1490, Alice, Tex.	2	3	Texas Eastern Transmission Corp. (North Arneckeville Field, DeWitt County, Tex.) (R.R. District No. 2).	1,000	12-10-62	[1] 2- 5-63	7- 5-63	[9] 13.8733	[2] 14,3733	
RI63-311	The Atlantic Refining Co., P. O. Box 2819, Dallas 21, Tex.	35	18	Texas Eastern Transmission Corp., (Meyersville Field, DeWitt County, Tex.) (R.R. District No. 2).	218	12- 7-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14,3733	
	The Atlantic Refining Co.	37	15	Texas Eastern Transmission Corp. (Jennie Bell Field, DeWitt County, Tex.) (R.R. District No. 2).	2,170	12- 7-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
	Do	134	9	Texas Eastern Transmission Corp. (Meyersville Field, DeWitt and Goliad Counties, Tex.) (R.R. District No. 2).	385	12- 7-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
	Do	161	8	Texas Eastern Transmission Corp. (Cabeza Creek Field, Goliad County, Tex.) (R.R. District No. 2).	867	12- 7-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
	Do	38	13	Texas Eastern Transmission Corp. (Rhode Ranch Field, Duval and McMullen Counties, Tex.) (R.R. Districts Nos. 4 and 1).	66	12- 7-62	[1] 2- 5-63	7- 5-63	[3] 13.8733	[2] [3] 14.3733	
RI63-312	The Atlantic Refining Co. (Operator) et al.	36	16	Texas Eastern Transmission Corp. (San Domingo Field, Bee County, Tex.) (R.R. District No. 2).	1,676	12- 7-62	2- 5-63	7- 5-63	13.8733	[2] 14.3733	
	Do	160	19	Texas Eastern Transmission Corp. (Chicolete Creek, et al. Fields, DeWitt, McMullen, et al. Counties, Tex.) (R.R. Districts Nos. 2 and 1).	10,122	12- 7-62	[1] 2- 5-63	7- 5-63	[3] [4] 14.3733	[2] [3] [4] 14.8733	
RI63-313	Continental Oil Co., P.O. Box 2197, Houston 1, Tex., Attn: Mr. Fred B. Willson.	84	11	Texas Eastern Transmission Corp. (Myersville Field, DeWitt County, Tex.) (R.R. District No. 2).	406	12-14-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
	Continental Oil Co	137	11	Texas Eastern Transmission Corp. (Meyersville Field, DeWitt, Goliad and Victoria Counties, Tex.) (R.R. District No. 2).	767	12-17-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
	Do	139	7	Texas Eastern Transmission Corp. (Cabeza Creek Field, Goliad County, Tex.) (R.R. District No. 2).	569	12-17-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
	Do	141	9	Texas Eastern Transmission Corp. (Meyersville and East Meyersville Fields, De Witt, Goliad, and Victoria Counties, Tex.) (R.R. District No. 2).	7,972	12-17-62	[1] 2- 5-63	7- 5-63	[5] 13.8733	[2] [5] 14.3733	
	Do	114	14	Texas Eastern Transmission Corp. (Meyersville Field, De Witt County, Tex.) (R.R. District No. 2).	643	12-14-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
	Do	125	16	Texas Eastern Transmission Corp. (Helen Gohlke Field, De Witt and Victoria Counties, Tex.) (R.R. District No. 2).	670	12-18-62	[1] 2- 5-63	7- 5-63	14.3733	[2] 14.8733	
RI63-314	Bright & Schiff, 205 Mercantile Continental Building, Dallas 1, Tex.	1	9	Texas Eastern Transmission Corp. (South Karon and Ragsdale Fields, Bee County, Tex.) (R.R. District No. 2).	3,000	11-23-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
RI63-315	Sinclair Oil & Gas Co., P.O. Box 521, Tulsa 2, Okla.	67	12	Texas Eastern Transmission Corp. (Karon Field, Live Oak County, Tex.) (R.R. District No. 2).	435	11-20-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
RI63-316	H. B. Zachry Co. (Operator), et al., 1101 Transit Tower, San Antonio, Tex.	2	14	Texas Eastern Transmission Corp. (Holzmark-Wilcox Field, Bee County, Tex.) (R.R. District No. 2).	1,244	11-29-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
RI63-317	Skelly Oil Co., P.O. Box 1650, Tulsa, Okla.	29	11	Texas Eastern Transmission Corp. (Mineral Field, Bee County, Tex.) (R.R. District No. 2).	646	12- 3-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
RI63-318	General American Oil Co. of Texas (Operator), et al., Meadows Building, Dallas 6, Tex.	18	9	Texas Eastern Transmission Corp. (Arneckeville Field, De Witt County, Tex.) (R.R. District No. 2).	893	12- 3-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
	General American Oil Co. of Texas (Operator), et al.	19	9	Texas Eastern Transmission Corp. (North Arneckeville Field, DeWitt County, Tex.) (R.R. District No. 2).	2,147	12- 3-62	[1] 2- 5-63	7- 5-63	13.8733	[2] 14.3733	
RI63-319	Phillips Petroleum Co., et al., Bartlesville, Okla.	37	13	Texas Eastern Transmission Corp. (Henze Field, DeWitt County, Tex.) (R.R. District No. 2).	444	12-17-62	[1] 2- 5-63	7- 5-63	[6] 13.8733	[2] [6] 14.3733	

See footnotes at end of table.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI63-320	Phillips Petroleum Co.	281	10	Texas Eastern Transmission Corp. (West George West Field, Live Oak County, Tex.) (R.R. District No. 2).	$140	12-17-62	[1] 2-5-63	7-5-63	[4] 14.3733	[2 4] 14.8733	
RI63-321	Peet Oil Co., Suite 814, First National Bank Building, San Antonio 5, Tex.	4	8	do	322	12-17-62	[1] 2-5-63	7-5-63	[4] 14.3733	[2 4] 14.8733	
RI63-322	Edwin M. Jones Oil Co. (Operator), et al., 404 Milam Building, San Antonio, Tex.	[7] 5	8	Texas Eastern Transmission Corp. (Dunn Field, Live Oak County, Tex.) (R.R. District No. 2).	2,038	12-26-62	[1] 2-5-63	7-5-63	[3 4] 13.8733	[2 3 4] 14.3733	
RI63-323	Edwin M. Jones Oil Co., et al.	[7] 7	11	Texas Eastern Transmission Corp. (West George West Field, Live Oak County, Tex.) (R.R. District No. 2).	314	12-26-62	[1] 2-5-63	7-5-63	[3 4] 14.3733	[2 3 4] 14.8733	
RI63-324	Northern Pump Co. (Operator), et al., Columbia Heights Post Office, Minneapolis 21, Minn.	25	6	Texas Eastern Transmission Corp. (West Cosden Field, Bee County, Tex.) (R.R. District No. 2).	473	1-4-63	[1] 2-5-63	7-5-63	[3] 13.8733	[2 3] 14.3733	
	Northern Pump Co. (Operator), et al.	3	8	do	1,103	1-4-63	[1] 2-5-63	7-5-63	[3] 13.8733	[2 3] 14.3733	
RI63-325	Union Texas Petroleum, a Division of Allied Chemical Corp., 811 Rusk Ave., Houston 2, Tex.	14	12	Texas Eastern Transmission Corp. (Strauch-Wilcox Field, Bee County, Tex.) (R.R. District No. 2).	1,122	1-4-63	[1] 2-5-63	7-5-63	[3] 13.8733	[2 3] 14.3733	
	Union Texas Petroleum, a Division of Allied Chemical Corp.	15	12	do	122	1-4-63	[1] 2-5-63	7-5-63	[3] 13.8733	[2 3] 14.3733	
	Do	16	12	Texas Eastern Transmission Corp. (San Domingo Field, Bee County, Tex.) (R.R. District No. 2).	808	1-4-63	[1] 2-5-63	7-5-63	[3] 13.8733	[2 3] 14.3733	
	Do	20	10	do	411	1-4-63	[1] 2-5-63	7-5-63	[3] 13.8733	[2 3] 14.3733	
RI63-326	Emerald Oil & Carbonic Co. (Operator), et al., 1627 Milam Building, San Antonio, Tex.	2	8	Texas Eastern Transmission Corp. (Salem Field, Victoria County, Tex.) (R.R. District No. 2).	2,159	1-4-63	[1] 2-5-63	7-5-63	13.8733	[2] 14.3733	
RI63-327	T. C. Huddle, et al., D-406 Petroleum Center, 900 NE. Military Drive, San Antonio 9, Tex.	1	7	Texas Eastern Transmission Corp. (Meyersville Field, Goliad and De Witt Counties, Tex.) (R.R. District No. 2).	1,171	1-7-63	[8] 2-7-63	7-7-63	[3] 13.8733	[2 3] 14.3733	
RI63-328	T. C. Huddle (Operator), et al.	2	11	Texas Eastern Transmission Corp. (Minoak Field, Bee County, Tex.) (R.R. District No. 2).	992	1-7-63	[8] 2-7-63	7-7-63	[3] 13.8733	[2 3] 14.3733	

[1] The stated effective date is the effective date proposed by Respondent.
[2] Periodic rate increase.
[3] Subject to 1.0 cent Mcf compression charge if buyer compresses gas.
[4] Includes 0.5 percent per Mcf for dehydration of gas.
[5] Pertains to sales of gas from all but M. E. Cooley lease and A. Coutret lease.
[6] Subject to compression charge of 0.5 cent per Mcf deducted by unit operator to seller.
[7] Involved in succession proceedings (predecessor is Henrietta Yerger Jones).
[8] The stated effective date is the first day after expiration of the required statutory notice.
[9] Subject to downward Btu adjustment below 1,000 Btu's.

The proposed increased rates and charges exceed the applicable area price levels set forth in the Commission's Statement of General Policy No. 61–1, as amended (18 CFR 2.56).

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed changed rates and charges contained in the above-designated supplements.

(B) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before March 18, 1963.

By the Commission.[2]

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 63-1494; Filed, Feb. 13, 1963; 8:45 a.m.]

[2] Dissenting statement of Commissioners O'Connor and Woodward filed as part of the original document.

[Docket Nos. CP60-124, CP61-220]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Application To Amend

FEBRUARY 7, 1963.

Take notice that on December 18, 1962, Algonquin Gas Transmission Company (Algonquin), Boston, Massachusetts, filed in Docket Nos. CP60-124 and CP61-220 an application to amend the Commission's opinion and order issued December 17, 1962, in said dockets to authorize the increase in sales of natural gas, therein authorized, to Fall River Gas Company (Fall River), Brockton Taunton Gas Company (Brockton) and Norwood Gas Company (Norwood) by 1,000 Mcf per day, 402 Mcf per day and 66 Mcf per day, respectively, all as more fully set forth in the application on file with the Commission and open to public inspection.

Fall River, Brockton and Norwood have requested the additional daily quantities of natural gas in order to meet increased requirements resulting from certain recent housing projects constructed in their service areas.

Algonquin states that it will make the proposed increased sales out of a portion of its unallocated gas supply. No

new facilities will be required for said sales.

Protest, petitions to intervene or requests for hearing with respect to the application to amend in this proceeding may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 6, 1963.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-1602; Filed, Feb. 13, 1963; 8:46 a.m.]

[Docket Nos. RI63-329—RI63-334]

D. D. HARRINGTON ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

FEBRUARY 7, 1963.

In the matter of D. D. Harrington, Docket No. RI63-329; Humble Oil and Refining Company (Operator), et al., Docket No. RI63-330; Humble Oil and Refining Company, Docket No. RI63-331; Apache Corporation, Docket No. RI63-332; David Fasken, et al., Docket No. RI63-333; Monsanto Chemical Company, Docket No. RI63-334.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. All of the sales are made at a pressure base of 14.65 psia. The proposed changes, which constitute increased rates and charges, are designated as follows:

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI63-329	D. D. Harrington, 701 First National Bank Bldg., Amarillo, Tex.	3	8	Northern Natural Gas Co. (Hugoton Field, Stevens County, Kans.).	$3,109	1-16-63	[1] 2-16-63	7-16-63	[2] 12.0	[2] [3] 17.0	[4] RI61-516
RI63-330	Humble Oil and Refining Co. (Operator), et al., P.O. Box 2180, Houston 1, Tex.	191	18	Natural Gas Pipeline Co. of America (S. E. Camrick Field, Texas County, Okla.) (Panhandle area).	3,814	1-18-63	[1] 3-21-63	8-21-63	[5] 17.2	[5] [6] 17.4	RI62-353
RI63-331	Humble Oil and Refining Co.	213	6	Natural Gas Pipeline Co. of America (S. E. Camrick Field, Beaver County, Okla.) (Oklahoma-Panhandle area).	26	1-18-63	[1] 3-21-63	8-21-63	[5] 17.2	[5] [6] 17.4	RI62-353
RI63-332	Apache Corp., 823 South Detroit, Tulsa 20, Okla.	10	1	Lone Star Gas Co. (Cruce Field, Stephens County, Okla.) (other Oklahoma area).	5,690	1-21-63	[7] 2-21-63	7-21-63	11.0	[5] 12.0	----------
RI63-333	David Fasken, et al, 608 First National Bank Bldg., Midland, Tex.	1	1	Phillips Petroleum Co. (Azalea (Devonian & Strawn) Fields, Midland County, Tex.) (R.R. District No. 8).	6,963	1-14-63	[7] 2-14-63	7-14-63	12.5	[5] 13.5	----------
RI63-334	Monsanto Chemical Co., 1401 South Coast Bldg., Houston 2, Tex., Attn: Mr. J. E. Howell.	16	4	United Gas Pipe Line Co. (East McFaddin Field, Victoria County, Tex.) (R.R. District No. 2).	1,200	1-14-63	[1] 3- 1-63	8- 1-63	14.6	[5] 15.6	----------

[1] The stated effective date is the effective date proposed by respondent.
[2] Redetermined rate increase.
[3] Subject to a downward Btu adjustment for gas containing less than 950 Btu's per cu. ft.
[4] Rate of 17.0 cents subject to downward Btu adjustment for the M. C. Sanford Unit is in effect subject to refund in Docket No. RI61-516.
[5] Periodic rate increase.
[6] Subject to a downward Btu adjustment for gas containing less than 1,000 Btu's per cubic foot.
[7] The stated effective date is the first day after expiration of the required statutory notice.

The six proposed rate increases, provided for in the related gas sales contracts, exceed the applicable area ceilings for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR, Chapter I, Part 2, § 2.56).

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act [18 CFR, Chapter I], public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37 (f)) on or before March 27, 1963.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-1601; Filed, Feb. 13, 1963; 8:46 a.m.]

[1] This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

[Docket No. CP63-120]

CITY OF HAZELTON, KANSAS

Notice of Application

FEBRUARY 7, 1963.

Take notice that on November 2, 1962, as supplemented on January 14, 1963, the City of Hazelton, Kansas (Applicant), filed in Docket No. CP63-120 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Panhandle Eastern Pipe Line Company (Panhandle) to establish physical connection of its transmission facilities with the proposed facilities of and to sell natural gas to Applicant for resale and distribution in said city, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a distribution system in Hazelton as well as a transmission line connecting said system with Panhandle's main transmission line in Kansas. The total estimated cost of all proposed facilities is show to be $71,000, which cost will be financed by the issuance of gas distribution system bonds.

The application shows Applicant's estimated third year peak day and annual natural gas requirements to be 157 Mcf and 18,440 Mcf, respectively.

On January 11, 1963, Panhandle filed an answer to the subject application stating that it will not oppose the requested order.

Protests, petitions to intervene or requests for hearing in this proceeding may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 6, 1963.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-1603; Filed, Feb. 13, 1963; 8:46 a.m.]

[Project No. 2145—Washington]

ROCKY REACH HYDROELECTRIC PROJECT

Notice of Land Withdrawal

In the matter of Public Utility District No. 1 of Chelan County, Washington, Rocky Reach Hydroelectric Project.

Conformable to the provisions of section 24 of the Act of June 10, 1920 (41 Stat. 1063), as amended, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in Project No. 2145 (Rocky Reach Hydroelectric Project) for which completed application for license was filed August 19, 1960. Under said section 24 all lands of the United States lying within the boundaries of the project, as delimited upon the maps filed in support of the application for license, are from said date of filing, reserved from entry, location or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

WILLAMETTE MERIDIAN

T. 24 N., R. 20 E.,
Sec. 24: E½NE¼;
Sec. 26: Lot 1, E½NE¼, NE¼SE¼, unsurveyed part of SE¼SE¼, South & East of River.
T. 24 N., R. 21 E.,
Sec. 6: SW¼SE¼.
T. 25 N., R. 21 E.,
Sec. 20: NE¼SW¼;
Sec. 30: NE¼SE¼.
T. 26 N., R. 21 E.,
Sec. 1: Lot 6;
Sec. 12: Unsurveyed part of N½, on left bank or South of River;
Sec. 20: NE¼NE¼.
T. 26 N., R. 22 E.,
Sec. 1: Lots 5, 6;
Sec. 2: Lots 5, 6, 7, 8, SE¼NE¼;
Sec. 6: Lots 5, 6;
Sec. 8: Lots 1, 7;
Sec. 9: Lot 5, SE¼SW¼.
T. 27 N., R. 23 E.,
Sec. 2: Lots 2, 3, 6, 7;
Sec. 3: Lot 7;
Sec. 9: Lots 3, 4, 5;
Sec. 10: Lot 2.
T. 28 N., R. 23 E.,
Sec. 13: Lots 5, 8;
Sec. 26: Lots 2, 3, 6, 7, 8;
Sec. 35: Lot 9.
T. 28 N., R. 24 E.,
Sec. 6: Lots 2, 4, 5, 6;
Sec. 7: Lots 1, 2, 3, 4;
Sec. 18: Lots 1, 2, 3, 4.
T. 29 N., R. 24 E.,
Sec. 31: Lots 3, 4, 7.

The area of United States land reserved pursuant to the filing of this application for license is approximately 235.55 acres of which all except approximately 59 acres have been heretofore reserved for power purposes under Power Site Classification No. 349 of June 22, 1944. Of the total area, approximately 3 acres are within the Wenatchee National Forest and approximately 12 acres are land which have been patented subject to section 24 of the Federal Power Act.

Copies of project maps, Exhibits, "K" sheets 1 to 8 inclusive and 8A to 29 inclusive (FPC Nos. 2145-24 to 54 inclusive) filed in the Commission July 11, 1960, August 19, 1960, or as revised and refiled May 22, 1961, are being transmitted to the Geological Survey, Forest Service, and Bureau of Land Management.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-1600; Filed, Feb. 13, 1963; 8:46 a.m.]

[Docket No. CP63-138]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application and Date of Hearing

FEBRUARY 7, 1963.

Take notice that Transcontinental Gas Pipe Line Corporation (Applicant), a Delaware corporation, with its principal place of business in Houston, Texas, filed an application pursuant to section 7(b) of the Natural Gas Act, as amended, on November 16, 1962, for permission to abandon the facilities hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Applicant seeks authority to abandon 22,114 feet of 10-inch and 1,958 feet of 4-inch purchase lateral pipeline known as the "Craig Lateral", running from Transco's 16-inch White Kitchen Lateral to the Craig Field in McMullen County, Texas. The application states that the line originally served as a means of transporting the natural gas purchased by Transco from the Craig Field. Deliveries of gas to Applicant from this source steadily decreased due to dwindling reserves, however, until September, 1960 when they ceased.

Applicant further states that, there appearing to be no possibility of its future use in place, it intends to salvage the pipe and hold it in storage for future use at another location or for possible sale.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 18, 1963, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 4, 1963. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-1604; Filed, Feb. 13, 1963; 8:46 a.m.]

[Docket No. G-20464 etc.]

TRANSWESTERN PIPELINE CO. ET AL.

Notice Fixing Date of Hearing

FEBRUARY 7, 1963.

In the matter of Transwestern Pipeline Company, Trans-Cities Pipeline Company, Cities Service Gas Company, Docket Nos. G-20464, CP60-49, CP60-50, CP61-63, CP61-168, CP61-243, CP62-160, CP63-16, CP63-15, CP63-17.

Take notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by section 7 and 15 of the Natural Gas Act and regulations thereunder, and the rules of practice and procedure of the Commission, a hearing will be held commencing March 4, 1963, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. concerning the matters involved in and the issues presented in the applications in the above-captioned consolidated proceedings, notice of which was published in the FEDERAL REGISTER on December 15, 1962 (27 F.R. 12464).

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-1605; Filed, Feb. 13, 1963; 8:46 a.m.]

[Docket No. CP61-231]

TRUNKLINE GAS CO.

Notice of Application and Date of Hearing

FEBRUARY 7, 1963.

Take notice that on March 3, 1961, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston 1, Texas, filed in Docket No. CP61-231 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate certain facilities and to transport and deliver natural gas to Alpha Chemical Corpora-

tion, Collierville, Tennessee (Alpha), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to sell to Alpha up to 200 Mcf of natural gas per day on a firm basis, subject to reduction or discontinuance if at any time, because of conditions beyond the reasonable control of Applicant, the volumes of gas available for delivery by Applicant on its pipeline system are not adequate to meet its firm contractual demands. Total annual sales are estimated as follows:

1st year—4,525 Mcf; 2d year—11,481 Mcf; 3d year—16,008 Mcf.

Alpha's plant is for the intermediate processing of certain resins, plastics and other chemical compounds. Alpha would use the natural gas partially for manufacturing, partially for processing and for wintertime space heating purposes.

Applicant proposes to construct and operate such measurement facilities as necessary to provide the proposed service at an estimated total cost of $6,500, to be financed out of funds on hand.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 19, 1963, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 8, 1963. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-1606; Filed, Feb. 13, 1963; 8.46 am.]

[Docket No. CP63-178]

UNITED FUEL GAS CO.

Notice of Application and Date of Hearing

FEBRUARY 7, 1963.

Take notice that on December 21, 1962, United Fuel Gas Company, a West Virginia Corporation with a principal place of business at 1700 MacCorkle Avenue SE., Charleston, West Virginia, filed in Docket No. CP63-178, a budget-type application pursuant to sections 7 (b) and (c) of the Natural Gas Act, as amended for an order granting permission and approval to abandon certain natural gas facilities, and the issuance of a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities.

Applicant is engaged in the local production and purchase of natural gas extending through thirteen (13) counties located in southern West Virginia. It will conclude studies in 1963 of its major production and purchase operations in this Appalachian area to determine the most efficient utilization of its facilities in connection with the depletion of existing properties and the additional drilling of proven acreage to the end that the present level of its production operations may be maintained.

Applicant states that previous changes in its local production and purchase activities and facilities inevitably result in some relocation, replacement, retirement of and/or addition to Applicant's compressor stations primarily engaged in compressing locally produced and purchased volumes of natural gas. In this connection, Applicant designates certain specific compressor stations which are solely engaged in the compression of locally produced and purchased natural gas which may or may not be affected as a result of anticipated revisions in production operations during 1963.

Applicant submits that as its production revisions are periodically concluded during 1963, it should be in a position to immediately initiate the necessary revisions or changes in the location and extent of its installed horsepower.

The total cost of the proposed project will not exceed $2,000,000 and no single project will exceed a cost of $500,000. Applicant states that the proposed project will be financed from funds available to it during 1963 from its parent company, The Columbia Gas System, Inc., and will constitute a relatively small portion of the total financing to be consumated between these parties during the year 1963.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 12, 1963, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests of petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 1, 1963. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-1608; Filed, Feb. 13, 1963; 8:46 a.m.]

OFFICE OF EMERGENCY PLANNING

VOLUNTARY TANKER PLAN FOR THE CONTRIBUTION OF TANKER CAPACITY FOR NATIONAL DEFENSE REQUIREMENTS

Deletions From Membership

Pursuant to section 708 of the Defense Production Act of 1950, as amended, there are published herewith the following deletions from the list of companies which have accepted the request to participate in the voluntary plan entitled, "Voluntary Tanker Plan for the Contributions of Tanker Capacity for National Defense Requirements," as amended. The request and complete list of acceptances were published in 24 F.R. 4119, May 21, 1959.

Deletions

American Coal Shipping Co., New York 4, N.Y.
Bayview Steamship Corp., New York 4, N.Y.
California Tanker Co., Perth Amboy, N.J.
Carras, J. M., Inc., New York 6, N.Y.
Clark Steamship Corp., New York 4, N.Y.
Clover Carriers Corp., New York 4, N.Y.
Continental Oil Co., Baltimore 3, Md.
Denton Steamship Corp., New York 4, N.Y.
Edison Steamship Corp., New York 4, N.Y.
Esso Standard Oil Co., New York 20, N.Y.
Fairfield Steamship Corp., New York 4, N.Y.
First Tanker Corp., New York 17, N.Y.
Globe Tankers, Inc., Long Island City 1, N.Y.
Greenpoint Tankers, Inc., Long Island City 1, N.Y.
Heron Steamship Co., New York 4, N.Y.
Hillcone Steamship Co., San Francisco 4, Calif.
Kingston Steamship Corp., New York 4, N.Y.
Marine Carriers Corp., New York 4, N.Y.
Marine Tankers Corp., New York 4, N.Y.
Mohawk Express, Inc., c/o Ocean Freighting & Brokerage Corp., New York 4, N.Y.
Oil Carriers Joint Venture, c/o Orion Shipping & Trading Co., Inc., New York 4, N.Y.
Oil Transport, Inc., c/o Joshua Hendy Corp., Los Angeles 17, Calif.
Olympic Transport, Ltd., New York 4, N.Y.
Ozark Navigation Corp., New York 4, N.Y.
Pan Cargo Shipping Corp., New York, N.Y.
Paragon Oil Co., Inc., Long Island City 1, N.Y.
Penn Navigation Co., c/o Lehigh & New England Railroad Co., Bethlehem, Pa.
Richfield Oil Corp., Los Angeles 17, Calif.
Sabine Transportation Co., Inc., Port Arthur, Tex.
Sheffield Tankers Corp., c/o Marine Tranport Lines, Inc., New York 4, N.Y.

The Texas Co., New York 17, N.Y.
Tideway Steamship Corp., New York 4, N.Y.
Tramp Shipping & Oil Transportation Corp., New York 4, N.Y.
Union Oil Co. of California, Los Angeles 17, Calif.
Winco Tankers, Inc., Wilmington, Del.

(Sec. 708, 64 Stat. 818, as amended; 50 U.S.C. App. Sup. 2158; Executive Order 10480, August 14, 1953, 18 F.R. 4939; Reorganization Plan No. 1 of 1958, 23 F.R. 4991, as amended; Executive Order 11051, September 27, 1962, 27 F.R. 9683)

Dated: February 6, 1963.

EDWARD A. MCDERMOTT,
Director,
Office of Emergency Planning.

[F.R. Doc. 63-1591; Filed, Feb. 13, 1963; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-4104]

INDIANA & MICHIGAN ELECTRIC CO.

Notice of Proposed Issuance and Sale of Short-Term Notes to Banks

FEBRUARY 8, 1963.

Notice is hereby given that Indiana & Michigan Electric Company ("Indiana"), 2101 Spy Run Avenue, Fort Wayne 1, Indiana, a public-utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed with this Commission an application and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act") and has designated section 6(b) of the Act and Rule 50(a)(2) thereunder as applicable to the proposed transactions. All interested persons are referred to the application, on file at the office of the Commission, for a statement of the transactions therein proposed which are summarized below.

Indiana proposes to issue, sell and reissue to the banks named below unsecured promissory notes in an aggregate face amount not to exceed $29,000,000 to be outstanding at any one time. Since such aggregate amount of Notes exceeds the amount exempted by the first sentence of section 6(b) of the Act, Indiana has requested that the 5 percent limitation upon its borrowing capacity thereunder be increased to the extent necessary to permit it to effectuate the present proposals.

The proposed Notes are to be issued, from time to time prior to March 1, 1964, are to be dated in each case of the date of issue, are to mature not more than 270 days after the date of issuance and are to bear interest from the date thereof at the then current prime credit rate (currently 4½ percent). The notes may be prepaid from time to time, in whole or in part, without premium.

The names of the ten banks and the aggregate maximum amount of Notes to be held by each at any one time are as follows:

Irving Trust Co., New York, N.Y.	$4,350,000
Mellon National Bank & Trust Co., Pittsburgh, Pa.	2,900,000
First National City Bank of New York, New York, N.Y.	4,350,000
Manufacturers Hanover Trust Co., New York, N.Y.	3,480,000
Morgan Guaranty Trust Co. of New York, New York, N.Y.	3,190,000
The Chase Manhattan Bank, New York, N.Y.	2,900,000
Continental Illinois National Bank and Trust Co. of Chicago, Chicago, Ill.	3,480,000
Bankers Trust Co., New York, N.Y.	1,450,000
Chemical Bank New York Trust Co., New York, N.Y.	1,450,000
The Northern Trust Co., Chicago, Ill	1,450,000
Total	29,000,000

The proceeds from the foregoing Notes to banks will be used by Indiana to pay part of the costs of its construction program estimated to amount to $62,000,000 during the calendar year 1963.

It is represented that a plan for the proposed sale of senior securities, prior to March 1, 1964, will provide for the retirement of all the then outstanding Notes to banks.

The expenses to be paid by Indiana in connection with the proposed transactions are estimated at $1,000 exclusive of an issuance tax which may be paid to the State of Indiana.

Indiana has applied to the Public Service Commission of Indiana for authority to issue notes evidencing borrowings from the above-named banks in an aggregate amount not to exceed $13,000,000. Indiana believes that the issuance and sale of the remaining $16,000,000 of Notes are exempt under the laws of the State of Indiana. A copy of the order entered therein is to be supplied by amendment. Indiana states that no State commission, other than the Public Service Commission of Indiana, and no Federal commission other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 28, 1963, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said amended application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the amended application, as it will be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 63-1624; Filed, Feb. 13, 1963; 8:48 a.m.]

[File No. 70-4107]

MICHIGAN CONSOLIDATED GAS CO.

Notice of Proposed Issuance and Sale

FEBRUARY 8, 1963.

Notice is hereby given that Michigan Consolidated Gas Company ("Michigan Consolidated"), One Woodward Avenue, Detroit 26, Michigan, a gas utility subsidiary company of American Natural Gas Company, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, on file at the office of the Commission, for a statement of the transaction therein proposed which is summarized below.

Michigan Consolidated proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 promulgated under the Act, $30,000,000 principal amount of its First Mortage Bonds, ____ percent Series due 1988. The interest rate on the new bonds (which will be a multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest, to be paid to Michigan Consolidated (which will be not less than 100 percent nor more than 102¾ percent of the principal amount) will be determined by the competitive bidding. The bonds will be issued under Michigan Consolidated's Indenture of Mortgage and Deed of Trust, dated as of March 1, 1944, to City Bank Farmers Trust Company (First National City Bank, successor Trustee) and Ralph E. Morton (Francis M. Pitt, successor Individual Trustee), as Trustees, as heretofore supplemented, and as to be further supplemented by a Thirteenth Supplemental Indenture to be dated as of March 15, 1963.

The proceeds from the issuance and sale of the new bonds (together with treasury funds equal to the premium of $2,081,250 and accrued interest) will be used by Michigan Consolidated to redeem, at the currently applicable redemption price of 107.50 percent of principal amount, all of its First Mortgage Bonds, 6¼ percent Series due 1982, presently outstanding in the principal amount of $27,750,000. The proceeds remaining after said redemption will be utilized to pay construction costs or to repay in part short-term indebtedness previously incurred for the temporary financing of construction.

Fees and expenses (other than the redemption premium expense on the bonds to be refunded) incident to the proposed transaction are estimated as follows:

Federal original issue tax	$33,000
Securities and Exchange Commission registration fee	3,090
Michigan Public Service Commission fee	30,000
Counsel fees:	
Sidley, Austin, Burgess & Smith	15,500
Dyer, Meek, Ruegsegger & Bullard	6,000
Dutchess, Mika, Miles, Myers, Merdzinski & Snow	2,000
Accounting fee of Arthur Andersen & Co	7,000
Trustee's fees and expenses	19,500
Printing (including preparation of bonds)	26,000
Mortgage recording and title expense	5,500
Miscellaneous (including $500 for American Natural Gas Service Company)	4,410
Total	152,000

The fee of counsel for the purchasers of the new bonds, Messrs. Brown, Wood, Fuller, Caldwell & Ivey, estimated at $11,000, will be paid by the successful bidders.

The application states that the issuance and sale of the new bonds are subject to the jurisdiction of the Michigan Public Service Commission, the State commission of the State in which Michigan Consolidated is organized and doing business, and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 4, 1963, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the application, as filed or as amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 63-1626; Filed, Feb. 13, 1963; 8:48 a.m.]

[File No. 812-1527]

STRATTON FUND, INC.

Notice of Application for Order of Exemption

FEBRUARY 8, 1963.

Notice is hereby given that The Stratton Fund, Inc. ("Applicant"), 15 East 40th Street, New York, N.Y., a Maryland corporation, and an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicant from compliance with the provisions of section 14(a) of the Act.

Applicant has filed a registration statement under the Securities Act of 1933 for 5,000,000 shares of common stock, all of a single class, $1 par value, to be offered to investors in exchange for such investors' securities. Such registration has not yet become effective. The purpose of the Fund is to provide investors holding securities at relatively low tax bases with a means of exchanging such securities for shares of the Fund, thereby obtaining diversification without incurring any Federal capital gains tax liability at the time of such exchange. J. R. Williston & Beane, the dealer manager, and a group of securities dealers which it will form and manage intend to solicit deposits of securities, to be held by a depository in safekeeping for the separate account of each investor for a period ending not later than ninety days from the effective date of the Applicant's registration statement under the Securities Act of 1933. At all times during the solicitation period, the depositing investor will retain all incidents of ownership to the securities deposited, with the right to withdraw such securities from the depository without charge.

The minimum deposit to be accepted from any investor is to be securities having a market value of $15,000, and the exchange will not be consummated unless the market value of the deposited securities as at the effective date of the planned exchange aggregates a minimum of $10,000,000. In the event that such value is not then realized, the deposited securities will be returned to investors without charge to them. If such value is obtained upon the termination of the solicitation period, a report describing the deposited securities, including their respective market values determined as at the end of the solicitation period and their bases for Federal income taxation, will be mailed to all depositing investors, who have the right to withdraw any or all of their deposited securities at any time prior to the mailing of the report to investors and during a period of twenty days thereafter. Applicant will have the right to reject securities on deposit for a period of up to ten days after the end of the period during which the investor may withdraw. All of Applicant's shares which are issued in exchange for securities will be issued simultaneously on the effective date of the exchange. Each depositing investor is to represent that he will acquire shares of Applicant issued to him in the planned exchange without any intention of distributing them to the public.

Section 14(a) of the Act provides, in pertinent part, that no registered investment company shall make a public offering of its securities unless such company has a net worth of at least $100,000 or unless provision is made as a condition of the registration of its securities under the Securities Act which, in the opinion of the Commission, adequately insures (A) that, after the effective date of such registration statement, it will not issue any security or receive any proceeds of any subscription until no more than 25 responsible persons have made firm agreements to purchase securities in an aggregate net amount which will give the company a net worth of at least $100,000; (B) that said amount will be paid in to such company before subscriptions will be accepted from any persons in excess of 25; and (C) that arrangements will be made whereby any amounts so paid in, plus any sales load, will be refunded to any subscriber on demand in the event the net proceeds so received do not result in the company's having a net worth of at least $100,000 within ninety days after such registration statement becomes effective. Applicant presently has three outstanding shares of capital stock, nominal assets, and no liabilities, and anticipates that it will have only three such outstanding shares, nominal assets, and no liabilities prior to the planned exchange if the exemption sought in the instant application is obtained. The terms of the offering provide that unless the aggregate market value of all securities deposited by investors is $10,000,000 or more within 30 days following the mailing of the report to investors the exchange will not be consummated. Accordingly the Applicant will be assured of commencing business as an investment company with assets substantially in excess of the $100,000 required by section 14(a) of the Act. Applicant submits that under the circumstances described the exemption sought would be consistent with the purposes intended to be served by section 14(a).

Section 6(c) of the Act provides, among other things, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 25, 1963, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied

by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) should be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 63–1627; Filed, Feb. 13, 1963; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

FEBRUARY 11, 1963.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 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. 38156: *Cement and related articles from southwestern territory.* Filed by Southwestern Freight Bureau, Agent (No. B–8340), for interested rail carriers. Rates on cement and related articles, in carloads, from points in southwestern territory, to points in Kansas, Missouri, and Texas.

Grounds for relief: Market competition.

Tariff: Supplement 107 to Southwestern Freight Bureau tariff I.C.C. 4325.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 63–1518; Filed, Feb. 13, 1963; 8:45 a.m.]

CUMULATIVE CODIFICATION GUIDE—FEBRUARY

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during February.

Pages 1447–1461

PART II

FEDERAL REGISTER

VOLUME 28 NUMBER 32

Washington, Thursday, February 14, 1963

Food and Drug Administration

[21 CFR Parts 1, 130, 132, 133]

Proposed Regulations Regarding Drugs

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

DRUGS

Labeling and Advertising; Notice of Proposed Rule Making

The Kefauver-Harris Drug Amendments of 1962 (Public Law 87–781), among other things, amended section 502(e) of the Federal Food, Drug, and Cosmetic Act (relating to labeling information regarding the names of drug preparations and the ingredients thereof) and established a new section 502(n) (relating to the content of prescription-drug advertisements). For proper administration of these two new sections of the act, the Commissioner of Food and Drugs, under the authority provided therein (secs. 502 (e), (n), 701(e), 52 Stat. 1050, 1051, 1055, as amended 70 Stat. 919, 72 Stat. 948, 74 Stat. 399, 76 Stat. 790, 791, 792; 21 U.S.C. 352 (e), (n) and note under sec. 352; 371(e)) and delegated to him by the Secretary of Health, Education, and Welfare (25 F.R. 8625) proposes to amend the regulations previously adopted under section 502(e) of the act (21 CFR 1.105) and to adopt new regulations under section 502(n), as set forth below.

The proposed amendments will be effected by revoking § 1.105 and by adding to Part 1 new §§ 1.104 and 1.105, reading as follows:

§ 1.104 Drugs; statement of formula.

(a) The formula information required by section 502(e)(1)(A)(ii) of the Federal Food, Drug, and Cosmetic act shall appear together, without any intervening written, printed, or graphic matter, except such statements as "Warning—May be habit forming" that are specifically required for certain ingredients by the act or regulations thereunder.

(b) The term "ingredient" applies to any substance present in the drug, whether added to the formulation as a single substance or in admixture with other substances.

(c) The labeling of a drug may be misleading by reason (among other reasons) of:

(1) The order in which the names of ingredients present in the drug appear in the labeling, or the relative prominence otherwise given such names; or

(2) Failure to reveal the proportion of, or other fact with respect to, an ingredient present in such drug, when such proportion or other fact is material in the light of the representation that such ingredient is present in such drug; or

(3) The use of a fanciful name for an ingredient employed in such a manner as to imply that the ingredient has some unique effectiveness or composition when, in fact, the ingredient is a common substance, the limitations of which are readily recognized when the ingredients is listed by its established name; or

(4) The failure to state prominently and forthrightly the composition of a drug identified by a fanciful name, in such a way as reasonably to inform the purchaser of its composition, permitting a rational buying choice between the drug and other drugs available for the same use; or

(5) The featuring in the labeling or inert or inactive ingredients; or

(6) Designation of a drug or ingredient by a trade name that, because of similarity in spelling or pronunciation, may be confused with the trade name or the established name of a different drug or ingredient.

(d)(1) If the drug is in tablet or capsule form or other unit dosage form, any statement of the quantity of an ingredient contained therein shall express the quantity of such ingredient in each such unit. If the drug is not in unit dosage form, any statement of the quantity of an ingredient contained therein shall express the amount of such ingredient in a specified unit of weight or measure of the drug, or the percentage of such ingredient in such drug. Such statements shall be in terms that are informative to licensed practitioners in the case of a prescription drug, and to the layman in the case of a nonprescription drug.

(2) A statement of the percentage of an ingredient in a drug shall, if the term "percent" is used without qualification, mean percent weight in weight, if the ingredient and the drug are both solids; percent weight in volume at 68° Fahrenheit (20° Centigrade), if the ingredient is a solid and the drug is a liquid; and percent volume in volume at 68° Fahrenheit (20° Centigrade), if both the ingredient and the drug are liquids, except that alcohol shall be stated in terms of percent volume of absolute alcohol at 60° Fahrenheit (15.56° Centigrade).

(e) A derivative or preparation of a substance named in section 502(e) of the act is an article derived or prepared from such substance by any method, including actual or theoretical chemical action.

(f) If an ingredient is a derivative or preparation of a substance specifically named in section 502(e) of the act and the established name of such ingredient does not indicate that it is a derivative or preparation of the parent substance named in section 502(e), the labeling shall, in conjunction with the listing of the established name of such ingredient, declare the name of the parent substance from which such ingredient is derived or prepared, and state that such article is a derivative or preparation of such parent substance.

(g) If the labeling of a prescription drug bears a proprietary name or designation for the drug or any ingredient thereof, the established name, if such there be, corresponding to such proprietary name or designation, shall accompany each appearance of such proprietary name or designation. The established name shall appear in immediate conjunction with the proprietary name or designation, without any intervening matter except the words "brand of" or, alternatively, brackets surrounding the established name. The established name shall be printed in letters that are at least half as large as the letters comprising the proprietary name or designation with which it is joined, and the established name shall have a prominence commensurate with the prominence with which such proprietary name or designation appears, taking into account all pertinent factors, including typography, layout, contrast, and other printing features.

(h) In the case of a prescription drug containing two or more active ingredients, if the label bears a proprietary name or designation for such mixture and there is no established name corresponding to such proprietary name or designation, the formula information required on the label by section 502(e)(1)(A)(ii) of the act shall follow immediately after the most prominent display of the proprietary name or designation, without other intervening written, printed, or graphic matter, except such phrase as "Each tablet contains," etc. The size and prominence of this information shall bear a reasonable relationship to the size and prominence of the proprietary name and other prominent features of the label. If the drug is packaged in a container too small to bear the formula information on the main display panel, the formula information required by section 502(e)(1)(A)(ii) of the act may appear elsewhere on the label, even though the proprietary name or designation appears on the main display panel of the label; but side or back-panel placement shall in this case be so arranged and printed as to provide size and prominence of display reasonably related to the size and prominence of the front-panel display.

(i) A drug packaged in a container too small or otherwise unable to accommodate a label with sufficient space to bear the information required for compliance with section 502(e)(1)(A)(ii) and (B) shall be exempt from compliance with those clauses: *Provided,* That:

(1) The label bears:

(i) The proprietary name of the drug;

(ii) The established name, if such there be, of the drug;

(iii) An identifying lot or control number; and

(iv) The name of the manufacturer, packer, or distributor of the drug;

and

(2) All the information required to appear on the label by the act and the regulations thereunder appears on the carton or other outer container or wrapper if such carton, outer container, or wrapper has sufficient space to bear such information, or such complete label information appears on a leaflet with the package.

§ 1.105 Prescription-drug advertisements.

(a) The provisions of § 1.104 (a) through (h), inclusive, shall apply to the information presented in an advertisement for a prescription drug concerning the established name and the formula.

(b) A "brief summary" relating to side effects, contraindications, and effectiveness shall be presented in any prescription-drug advertisement that provides any information regarding indications or dosage recommendations. This summary shall fairly show the effectiveness of the drug in the conditions for which

it is recommended in the advertisement, together with a showing of those side effects and contraindications that are pertinent with respect to the uses recommended or suggested in the advertisement and any other use or uses for which the drug is commonly prescribed. A fair balance shall be made in presenting the information on effectiveness and that on side effects and contraindications; such fair balance shall be achieved even if small size of the advertisement limits the total amount of information presented.

(c) An advertisement for a prescription drug covered by an approved new-drug application must not recommend nor suggest any use that is not in the labeling accepted in the approved new-drug application. The advertisement must present information from the approved new-drug application labeling concerning those side effects and contraindications that are pertinent with respect to the uses recommended or suggested in the advertisement and any other use or uses for which the drug is commonly prescribed.

(d) An advertisement for a prescription drug subject to certification must not recommend nor suggest any use that is not in the labeling covered by the certification or covered by the applicable certification regulations or regulations providing for exemption from certification. The advertisement must present information from such labeling covered by the certification, or the applicable certification regulations or regulations providing for exemption from certification, concerning those side effects and contraindications that are pertinent with respect to the uses recommended or suggested in the advertisement and any other use or uses for which the drug is commonly prescribed.

(e) In the case of a prescription drug not subject to the new-drug provisions or the certification provisions, an advertisement may recommend use of the drug only for those purposes for which the article is generally recognized as safe and effective by medical experts or for those purposes for which the article is generally recognized as safe by medical experts and for which there exists substantial evidence, consisting of adequate and well controlled investigations, including clinical investigations, by medical experts, on the basis of which it can fairly and responsibly be concluded that the drug is effective for such purposes. The advertisement must present information concerning those side effects and contraindications that are pertinent with respect to the uses recommended or suggested in the advertisement and for any other use or uses for which the drug is commonly prescribed.

(f) The information in an advertisement for a prescription drug concerning side effects and contraindications must be presented in close association with the information concerning effectiveness and must have the same degree of prominence as the information concerning effectiveness, taking into account all pertinent factors, including typography, layout, contrast, and other printing features.

(g) (1) No advertisement concerning a prescription drug may be disseminated without prior approval by the Food and Drug Administration if use of the drug may cause fatalities or serious damage and the sponsor of the drug has been notified by the Food and Drug Administration by certified mail that advertisements for the drug must be approved before dissemination. After information concerning the possibility that the drug may cause fatalities or serious damage has been widely publicized in medical literature, the Food and Drug Administration may notify the sponsor of the drug by mail that prior approval of advertisements for the drug is no longer necessary. Dissemination of an advertisement not in compliance with this paragraph shall be deemed to be an act that causes a drug to be misbranded under section 502(n) of the act.

(2) Any other advertisement may be submitted to the Food and Drug Administration prior to publication for comment. If the advertiser is notified that the submitted advertisement is not in violation and, at some subsequent time, the Food and Drug Administration changes its opinion, the advertiser will be so notified and will be given a reasonable time for correction before any regulatory action is taken under this section. Notification to the advertiser that a proposed advertisement is or is not considered to be in violation shall be in written form.

(h) An advertisement issued or caused to be issued by the manufacturer, packer, or distributor of the drug promoted by the advertisement and which is not in compliance with section 502(n) of the act and the applicable regulations thereunder shall cause all stocks of such drug in possession of the person responsible for issuing or causing the issuance of the advertisement, and all stocks of the drug distributed by such person and still in the channels of commerce, to be misbranded under section 502(n) of the act.

(i) Brochures, mailing pieces, detailing pieces, file cards, bulletins, price lists, catalogs, house organs, literature reprints, and similar pieces of printed matter concerning a drug and which are disseminated by or on behalf of its manufacturer, packer, or distributor, including reference publications for use by medical practitioners, pharmacists, or nurses, containing drug information supplied by the manufacturer, packer, or distributor of the drug, are regarded as labeling not subject to section 502(n) of the act but subject to the "full disclosure" requirements of § 1.106 (b) or (c).

The Commissioner of Food and Drugs hereby offers an opportunity to all interested persons to submit their views in writing with reference to this proposal to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., within 45 days from the date of publication of this notice in the FEDERAL REGISTER. Views and comments should be submitted in triplicate.

Dated: February 8, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-1570; Filed, Feb. 13, 1963; 8:45 a.m.]

[21 CFR Part 130]

NEW DRUGS

Proposed Revision of Regulations

The Commissioner of Food and Drugs, in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 503(b)(1)(3), 505, 701(a), 52 Stat. 1052, 1053, 1055, as amended 65 Stat. 648, 76 Stat. 781, 782, 783, 784, 785, 788; 21 U.S.C. 353 (B)(1)(3), 355, 371(a)) and under the authority delegated to him by the Secretary of Health, Education, and Welfare (25 F.R. 8625), proposes to revise Part 130—New Drugs, to read as set forth below, and hereby invites all interested persons to submit views and comments regarding the proposed revision. Such views and comments should be submitted in writing to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., within 45 days from the date of publication of this notice in the FEDERAL REGISTER.

PART 130—NEW DRUGS

Subpart A—Procedural and Interpretative Regulations

Sec.

AUTHORITY: §§ 130.1 to 130.102 issued under secs. 503, 505, 701, 52 Stat. 1051, 1052, 1055, as amended; 21 U.S.C. 353, 355, 371.

CROSS REFERENCES: For other regulations in this chapter concerning new drugs, see also §§ 1.106, 3.45, 3.511, 3.512, and 121.7.

Subpart A—Procedural and Interpretative Regulations

§ 130.1 Definitions and interpretations.

(a) As used in this part, the term "act" means the Federal Food, Drug, and Cosmetic Act approved June 25, 1938 (52 Stat. 1040 et seq., as amended; 21 U.S.C. 301–392).

(b) "Department" means the Department of Health, Education, and Welfare.

(c) "Secretary" means the Secretary of Health, Education, and Welfare.

(d) "Commissioner" means the Commissioner of Food and Drugs.

(e) The term "person" includes individuals, partnerships, corporations, and associations.

(f) The definitions and intepretations of terms contained section 201 of the act shall be applicable to such terms when used in the regulations in this part.

(g) "New-drug substance" means any substance that, when used in the manufacture, processing, or packing of a drug, causes that drug to be a new drug, but does not include intermediates used in the synthesis of such substance.

(h) The newness of a drug may arise by reason (among other reasons) of:

(1) The newness for drug use of any substance which composes such drug, in whole or in part, whether it be an active substance or a menstruum, excipient, carrier, coating, or other component.

(2) The newness for drug use of a combination of two or more substances, none of which is a new drug.

(3) The newness for drug use of the proportion of a substance in a combination, even though such combination containing such substance in other proportion is not a new drug.

(4) The newness of use of such drug in diagnosing, curing, mitigating, treating, or preventing a disease, or to affect a structure or function of the body, even though such drug is not a new drug when used in another disease or to affect another structure or function of the body.

(5) The newness of a dosage, or method or duration of administration or application, or other condition of use prescribed, recommended, or suggested in the labeling of such drug, even though such drug when used in other dosage, or other method or duration of administration or application, or different condition, is not a new drug.

§ 130.2 Biologics; products subject to license control.

A new drug shall not be deemed to be subject to section 505 of the act if it is a drug licensed under the Public Health Service Act of July 1, 1944 (58 Stat. 682, as amended; 42 U.S.C. 201 et seq.) or under the animal-virus-serum-toxin law of March 4, 1913 (37 Stat. 832; 21 U.S.C. 151 et seq.)

§ 130.3 New drugs for investigational use; exemptions from section 505(a).

[Regulations under this section were published in the FEDERAL REGISTER of January 8, 1963 (28 F.R. 179) and no changes in this section are proposed.]

§ 130.4 Applications.

(a) Applications to be filed under the provisions of section 505(b) of the act shall be submitted in triplicate. If any part of the application is in a foreign language, an accurate and complete English translation shall be appended to such part; translations of literature printed in a foreign language shall be accompanied by copies of the original publication. If the applicant does not reside or maintain a place of business within the United States or any territory or possession of the United States, the application shall be countersigned by a duly authorized attorney, agent, or other representative of the applicant who resides in the United States.

(b) Pertinent information may be incorporated in, and will be considered as part of, an application on the basis of specific reference to such information, including information submitted under the provisions of § 130.3, in the files of the Food and Drug Administration. However, any reference to information furnished by a person other than the applicant will not be considered unless use of such information is authorized in a written statement signed by the person who submitted it.

(c) Applications shall be submitted in the following form:

Form FD–356—Rev. 1963
Department of Health, Education, and Welfare, Food and Drug Administration

ORIGINAL ☐ OR SUPPLEMENTAL ☐
APPLICATION

Name of applicant _____
Address _____
Date _____
Name of new drug _____
_____
(If this is a supplemental application see Item 8)

To the Secretary of Health, Education, and Welfare,
For the Commissioner of Food and Drugs,
Washington 25, D.C.

Dear Sir:

The undersigned _____, submits this application with respect to a new drug pursuant to section 505(b) of the Federal Food, Drug, and Cosmetic Act.

Attached hereto, in triplicate, and constituting a part of this application are the following:

1. Full reports of investigations that have been made to show whether or not the drug is safe for use and effective in use.

a. An application may be incomplete or may be refused unless it contains full reports of adequate tests by all methods reasonably applicable to show whether or not the drug is safe and effective for use as suggested in the proposed labeling and includes all the following:

i. Detailed reports of the preclinical investigations, including studies made on laboratory animals, in which the methods used and the results obtained are clearly set forth. Such information should include identification of the person who conducted each investigation, a statement of where the investigations were conducted, and where the underlying data are available for inspection. The animal studies may not be considered adequate unless they give proper attention to the conditions of use recommended in the proposed labeling for the drug such as, for example, whether the drug is for short- or long-term administration or whether it is to be used in infants, children, pregnant women, or premenopausal women.

ii. Reports of all clinical tests by experts should be attached. These reports should include adequate information concerning each subject treated with the drug or employed as a control, including age, sex, conditions treated, dosage, frequency of administration of the drug, results of all relevant clinical observations and laboratory examinations made, full information concerning any other treatment given previously or concurrently, and a full statement of adverse effects and useful results observed, together with an opinion as to whether such effects or results are attributable to the drug under investigation and a statement of where the underlying data is available for inspection. Ordinarily, the reports of clinical studies will not be regarded as adequate unless they include reports from more than one independent, competent investigator who maintain adequate case histories of an adequate number of subjects, designed to record observations and permit evaluation of any and all discernible effects attributable to the drug in each individual treated and comparable records on any individuals employed as controls. Except where the disease for which the drug is being tested does not occur in the United States, some of the investigations should be performed by competent investigators within the United States.

iii. All information pertinent to an evaluation of the safety and effectiveness of the drug available to the applicant from any source, including information derived from other investigations or commercial marketing (for example, outside the United States), or reports in the scientific literature, involving the drug that is the subject of the application or any related drug. Include any evaluation of the safety or effectiveness of the drug that has been made by the applicant's medical department, expert committee, or consultants.

iv. If the drug is a combination of previously investigated or marketed drugs, an adequate summary of preexisting information from preclinical and clinical investigation and experience with its components, including all reports available to the applicant suggesting side effects, contraindications, and ineffectiveness in use of such components. Such summary should include an adequate bibliography of publications about the components and may incorporate by reference information concerning such components previously submitted by the applicant to the Food and Drug Administration.

b. An application may be incomplete or may be refused unless it includes substantial evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and responsibly be concluded that the drug will have the effect it purports or is represented to have under the conditions of use prescribed,

recommended, or suggested in the proposed labeling.

c. The complete composition and/or method of manufacture of the new drug used in each submitted report of investigation should be shown to the extent necessary to establish its identity, strength, quality, and purity if it differs from the description in items 2, 3, or 4 of the application in any way that would bias an evaluation of the report.

d. An application may be incomplete unless it includes a complete list of the names and post office adresses of all investigators who received the drug. (This may be incorporated in whole or in part by reference to information submitted under the provisions of § 130.3.)

e. Explain any omission of reports from any investigator or other consignee to whom the investigational drug has been made available. The unexplained omission of any reports of investigations made with the new drug by the applicant, or submitted to him by an investigator, or the unexplained omission of any pertinent reports of investigations or clinical experience available to the applicant from published literature or other sources, that would bias an evaluation of the safety of the drug or its effectiveness in use constitutes grounds for the refusal or withdrawal of the approval of an application.

2. A full list of the articles used as components of the drug. This list should include all substances used in the synthesis, extraction, or other method of preparation of any new-drug substance, and in the preparation of the finished dosage form, regardless of whether they undergo chemical change or are removed in the process. Each substance should be identified by its established name, if any, or complete chemical name, using structural formulas when necessary for specific identification. If any proprietary preparation is used as a component, the proprietary name should be followed by a complete quantitative statement of composition. Reasonable alternatives for any listed substance may be specified.

3. A full statement of the composition of the drug. The statement shall set forth the name and amount of each ingredient, whether active or not, contained in a stated quantity of the drug in the form in which it is to be distributed, as for example, amount per tablet or per milliliter, and a batch formula representative of that to be employed for the manufacture of the finished dosage form. All components should be included in the batch formula regardless of whether they appear in the finished product. Any calculated excess of an ingredient over the albel declaration should be designated as such and percent excess shown. Reasonable variations may be specified.

4. A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of the drug. Included in this description should be full information with respect to any new-drug substance and to the new-drug dosage form as follows, in sufficient detail to permit evaluation of the adequacy of the described methods of manufacture, processing, and packing and the described facilities and controls to determine and preserve the identity, strength, quality, and purity of the drug:

a. A description of the physical facilities including building and equipment used in manufacturing, processing, packaging, labeling, storage, and control operations.

b. A description of the qualifications, including educational background and experience, of the key manufacturing and control personnel who are responsible for insuring that the drug has the safety, identity, strength, quality, and purity it purports or is represented to possess, and a statement of their responsibilities.

c. The methods used in the synthesis, extraction, isolation, or purification of any new-drug substance. When the specifications and controls applied to such substance are inadequate in themselves to determine its identity, strength, quality, and purity, the methods should be described in sufficient detail, including quantities used, times, temperatures, pH, solvents, etc., to determine these characteristics. Alternative methods or variations in methods within reasonable limits that do not affect such characteristics of the substance may be specified.

d. Precautions to insure proper identity, strength, quality, and purity of the raw materials, whether active or not, including the specifications for acceptance and methods of testing for each lot of raw material.

e. Whether or not each lot of raw materials is given a serial number to identify it, and the use made of such numbers in subsequent plant operations.

f. If the applicant does not himself perform all the manufacturing, processing, packaging, labeling, and control operations for any new-drug substance or the new-drug dosage form, his statement identifying each person who will perform any part of such operations and designating the part; and a signed statement from each such person fully describing, directly or by reference, the methods, facilities, and controls in his part of the operation.

g. Method of preparation of the master formula record and individual batch record and manner in which these records are used.

h. The instructions used in the manufacturing, processing, packaging, and labeling of each dosage form of the new drug, including any special precautions observed in the operations.

i. Adequate information with respect to the characteristics of and the test methods employed for the container, closure, or other component parts of the drug package to insure their suitability for the intended use.

j. Number of individuals checking weight or volume of each individual ingredient entering into each batch of the drug.

k. Whether or not the total weight or volume of each batch is determined at any stage of the manufacturing process subsequent to making up a batch according to the formula card and if so at what stage and by whom it is done.

l. Precautions to check the actual package yield produced from a batch of the drug with the theoretical yield. This should include a description of the accounting for such items as discards, breakage, etc., and the criteria used in accepting or rejecting batches of drugs in the event of an unexplained discrepancy.

m. Precautions to insure that each lot of the drug is packaged with the proper label and labeling, including provisions for labeling storage and inventory control.

n. The analytical controls used during the various stages of the manufacturing, processing, packaging, and labeling of the drug, including a detail description of the collection of samples and the analytical procedures to which they are subjected. The analytical procedures should be capable of determining the active components within a reasonable degree of accuracy and of assuring the identity of such components. If the article is one that is represented to be sterile, the same information with regard to the manufacturing, processing, packaging, and the collection of samples of the drug should be given for sterility controls. Include the standards used for acceptance of each lot of the finished drug.

o. An explanation of the exact significance of any batch control numbers used in the manufacturing, processing, packaging, and labeling of the drug, including such control numbers that may appear on the label of the finished article. State whether these numbers enable determination of the complete manufacturing history of the product. State whether or not any of the numbers appear on invoices and describe any other methods used to permit determination of the distribution of any batch if its recall is required.

p. A complete description of, and data derived from, studies of the stability of the drug, including information showing the suitability of the analytical methods used. Describe any additional stability studies underway or contemplated. Stability data should be submitted for any new-drug substance, for the finished dosage form of the drug in the container including a multiple-dose container in which it is to be marketed, and if it is to be put into solution at the time of dispensing, for the solution prepared as directed. If the data indicate that an expiration date is needed to preserve the identity, strength, quality, and purity of the drug until it is used, a statement of an expiration date.

q. Additional procedures employed which are designed to prevent contamination and otherwise insure proper control of the product.

(An application may be incomplete or may be refused unless it includes adequate information showing that the methods used in, and the facilities and controls used for, the manufacturing, processing, and packaging of the drug are adequate to preserve its identity, strength, quality and purity in conformity with good manufacturing practice and identifies each establishment, showing the location of the plant conducting these operations.)

5. Samples of the drug and articles used as components, as follows:

a. The following samples shall be submitted with the application or as soon thereafter as they become available. Each sample shall consist of four identical, separately packaged subdivisions, each containing at least three times the amount required to perform the laboratory test procedures described in the application to determine compliance with its control specifications for identity and assays:

i. A representative sample or samples of the finished dosage form(s) proposed in the application and employed in the clinical investigations and a representative sample or samples of each new-drug substance, as defined in § 130.1(g), from the batch(es) employed in the production of such dosage form(s).

ii. A representative sample or samples of finished market packages of each dosage form of the drug prepared for initial marketing, and if any such sample is not from a commercial-scale production batch, in addition such a sample from a representative commercial-scale production batch; and a representative sample or samples of each new-drug substance, as defined in § 130.1(g), from the batch(es) employed in the production of such dosage form(s). *Provided, however,* That in the case of medicated feeds marketed in large packages the sample should contain only three times a sufficient quantity of the medicated feed to allow for performing the control tests for drug identity and assays.

iii. A sample or samples of any reference standard and blank used in the procedures described in the application for assaying each new-drug substance and other assayed components of the finished drug; *Provided, however,* That samples of reference standards recognized in the official United States Pharmacopeia or The National Formulary need not be submitted unless requested.

b. Additional samples shall be submitted on request.

c. Each of the samples submitted shall be appropriately packaged and labeled to preserve its characteristics; to identify the ma-

terial and the quantity in each subdivision of the sample, and to identify each subdivision with the name of the applicant and the new-drug application to which it relates.

d. There shall be included a full list of the samples submitted pursuant to item 5a; a statement of the additional samples that will be submitted as soon as available; and, with respect to each sample submitted, full information with respect to its identity, the origin of any new-drug substance contained therein (including in the case of new-drug substances, a statement whether it was produced on a laboratory, pilot-plant, or full-production scale) and detailed results of all laboratory tests made to determine the identity, strength, quality, and purity of the batch represented by the sample, including assays. Include for any reference standard a complete description of its preparation and the results of all laboratory tests on it. If the test methods used differed from those described in the application, full details of the methods employed in obtaining the reported results shall be submitted.

e. The requirements of item 5a may be waived in whole or in part on request of the applicant or otherwise when any such samples are not necessary.

6. Each copy of the application shall contain three copies of each label and all other labeling to be used for the drug.

a. Each label, or other labeling, should be clearly identified to show its position on, or the manner in which it accompanies, the market package.

b. The labeling on or within the retail package should include adequate directions for use by the layman under all the conditions for which the drug is intended for lay use, or is to be prescribed, recommended, or suggested in any labeling or advertising sponsored by or on behalf of the applicant and directed to laymen.

c. If the drug is limited in its labeling to use under the professional supervision of a practitioner licensed by law to administer it, its labeling should bear information for use under which such practitioners can use the drug for the purposes for which it is intended, including all the purposes for which it is to be advertised or represented, in accord with § 1.106 (b) or (c).

d. If no established name exists for a new-drug substance, the application shall propose a nonproprietary name for use as the established name for the substance.

e. Typewritten or other draft labeling copy may be submitted for preliminary consideration of an application. No application may be approved prior to the submission of the final printed label and labeling of the drug. No application may be approved if the labeling is false or misleading in any particular.

(If the article is a prescription drug, copies of proposed advertising may be submitted optionally for comment or approval.)

7. State whether the drug is (or is not) limited in its labeling and by this application to use under the professional supervision of a practitioner licensed by law to administer it.

8. If this is a supplemental application, full information on each proposed change concerning any statement made in the approved application.

(After an application is approved, a supplemental application may propose changes. A supplemental application may omit statements made in the approved application concerning which no change is proposed. A supplemental application should be submitted for any change beyond the variations provided for in the application (including changes in the scale of production such as from pilot-plant to production batch) that may alter the conditions of use, the labeling, the safety, effectiveness, identity, strength, quality, or purity of the drug or the adequacy of manufacturing methods, facilities, or controls to preserve them. Any mailing or promotional piece used after the drug is placed on the market is labeling requiring a supplemental application if it deviates in any significant respect from the approved labeling. When necessary for the safety or effectiveness of the drug, a supplemental application shall specify a period of time within which the proposed change will be made.)

9. It is understood that the labeling and advertising for the drug will prescribe, recommend, or suggest its use only under the conditions stated in the labeling which is part of this application; and if the article is a prescription drug, it is understood that any labeling which furnishes or purports to furnish information for use or which prescribes, recommends, or suggests a dosage for use of the drug will also contain substantially the same information for its use, including indications, effects, dosages, routes, methods, and frequency and duration of administration, any relevant hazards, contraindications, side effects, and precautions, contained in the labeling which is part of this application. It is understood that all representations in this application apply to the drug produced until an approved supplement to the application provides for a change or the applicant is notified in writing by the Food and Drug Administration that a supplemental application is not required for the change, or the article is no longer a new drug.

Very truly yours,

(Applicant)

Per ---

(Indicate authority)

(1) This application must be signed by the applicant or by an authorized attorney, agent, or official. If the applicant or such authorized representative does not reside or have a place of business within the United States, the application must also furnish the name and post office address of and must be countersigned by an authorized attorney, agent, or official residing or maintaining a place of business within the United States. The data specified under the several numbered headings should be on separate sheets or sets of sheets, suitably identified. The sample of the drug, if sent under separate cover, should be addressed to the attention of the Division of New Drugs or the Division of Veterinary Medicine and identified on the outside of the shipping package with the name of the applicant and the name of the drug as shown on the application.

(2) The applicant will be notified of the date on which his application is filed. An incomplete application, or one which has not been submitted in triplicate, will be retained but not filed as an application provided for in section 505(b) of the act. The applicant will be notified in what respect his application is incomplete.

(3) All applications and correspondence should be submitted in triplicate.

§ 130.5 Reasons for refusing to file applications.

(a) An application shall not be considered complete and will not be filed as a new-drug application within the meaning of section 505(b) of the act if it does not contain complete and accurate English translations of any part in a foreign language, if fewer than three copies are submitted, or if it is incomplete on its face in that it does not contain all the matter required by section 505(b) (1), (2), (3), (4), (5), and (6) of the act or by the new-drug application form contained in § 130.4(c), or on its face the information concerning such matter is inadequate to determine whether or not the drug is safe and effective in use.

(b) An application will not be accepted for filing if:

(1) The drug is to be manufactured, prepared, propagated, compounded, or processed in whole or in part in an establishment that has not been registered or exempted from registration under the provisions of section 510 of the act.

(2) The applicant does not reside or maintain a place of business within the United States and the application has not been countersigned by an attorney, agent, or other representative of the applicant, which representative resides in the United States and has been duly authorized to act on behalf of the applicant and to receive communications on all matters pertaining to the application.

(3) The new drug is a drug subject to licensing under the Public Health Service Act of July 1, 1944 (58 Stat. 682, as amended; 42 U.S.C. 201 et seq.) or under the animal-virus-serum toxin law of March 4, 1913 (37 Stat. 832; 21 U.S.C. 151 et seq.)

(c) The applicant will be notified of such nonacceptance and the reason therefor and, in case of incompleteness or inadequacy as to matter required by any clause of section 505(b) of the act or of the new-drug application form, such clause shall be specified. Otherwise, the date on which an application is received will be considered to be the date on which such application is filed, and the applicant will be notified of such date.

(d) If an applicant disputes the finding that his application is incomplete or inadequate, he may make written request to file the application over protest. In such case, the application shall be considered filed over protest as of the date of receipt of such written request, and the applicant shall be so notified in writing.

§ 130.6 Comment on applications.

(a) After the application has been studied, the applicant will be furnished comment on any apparent deficiencies in the data submitted or on the need for any additional data or changes in the application to facilitate its consideration.

(b) When the description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug appears adequate on its face, but it is not feasible to reach a conclusion as to the safety and effectiveness of the drug solely from consideration of this description, the applicant may be notified that an inspection is required to verify their adequacy.

(c) Withdrawal of an application may be suggested when it is found that additional evidence is required to support a finding that the drug is safe or effective or that the methods, facilities, and controls used in manufacturing, processing, and packing the drug are adequate.

(d) On the basis of preliminary consideration of an application or supplemental application containing typewritten or other draft labeling in lieu of final printed labeling, an applicant may be informed that such application is approvable when satisfactory final printed labeling identical in content to such draft copy is submitted.

§ 130.7 Amended applications.

The applicant may submit an amendment to an application that is pending, but in such case the unamended application shall be considered as withdrawn and the amended application shall be considered resubmitted on the date on which the amendment is received by the Food and Drug Administration. The applicant will be notified of such date.

§ 130.8 Withdrawal of applications without prejudice.

The applicant may at any time withdraw his pending application from consideration as a new-drug application upon written notification to the Food and Drug Administration. Such withdrawal may be made without prejudice to a future filing. Upon resubmission, the time limitation will begin to run from the date the resubmission is received by the Food and Drug Administration. The application itself will be retained by the Food and Drug Administration although it is considered withdrawn, but the applicant shall be furnished a copy at cost, on request.

§ 130.9 Supplemental applications.

(a) After an application is approved, a supplemental application may propose changes. A supplemental application may omit statements made in the approved application concerning which no change is proposed. A supplemental application should be submitted for any change beyond the variations provided for in the application (including changes in the scale of production, such as from pilot-plant to production batch), that may alter the conditions of use, the labeling, the safety, effectiveness, identity, strength, quality, or purity of the drug, or the adequacy of the manufacturing methods, facilities, or controls to preserve them. Any mailing or promotional piece used after the drug is placed on the market is labeling requiring a supplemental application if it deviates in any significant respect from the approved labeling.

(b) When necessary, for the safety or effectiveness of the drug, a supplemental application shall specify a period of time within which the proposed change will be made.

(c) If a material change is made in the components, composition, manufacturing methods, facilities or controls, or in the labeling or advertising from the representations in an approved application for a new drug, and the drug is marketed before a supplement is approved for such change, approval of the application may be suspended or withdrawn as provided in section 505(e) of the act.

(d) The submission of a supplemental new-drug application is not required for changes made in the new drug, or in its labeling, or in the manufacturing facilities or controls under which it is produced, that are not significant from the standpoint of safety or effectiveness. The holder of an approved new-drug application should submit to the Food and Drug Administration, in writing, full details of any proposed change or changes, and he will be notified in writing whether the approval of a supplemental application is required for such change or changes. This includes all mailing and promotional pieces that are to be used after the new drug has been placed on the market.

(e) A supplemental application is not required when the article is no longer a new drug under the labeling submitted in the new-drug application, unless the proposed change itself causes it to become a new drug.

§ 130.10 Notification of applicant of approval of application.

If the Commissioner determines before the 180th day after filing of an application that none of the grounds for denying approval specified in section 505(d) of the act applies, the applicant shall be notified in writing that the application is approved and the application shall be approved on the date of the notification.

§ 130.11 Insufficient information in application.

(a) The information contained in an application may be insufficient to determine whether a drug is safe or effective in use if it fails to include (among other things) a statement showing whether the drug is to be limited to prescription sale and exempt under section 502(f)(1) of the act from the requirement that its labeling bear adequate directions for use. If the drug is to be exempt, the information may also be insufficient if:

(1) The specimen labeling proposed fails to bear adequate information for use, including indications, effects dosages, routes, methods, and frequency and duration of administration, and any relevant hazards, contraindications, side effects, and precautions, under which practitioners licensed by law to administer the drug can use the drug for the purposes for which it is intended, including all purposes for which it is to be advertised, or represented, in accordance with § 1.106 (b) or (c) of this chapter, and information concerning hazards, contraindications, side effects, and precautions, relevant with respect to any common uses of the drug, even though the proposed labeling does not offer it for such uses.

(2) The application fails to show that the labeling and advertising of the drug will offer the drug for use only under those conditions for which it is offered in the labeling that is part of the application.

(3) The application fails to show that all labeling that furnishes or purports to furnish information for use of the drug will contain substantially the same information for use, including indications, effects, dosages, routes, methods, and frequency and duration of administration, and any relevant hazards, contraindications, side effects, and precautions, which is contained in the labeling that is part of the application, in accordance with § 1.106 (b) or (c) of this chapter.

(b) The information contained in an application will be considered insufficient to determine whether a drug is safe and effective for use when there is a refusal or failure upon written notice to furnish duly authorized inspectors of the Food and Drug Administration an adequate opportunity to inspect the facilities, controls, and any record pertinent to the application.

§ 130.12 Refusal to approve the application.

(a) If the Commissioner determines upon the basis of the application, or upon the basis of other information before him with respect to the new drug, that:

(1) The investigations, reports of which are required to be submitted pursuant to section 505(b) of the act, do not include adequate tests by all methods reasonably applicable to show whether or not such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; or

(2) The results of such tests show that such drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; or

(3) The methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug are inadequate to preserve its identity, strength, quality, and purity; or

(4) Upon the basis of the information submitted to the Food and Drug Administration as part of the application, or upon the basis of any other information before it with respect to such drug, it has insufficient information to determine whether such drug is safe for use under such conditions; or

(5) Evaluated on the basis of information submitted as part of the application and any other information before the Food and Drug Administration with respect to such drug, there is lack of substantial evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and responsibly be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling; or

(6) Based on a fair evaluation of all material facts, such labeling is false or misleading in any particular;

the Commissioner shall within 180 days after the filing of the application inform the applicant in writing of his intention to issue a notice of hearing on a proposal to refuse to approve the application.

(b) Unless by the 30th day following the date of issuance of the letter informing the applicant of the intention to issue a notice of hearing, the applicant:

(1) Withdraws the application; or

(2) Waives the opportunity for a hearing; or

(3) Agrees with the Commissioner on an additional period to precede issuance of such notice of hearing,

the Commissioner shall expeditiously notify the applicant of an opportunity for a hearing on the question of whether such application is approvable as provided in § 130.14.

§ 130.13 Records and reports concerning experience on new drugs.

(a) On receiving notification that an application for a new drug is approved, the applicant shall establish and maintain records and make reports that are necessary to facilitate a determination whether there may be grounds for invoking section 505(e) of the act to suspend or withdraw approval of the application, including an adequately organized and indexed file containing full reports of any information of the following kinds that has not previously been submitted as part of his application for the drug and which is made available to him from any source:

(1) Clinical experience, studies, investigations, and tests conducted by the applicant or reported to him by any person, or reports in the scientific literature that are available to him, involving the drug that is the subject of the application or any related drug.

(2) Animal experience, studies, investigations, and tests conducted by the applicant or reported to him by any person, or reports in the scientific literature that are available to him involving the drug that is the subject of the application or any related drug.

(3) Experience, investigation, studies, or tests involving the chemical or physical properties or any other properties of the drug, such as its behavior or properties in relation to microorganisms, including both the effects of the drug on microorganisms and the effects of microorganisms on the drug.

(4) The information required by this section shall include, when known, adequate identification of its source, including the name and post office address of the person who furnished such information.

(5) Copies of all mailing pieces and other labeling, and if it is a prescription drug all advertising, other than that contained in the application, used in promoting the drug.

(b) The applicant shall submit copies of the records and reports described in paragraph (a) of this section, appropriately identified with the new-drug application(s) to which they relate, in triplicate to the Food and Drug Administration, as follows:

(1) As soon as possible and in any event within 5 working days of its receipt by the applicant, complete records or reports concerning any information of the following kinds:

(i) Information concerning any undesirable side effect, injury, toxicity, or sensitivity reaction associated with clinical uses, studies, investigations, or tests, whether or not determined to be attributable to the drug, except that this requirement shall not apply to the submission of information described in a written communication to the applicant from the Food and Drug Administration as types of information that may be submitted at other designated intervals.

(ii) Information concerning any unusual failure of the drug to exhibit its expected pharmacological activity.

(iii) Information concerning any mix-up in the drug or its labeling with another article.

(iv) Information concerning any chemical, physical, bacteriological, or other change or deterioration in the drug, or any failure of one or more distributed batches of the drug to meet the specifications established for it in the new-drug application.

(2) All the kinds of information described in paragraph (a) of this section, other than that submitted under the provisions of paragraph (b)(1) of this section, shall be submitted at the following intervals, unless otherwise ordered in a written communication from the Commissioner:

(i) If the drug is intended for administration to man, within intervals of 3 months beginning with the date of approval of the application during the first year following such date; within intervals of 6 months during the second year following such date; and at yearly intervals thereafter.

(ii) If the drug is intended solely for administration to animals, at intervals within 6 months beginning with the date of approval of the application during the first year following such date, and at yearly intervals thereafter.

(iii) The submitted copies of records and reports shall include all the required information that became available to the applicant during the designated intervals.

(3) On written order of the Commissioner, within the time stated in such order or agreed to by the applicant and the Commissioner, any designated records or reports containing the kinds of information described in this section.

(c) The reports submitted under the provisions of this section are not required to furnish the names and addresses of individual patients unless the applicant is notified in writing by the Food and Drug Administration that individual patient identification is required with respect to designated reports in order to permit further investigation or because there is reason to believe that such reports do not represent actual results obtained.

(d) The applicant shall upon request of, any properly authorized officer or employee of the Department, at reasonable times, permit such officers to have access to and copy and verify any records and reports established and maintained under the provisions of this section.

(e) If the Food and Drug Administration finds that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports, in accordance with the provisions of this section, or that the applicant has refused to permit access to, or copying or verification of such records or reports, the Commissioner shall give the applicant due notice and opportunity for a hearing on the question of whether to withdraw the approval of the application, as provided in §§ 130.14 and 130.27.

(f) Upon written request of the applicant, stating reasonable grounds therefor, the Commissioner will make available any information in possession of the Food and Drug Administration of the kinds the applicant is required to maintain under the provisions of this section, except information readily available to the applicant from other sources or information which the Commissioner concludes must be considered confidential.

§ 130.14 Contents of notice of hearing.

(a) The notice to the applicant of opportunity for a hearing on a proposal by the Commissioner to refuse to approve an application or to withdraw the approval of an application will specify the grounds upon which he proposes to issue his order. On request of the applicant, the Commissioner will explain the reasons for his action. The notice of hearing will specify that the applicant has 30 days after issuance of the notice within which he is required to file a written appearance electing whether:

(1) To avail himself of the opportunity for a hearing at the place specified in the notice of hearing; or

(2) Not to avail himself of the opportunity for a hearing.

(b) If the applicant elects to accept the opportunity for a hearing by written request within 30 days after such notice, a hearing examiner will be named and he shall issue a written notice of the time and place at which the hearing shall commence, not more than 90 days after the expiration of such 30 days unless the hearing examiner and the applicant otherwise agree.

(c) The hearing will be open to the public: *Provided, however,* That if the Commissioner finds that portions of the application which serve as a basis for the hearing contain information concerning a method or process which as a trade secret is entitled to protection, the part of the hearing that involves such portions will not be public unless the respondent so specifies in his appearance.

§ 130.15 Failure to file an appearance.

If the respondent fails to file a written appearance in answer to the notice of hearing, his failure will be construed as an election not to avail himself of the opportunity for the hearing, and the Commissioner, without further notice, may enter a final order.

§ 130.16 Appearance of respondent.

If the respondent elects to avail himself of the opportunity for the hearing, he may appear in person or by counsel. If the respondent desires to be heard through counsel, the counsel will file with the hearing examiner a written appearance.

§ 130.17 Hearing examiner.

The hearing will be conducted by a hearing examiner appointed as provided in the Administrative Procedure Act (60

Stat. 235; 5 U.S.C. 1002 et seq.) and designated for conducting the hearing. Any such designation may be made or revoked by the Commissioner at any time. Hearings will be conducted in an informal but orderly manner in accordance with these regulations and the requirements of the Administrative Procedure Act. The hearing examiner will have the power to administer oaths and affirmations, to rule upon offers of proof and the admissibility of evidence, to receive relevant evidence, to examine witnesses, to regulate the course of the hearing, to hold conferences for the simplification of the issues, and to dispose of procedural requests, but will not have the power to decide any motion that involves final determination of the merits of the proceeding.

§ 130.18 Prehearing and other conferences.

The hearing examiner, on his own motion or on the motion of the applicant or the Food and Drug Administration, may direct all parties or their representatives to appear at a specified time and place for a conference to consider:

(a) The simplification of the issues.

(b) The possibility of obtaining stipulations, admissions of facts, and documents.

(c) The limitation of the number of expert witnesses.

(d) The scheduling of witnesses to be called.

(e) The advance submission of all documentary evidence.

(f) Such other matters as may aid in the disposition of the proceeding.

The hearing examiner will make an order reciting the action taken at the conference, the agreements made by the parties or their representatives, and the schedule of witnesses, and limiting the issues for hearing to those not disposed of by admissions or agreements. Such order will control the subsequent course of the proceeding unless modified for good cause by subsequent order. The hearing examiner may also direct all parties and their representatives to appear at conferences at any time during the hearing with a view to simplification, clarification or shortening the hearing.

§ 130.19 Submission of documentary evidence in advance.

(a) All documentary evidence to be offered at the hearing shall be submitted to the hearing examiner and to the parties sufficiently in advance of the offer of such documentary evidence for introduction into the record to permit study and preparation of cross-examination and rebuttal evidence.

(b) The hearing examiner after consultation with the parties at a conference called in accordance with § 130.18 shall make an order specifying the time at which documentary evidence shall be submitted. He shall also specify in his order the time within which objections to the authenticity of such documents must be made to comply with paragraph (d) of this section.

(c) Documentary evidence not submitted in advance in accordance with the requirements of paragraphs (a) and (b) of this section shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner.

(d) The authenticity of all documents submitted in advance shall be deemed admitted unless written objection thereto is filed with the hearing examiner upon notice to the other parties within the time specified by the hearing examiner in accordance with paragraph (b) of this section, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

§ 130.20 Excerpts from documentary evidence.

When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the hearing examiner and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by opposing counsel for purposes of cross-examination.

§ 130.21 Submission and receipt of evidence.

(a) Each witness shall, before proceeding to testify, be sworn or make affirmation.

(b) When necessary in order to prevent undue prolongation of the hearing, the hearing examiner may limit the number of times any witness may testify, the repetitious examination and cross-examination of witnesses, or the amount of corroborative or cumulative evidence.

(c) The hearing examiner shall admit only evidence that is relevant, material, and not unduly repetitious.

(d) Opinion evidence shall be admitted when the hearing examiner is satisfied that the witness is properly qualified.

(e) If any person objects to the admission or rejection of any evidence, or other limitation of the scope of any examination or cross-examination, he shall state briefly the grounds for such objection, and the transcript shall not include extended argument or debate thereon except as ordered by the hearing examiner. A ruling on any such objection shall be a part of the transcript, together with such offer of proof as has been made.

§ 130.22 Transcript of the testimony.

Testimony given at a hearing shall be reported verbatim. All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall be marked for identification and, upon a showing satisfactory to the hearing examiner of their authenticity, relevancy, and materiality, shall be received in evidence subject to section 7(c) of the Administrative Procedure Act (5 U.S.C. 1006(c)). Exhibits shall, if practicable, be submitted in quintuplicate. In case the required number of copies are not made available, the hearing examiner shall exercise his discretion as to whether said exhibit shall be read in evidence or whether additional copies shall be required to be submitted within a time to be specified by the hearing examiner. Where the testimony of a witness refers to a statute, or to a report or document, the hearing examiner shall, after inquiry relating to the identification of such statute, report, or document, determine whether the same shall be produced at the hearing and physically be made a part of the evidence or shall be incorporated in the record by reference. Where relevant and material matter offered in evidence is embraced in a report or document containing immaterial and irrelevant matter, such immaterial and irrelevant matter shall be excluded and shall be segregated insofar as practicable, subject to the direction of the hearing examiner.

§ 130.23 Oral and written arguments.

(a) Unless the hearing examiner shall issue an announcement at the hearing authorizing oral argument before him, it shall not be permitted.

(b) The hearing examiner shall announce at the hearing a reasonable period within which the parties or their representatives may file written arguments based solely upon the evidence received at the hearing, citing the pages of the transcript of the testimony or of properly identified exhibits where such evidence occurs.

§ 130.24 Tentative order.

The hearing examiner, within a reasonable time, shall prepare tentative findings of fact and a tentative order, which shall be served upon the respondent and the Food and Drug Administration or sent to them by certified mail. If no exceptions are taken to the tentative order within 20 days or such other time specified in such order, that order shall become final.

§ 130.25 Exceptions to the tentative order.

Within 20 days or such other time specified in the tentative order, the respondent or the Food and Drug Administration may transmit exceptions to the hearing examiner, together with any briefs or argument in support thereof. If exception is taken to any tentative findings of fact, reference must be made to the pages or parts of the record relied upon, and a corrected finding of fact must be submitted. The respondent, if he files exceptions, shall state in writing whether he desires to make an oral argument.

§ 130.26 Issuance of final order.

Within a reasonable time after the filing of exceptions, or after oral argument (if such argument is requested), the Commissioner shall issue the final order in the proceeding. The order will include the findings of fact upon which it is based.

§ 130.27 Withdrawal of approval of an application.

The Commissioner shall, in writing, notify the person holding an approved new-drug application and afford an opportunity for a hearing on a proposal to withdraw approval of the application as provided in §§ 130.14 to 130.27, inclusive, if:

(a) The Secretary has suspended the approval of such application on a finding that there is an imminent hazard to the public health; or

(b) The Commissioner finds:

(1) That clinical or other experience, tests, or other scientific data show that the drug is unsafe for use under the conditions of use upon the basis of which the application was approved; or

(2) That new evidence of clinical experience, not contained in the application or not available to the Food and Drug Administration until after the application was approved, or tests by new methods, or tests by methods not deemed reasonably applicable when the application was approved, evaluated together with the evidence available when the application was approved, reveal that the drug is not shown to be safe for use under the conditions of use upon the basis of which the application was approved; or

(3) Upon the basis of new information before the Food and Drug Administration with respect to the drug, evaluated together with the evidence available when the application was approved, that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof; or

(4) That the application contains any untrue statement of a material fact;

or

(c) The Commissioner finds:

(1) That the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports, in accordance with a regulation or order under section 505(j) of the act and of §130.13, or that the applicant has refused to permit access to, or copying or verification of, such records as required; or

(2) That on the basis of new information before the Food and Drug Administration, evaluated together with the evidence available when the application was approved, the methods used in, or the facilities and controls used for, the manufacture, processing, and packing of the drug are inadequate to assure and preserve its identity, strength, quality, and purity; or

(3) That on the basis of new information before the Food and Drug Administration, evaluated together with the evidence available when the application was approved, the labeling of the drug, based on a fair evaluation of all material facts, is false or misleading in any particular;

and that the matter complained of was not corrected by the applicant within a reasonable time after his receipt of written notice from the Commissioner specifying the matter complained of.

§ 130.28 Revocation of order refusing to approve application, or suspending or withdrawing approval of an application.

The Commissioner, upon his own initiative or upon request of an applicant stating reasonable grounds therefor, may, if he finds that the facts so require, issue an order approving an application concerning which an approval has previously been refused, suspended, or withdrawn.

§ 130.29 Service of notices and orders.

All notices and orders under this Part 130 and section 505 of the act pertaining to new-drug applications shall be served:

(a) In person by any officer or employee of the Department designated by the Commissioner; or

(b) By mailing the order by certified mail addressed to the applicant or respondent at his last known address in the records of the Food and Drug Administration.

§ 130.30 Untrue statements in application.

Among the reasons why an application may contain an untrue statement of a material fact are:

(a) Differences in:

(1) Conditions of use prescribed, recommended, or suggested by the applicant for the drug from the conditions of such use stated in the application;

(2) Articles used as components of the drug from those listed in the application;

(3) Composition of the drug from that stated in the application;

(4) Methods used in, or the facilities and controls used for, the manufacture, processing, or packing of the drug from such methods, facilities, and controls described in the application;

(5) Labeling from the specimens contained in the application;

or

(b) The unexplained omission in whole or in part, from the original application or any amendment or supplement to it, or from any record or report required under the provisions of section 505(j) of the act and § 130.13, of any information obtained from (1) investigations as to safety or effectiveness; or (2) investigations as to identity, strength, quality, or purity of the drug made by the applicant on the drug; or (3) investigations or experience with the drug, or any related drug available to the applicant from any source, if such information is pertinent to an evaluation of the safety, effectiveness, identity, strength, quality or purity of the drug, when such omission would bias an evaluation of the safety or effectiveness of the drug.

§ 130.31 Judicial review.

The Assistant General Counsel for Food and Drugs of the Department of Health, Education, and Welfare is hereby designated as the officer upon whom copies of petitions for judicial review shall be served. Such officer shall be responsible for filing in the court a transcript of proceedings and the record on which the final orders were based. The transcript and record shall be certified by the Commissioner.

§ 130.32 Confidentiality of information contained in new-drug applications.

(a) The Federal Food, Drug, and Cosmetic Act provides, in section 505(b), that any person may file with the Secretary an application with respect to any new drug, which shall include, among other things, a full list of the articles used as components and a full statement of the composition of such drug. These requirements apply to all components or ingredients of a new drug, whether or not they are therapeutically active. Fulfillment of these requirements may be met by submitting a full statement of the chemical or common or usual name and of the quantity of each component or ingredient of the drug. Such requirements may also be met through the inclusion in the new-drug application of a properly authorized reference to a previous application or other Food and Drug Administration file containing the relevant information.

(b) Section 301(j) of the act makes it an offense to divulge to unauthorized persons any information acquired from a new-drug application concerning any method or process that is a trade secret. Basic manufacturers sometimes submit data to the Food and Drug Administration in the form of so-called master files for the purpose of establishing the safety of ingredients that may be used in new drugs and authorize specified applicants to incorporate by reference such data in support of their applications. Such manufacturers may regard some of the data in such files as trade secrets and request the Food and Drug Administration to treat such information as confidential. The Food and Drug Administration will preserve the confidentiality of such data to the extent that it may properly do so. Because the applicant is legally responsible for the composition of the new drug and all its ingredients and may require information in the master file for judicial or administrative proceedings concerning the drug, the Food and Drug Administration will not withhold such information from the applicant when his need for it arises and he submits a written request for it. The Food and Drug Administration will inform the person who submitted the data of any such requests.

§ 130.33 Notice of approval.

When a new-drug application is approved, the Commissioner will publish an appropriate notice thereof in the FEDERAL REGISTER. Further, if a supplement to an approved new-drug application becomes necessary to add additional warnings, contraindications, or information about new side effects, the Commissioner may publish an appropriate notice thereof in the FEDERAL REGISTER.

§ 130.34 Notice of withdrawal of approval of application.

Where approval of a new-drug application is withdrawn by the Commissioner, he will give appropriate public notice of such action by publication in the FEDERAL REGISTER.

Subpart B—Drugs Exempted From Prescription-Dispensing Requirements

§ 130.101 Prescription-exemption procedure.

(a) *Duration of prescription requirement.* Any drug limited to prescription use under section 503(b)(1)(C) of the act remains so limited until it is exempted as provided in paragraph (b) of this section.

(b) *Prescription-exemption procedure for drugs limited by a new-drug application.* Any drug limited to prescription use under section 503(b)(1)(C) of the act shall be exempted from prescription-dispensing requirements when the Commissioner finds such requirements are not necessary for the protection of the public health by reason of the drug's toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, and he finds that the drug is safe and effective for use in self-medication as directed in proposed labeling. A proposal to exempt a drug from the prescription-dispensing requirements of section 503(b)(1)(C) of the act may be initiated by the Commissioner or by any interested person. Any interested person may file a petition seeking such exemption, stating reasonable grounds therefor, which petition may be in the form of a supplement to an approved new-drug application. Upon receipt of such a petition, or on his own initiative at any time, the Commissioner will publish a notice of proposed rule making and invite written comments. After consideration of all available data, including any comments submitted, the Commissioner may issue a regulation granting or refusing the exemption, effective on a date specified therein. Whenever the Commissioner concludes, either at the time of publication of the notice of proposed rule making or after considering the written comments submitted, that granting or refusing the exemption requires a more thorough development of the facts than is possible in a written presentation, he may call a public hearing for that purpose. The notice of such hearing shall specify the questions to be considered. As soon as practicable after completion of the hearing, the final regulation granting or refusing the exemption shall be issued, effective on a date specified therein. If the Commissioner for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in a regulation) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, he may issue the final regulation forthwith.

(c) *New-drug status of drugs exempted from the prescription requirement.* A drug exempted from the prescription requirement under the provisions of paragraph (b) of this section is a "new drug" within the meaning of section 201(p) of the act until it has been used to a material extent and for a material time under such conditions.

(d) *Prescription legend not allowed on exempted drugs.* The use of the prescription caution statement quoted in section 503(b)(4) of the act, in the labeling of a drug exempted under the provisions of this section, constitutes misbranding. Any other statement or suggestion in the labeling of a drug exempted under this section, that such drug is limited to prescription use, may constitute misbranding.

§ 130.102 Exemption for certain drugs limited by new-drug applications to prescription sale.

[No changes in this section are proposed.]

Dated: February 7, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-1541; Filed, Feb. 13, 1963; 8:45 a.m.]

[21 CFR Part 132]

REGISTRATION OF PRODUCERS OF DRUGS

Notice of Proposed Rule Making

In accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 301(p), 502(o), 510, 701(a); 52 Stat. 1043, 1050, 1055, as amended; 76 Stat. 794, 795; sec. 301, Public Law 87-781; 21 U.S.C. 331(p), 352(o), 360 and note, 371(a)), and under the authority delegated to him by the Secretary of Health, Education, and Welfare (25 F.R. 8625), the Commissioner of Food and Drugs proposes to issue the following regulations to provide for the orderly registration of persons engaged in the manufacture, preparation, propagation, compounding, or processing of drugs as defined in section 510 of the act:

PART 132—REGISTRATION OF PRODUCERS OF DRUGS

Subpart A—Definitions

Sec.
132.1 Definitions.

Subpart B—Procedures for Domestic Drug Establishments

132.2 Who must register.
132.3 Times for registration.
132.4 How and where to register.
132.5 Notification of registration requirements.
132.6 Information required.
132.7 Additional information requested.
132.8 Notification of registrant.
132.9 Inspection of registration.
132.10 Amendments to registration.
132.11 Misbranding by reference to registration.

Subpart C—Procedures for Foreign Drug Establishments [Reserved]

Subpart D—Exemptions

132.51 Exemptions for domestic establishments.

AUTHORITY: §§ 132.1 to 132.51 issued under secs. 510, 701, 52 Stat. 1055, as amended, 76 Stat. 794; 21 U.S.C. 360, 371.

Subpart A—Definitions

§ 132.1 Definitions.

(a) As used in this part, the term "act" means the Federal Food, Drug, and Cosmetic Act approved June 25, 1938 (52 Stat. 1040 et seq., as amended; 21 U.S.C. 301-392).

(b) "Initial registration" means the registration of drug establishments in existence on October 9, 1962, which was the day preceding enactment of the registration requirement.

(c) "New registration" means the registration of a new or additional drug establishment which commences operation after October 9, 1962.

(d) "Reregistration" means the registration procedure that must be complied with on or before each December 31 following the inital or new registration.

(e) "Establishment" means a place of business under one management at one general physical location. The term includes, among others, independent laboratories that engage in control activities for registered drug establishments (e.g., "consulting" laboratories) and manufacturers of medicated feeds and of vitamin products that are "drugs" within the meaning of section 201(g) of the act.

(f) "Manufacture, preparation, propagation, compounding, or "processing" of a drug or drugs, as used in this part, means the making by chemical, physical, biological, or other procedures of any articles which meet the definition of drugs as defined in section 201(g) of the act, and including manipulation, sampling, testing, or control procedures applied to the final product or to any part of the process. The term includes repackaging or otherwise changing the container, wrapper, or labeling of any drug package in furtherance of the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer.

(g) The definitions and interpretations contained in section 201 and 510 of the Federal Food, Drug, and Cosmetic Act shall be applicable to such terms when used in the regulations in this Part 132.

Subpart B—Procedures for Domestic Drug Establishments

§ 132.2 Who must register.

Owners or operators of all drug establishments not exempt under section 510(g) of the act or subpart D of this Part 132 that engage in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs are required to register. Such owners or operators are required to register, whether or not the output of such establishment enters interstate commerce. No registration fee is required.

§ 132.3 Times for registration.

Initial registration shall be before May 1, 1963. Reregistration shall be before December 31, 1963, and before December 31 of each subsequent year. Initial registration must be postmarked no later than midnight, April 30, 1963; new registration no later than midnight 5 days subsequent to the beginning of operations as defined in § 132.1(g), and reregistration no later than midnight December 31, 1963, and December 31 of each year thereafter.

§ 132.4 How and where to register.

Registration will be by form FD——— which will be available at the Food and Drug Administration, Department of Health, Education, and Welfare, Washington 25, D.C., or at any of the district offices of the Food and Drug Administration listed below:

Food and Drug Administration, 60 Eighth Street NE., Atlanta 9, Ga.

Food and Drug Administration, Room 800, U.S. Appraisers Stores Building, 103 South Gay Street, Baltimore 2, Md.

Food and Drug Administration, Room 805, U.S. Appraisers Stores Building, 408 Atlantic Avenue, Boston 10, Mass.

Food and Drug Administration, Room 415, U.S. Post Office Building, Ellicott and South Division Streets, Buffalo 3, N.Y.

Food and Drug Administration, Room 1222, Main Post Office Building, 433 West Van Buren Street, Chicago 7, Ill.

Food and Drug Administration, 1141 Central Parkway, Cincinnati 2, Ohio.

Food and Drug Administration, 3032 Bryan Street, Dallas 4, Tex.

Food and Drug Administration, Room 573, New Customhouse Building, Nineteenth and Stout Streets, Denver 2, Colo.

Food and Drug Administration, 1560 East Jefferson Avenue, Detroit 7, Mich.

Food and Drug Administration, 1009 Cherry Street, Kansas City 6, Mo.

Food and Drug Administration, 1521 West Pico Boulevard, Los Angeles 15, Calif.

Food and Drug Administration, Room 201, Federal Office Building, Washington and Third Avenue South, Minneapolis 1, Minn.

Food and Drug Administration, Room 222, U.S. Customhouse Building, 423 Canal Street, New Orleans 16, La.

Food and Drug Administration, Room 1200, U.S. Appraisers Stores Building, 201 Varick Street, New York 14, N.Y.

Food and Drug Administration, Room 1204, U.S. Customhouse Building, Second and Chestnut Streets, Philadelphia 6, Pa.

Food and Drug Administration, Room 1007, U.S. Courthouse and Customhouse Building, 1114 Market Street, St. Louis 1, Mo.

Food and Drug Administration, Room 518, Federal Office Building, 50 Fulton Street, San Francisco 2, Calif.

Food and Drug Administration, Room 501, Federal Office Building, 909 First Avenue, Seattle 4, Wash.

The completed form should be mailed to the Food and Drug Administration, Department of Health, Education, and Welfare, Washington 25, D.C., in an envelope plainly marked "Registration."

§ 132.5 Notification of registration requirements.

The Commissioner of Food and Drugs will send these regulations and a copy of form FD-____ to drug firms presently listed on mailing lists maintained by the Food and Drug Administration. He will also take other available steps to publicize the procedure and the need for registration. Failure to receive such notification, however, will not constitute adequate reason for failure to register.

§ 132.6 Information required.

The registration form shall be completely filled in with the name and street address of the drug establishment, including post office zone number, if any; the kind of ownership (e.g., individually owned, partnership, or corporation) and the name of the owner of such establishment. The term "name of owner" shall include in the case of a partnership the name of each partner and in the case of a corporation the name of each corporation officer and director, and the name of the State of incorporation. The information required shall be given separately for each establishment as defined in § 132.1(f).

§ 132.7 Additional information requested.

For more efficient operation, additional information not required by statute is being requested on the registration form. This additional information consists of the Federal Social Security Employer Identification Number of the establishment, the classes of drugs handled by the establishment, and the kind of business operation, the approximate gross sales of drugs during the last fiscal year, and whether the output of the firm enters interstate commerce.

§ 132.8 Notification of registrant.

The Commissioner of Food and Drugs will provide to the registrant a validated copy of the registration form as evidence of registration. No registration number shall be furnished.

§ 132.9 Inspection of registration.

A copy of the required information filed by the registrant pursuant to § 132.6, but not the "additional information" furnished in accordance with § 132.7, will be available for inspection pursuant to section 510(f) of the act, at the Division of Public Information, Food and Drug Administration, Department of Health, Education, and Welfare, Washington, D.C. In addition, there will be available for inspection at each of the Food and Drug Administration district offices listed in § 132.4 the same information for firms within the geographical area of such district office. Inquiries regarding the location of any particular registration may be made at any Food and Drug Administration district office.

§ 132.10 Amendments to registration.

Changes in ownership, corporate or partnership structure, or of street address shall be submitted as reregistration within 5 days of such changes. Changes in the names of partners or of principal officers of corporations shall also be made a matter of record through reregistration within 5 days of such changes.

§ 132.11 Misbranding by reference to registration.

Registration of drug establishments does not in any way denote approval of the firm or its products. Any representation that creates an impression of official approval because of registration will be considered misleading.

Subpart C—Procedures for Foreign Drug Establishments [Reserved]

Subpart D—Exemptions

§ 132.51 Exemptions for domestic establishments.

The following classes of persons are exempt from registration in accordance with this part 132 under the provisions of section 510(g) (1), (2), and (3) of the act, or because the Commissioner has found, under section 510(g)(4), that such registration is not necessary for the protection of the public health.

(a) Retail pharmacies in any State that are licensed and operating under applicable local laws regulating dispensing of prescription drugs, and who do not manufacture, prepare, propagate, compound, or process drugs for sale other than in the regular course of their business of dispensing and selling drugs at retail.

(b) Practitioners in any State who are licensed by law to prescribe or administer drugs and who manufacture, prepare, propagate, compound, or process drugs solely for use in the course of their professional practice.

(c) Persons in any State who manufacture, propagate, compound, or process drugs solely for use in research, teaching, or chemical analysis and not for sale.

(d) Wholesale drug establishments that do not repackage or otherwise change the container or wrapper labeling of any drug packages, except that they may receive shipping cartons containing a number of individually and fully labeled packages of drugs the individual units of which they distribute without change.

(e) Manufacturers of harmless excipients, colorings, and flavorings that become components of drugs, and who otherwise would not be required to register under the provisions of this part 132.

(f) Manufacturers in any State of a virus, serum, toxin, or analogous product intended for treatment of domestic animals, who hold an unsuspended and unrevoked license issued by the Secretary of Agriculture under the animal virus-serum-toxin law of March 4, 1913 (37 Stat. 832; 21 U.S.C. 151 et seq.), and who would not otherwise be required to register under this section because of other drugs produced.

(g) Manufacturers in any State of a virus, therapeutic serum, toxin, antitoxin, or analogous product intended for the prevention, treatment, or cure of diseases or injuries of man, who hold an unsuspended and unrevoked license issued by the Secretary of Health, Education, and Welfare under the Public Health Service Act of July 1, 1944 (58 Stat. 682 as amended; 42 U.S.C. 201 et seq.), and who would not otherwise be required to register under this section because of other drugs produced.

The Commissioner of Food and Drugs hereby offers an opportunity to all interested persons to submit their views in writing with reference to this proposal to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., within 30 days from the date of publication of this notice in the FEDERAL REGISTER. Views and comments should be submitted in triplicate.

Dated: February 8, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-1569; Filed, Feb. 13, 1963; 8:45 a.m.]

[21 CFR Part 133]

DRUGS; CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURE, PROCESSING, PACKING, OR HOLDING

Notice of Proposed Rule Making

Under the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 501 (a) (2) (B), 701(a); 52 Stat. 1050 as amended 76 Stat. 780, 781; 1055; 21 U.S.C.A. 351(a) (2) (B), 371(a)), and the authority delegated to him by the Secretary of Health, Education, and Welfare (25 F.R. 8625), the Commissioner of Food and Drugs proposes the promulgation of the following regulations to establish criteria for current good manufacturing practice in the manufacture, processing, packing, and holding of drugs, to effect compliance with section 501(a) (2) (B) of the act:

PART 133—DRUGS; CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURE, PROCESSING, PACKING, OR HOLDING

DEFINITIONS

Sec.
133.1 Definitions.

FINISHED PHARMACEUTICALS; MANUFACTURING PRACTICE

133.2 Current good manufacturing practice.
133.3 Buildings.
133.4 Equipment.
133.5 Personnel.
133.6 Raw materials.
133.7 Master formula and batch-production records.
133.8 Production and control procedures.
133.9 Product containers.
133.10 Packaging and labeling.
133.11 Laboratory controls.
133.12 Distribution records.
133.13 Stability.

AUTHORITY: §§ 133.1 to 133.13 issued under secs. 501, 701; 52 Stat. 1050 as amended 76 Stat. 780, 781; 1055; 21 U.S.C.A. 351, 371.

DEFINITIONS

§ 133.1 Definitions.

(a) As used in this Part 133, "act" means the Federal Food, Drug, and Cosmetic Act, sections 201–902, 52 Stat. 1052 (21 U.S.C. 321–392), with all amendments thereto.

(b) The definitions and interpretations contained in section 201 of the Federal Food, Drug, and Cosmetic Act shall be applicable to such terms when used in the regulations in this Part 133.

FINISHED PHARMACEUTICALS; MANUFACTURING PRACTICE

§ 133.2 Current good manufacturing practice.

The criteria in §§ 133.3–133.13, inclusive, shall apply in determining whether the methods used in, or the facilities or controls used for, the manufacture, processing, packing, or holding of a drug conform to or are operated or administered in conformity with current good manufacturing practice to assure that a drug meets the requirements of the act as to safety, and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess, as required by section 501(a) (2) (B) of the act.

§ 133.3 Buildings.

Buildings in which drugs are manufactured, processed, packaged, labeled, or held shall be of suitable design, size, construction, and location in relation to surroundings to facilitate maintenance and operation for their intended purpose in a manner that is orderly and clean. The buildings shall:

(a) Provide adequate space for the orderly placement of equipment and materials used in any of the following operations for which it is employed, to minimize any risk of mix-ups between different drugs, their components, packaging, or labeling:

(1) The receipt, sampling, and storage of raw materials.

(2) Any manufacturing and processing operations performed on the drug.

(3) Any packaging and labeling operations.

(4) Storage of containers, packaging materials, labeling, and finished products.

(5) Control, research, and production-laboratory operations.

(b) Provide adequate lighting and ventilation, and when necessary for the intended production, control, or research purposes, adequate screening, filtering, dust, humidity, temperature, and bacteriological controls, as for example, to prevent contamination of products by extraneous adulterants; to prevent the dissemination of microorganisms from one area to another; to facilitate the sterilization of special work areas, such as those used for production of parenteral preparations, to provide suitable housing for any animals; and to avoid other conditions unfavorable to the safety and integrity of the product.

(c) Provide for adequate washing, cleaning, toilet, and locker facilities.

(d) Provide accessibility and kind of construction appropriate to the sound maintenance and cleanliness of buildings, materials, and equipment.

§ 133.4 Equipment.

Equipment used for the manufacture, processing, packaging, labeling, holding, or control of drugs shall be of suitable design, size, construction, and location in relation to surroundings to facilitate maintenance and operation for its intended purpose in a manner that is orderly and clean. The equipment shall:

(a) Be so constructed that any surfaces that come into contact with drugs are nonreactive, nonadditive, and nonabsorptive to the components or finished products.

(b) Be so constructed that any substances required for the operation of the equipment, such as lubricants or coolants, may be employed without hazard of becoming additive to drug products.

(c) Be constructed to facilitate adjustment, cleaning, and maintenance as necessary to assure the reliability of control procedures, to assure uniformity of production, and to assure the exclusion from drugs of contaminants, including those from previous and current manufacturing operations.

(d) Be of suitable size and accuracy for use in any intended measuring, mixing, or weighing operations.

§ 133.5 Personnel.

The key personnel involved in the manufacture and control of the drug shall have a background of education and experience appropriate for assuming responsibility to insure that the drug has the safety, identity, strength, quality, and purity it purports to possess.

§ 133.6 Raw materials.

Raw materials used in the manufacture and processing of drugs shall be identified, stored, examined, tested, inventoried, handled, and otherwise controlled in a manner to insure that they conform to appropriate standards of identity, strength, quality, and purity, and are free of dirt, vermin, and other contaminants at time of use, and to provide that appropriate records are maintained of their origin, receipt, examination, testing, disposition, and use in drug manufacture or processing.

§ 133.7 Master-formula and batch-production records.

(a) For each drug product, a master-formula record shall be prepared, independently checked, and reconciled, endorsed and dated by at least two competent and responsible individuals. The record shall include:

(1) The name of the product, a description of its dosage form, and a specimen or copy of the label and each other portion of the labeling contained in a retail package of the drug.

(2) The weight or measure of each ingredient per dosage unit or per unit of weight or measure of the finished drug, and a statement of the total weight or measure of any dosage unit.

(3) A complete batch formula for each batch size to be produced from the master-formula record, including a complete list of ingredients designated by names sufficiently specific to indicate any special quality characteristic; an accurate statement of the weight or measure of each ingredient, regardless of whether it appears in the finished product; an appropriate statement concerning any calculated excess of an ingredient; appropriate statements of theoretical weight or measure at various stages of processing; and a statement of the theoretical yield.

(4) A description of the containers, closures, packaging, and finishing materials.

(5) Manufacturing and control instructions, procedures, specifications, special notations, and precautions to be followed.

(b) A separate batch-production and control record shall be prepared for each batch of drug produced and shall be retained for at least 2 years after all the batch has been distributed. The batch-production and control record shall include:

(1) An accurate reproduction of the master-formula record, checked and endorsed by a competent, responsible individual.

(2) A record of each step in the manufacturing, processing, packaging, label-

ing, and controlling of the batch, including dates, specific identification of each batch of raw material used, weights or measures of raw materials and products in course of processing, in-process and laboratory-control results, and the endorsements of each individual performing and checking each step in the operation.

(3) A batch number that permits determination of all laboratory-control procedures and results on the batch and all lot or control numbers appearing on the labeling of drugs from the batch.

§ 133.8 Production and control procedures.

Production and control procedures, shall include all reasonable precautions, including the following, to insure that the drugs produced have the identity, strength, quality, and purity they purport to possess:

(a) Each critical step in the process, such as the selection, weighing, and measuring of raw materials; the addition of active ingredients during the process; weighing and measuring during various stages of the processing; and the determination of the finished yield shall be performed by a competent, responsible, individual and checked by a second competent, responsible individual.

(b) All containers and equipment used in producing a batch of drugs shall be clearly labeled at all times to identify fully and accurately their contents, the stage of processing, and the batch, and shall be adequately segregated physically to prevent mixup with other drugs.

(c) Equipment, utensils, and reused containers shall be thoroughly cleaned and previous identification removed between batches to prevent cross-contamination and mixups.

(d) Appropriate procedures to minimize the hazard of contamination with microorganisms in the production of parenteral drugs, ophthalmic solutions, and any other drugs purporting to be sterile.

(e) There shall be adequate in-process control to insure the uniformity and integrity of products, such as checking the weights and disintegration time of tablets, checking fill of liquids, and checking the adequacy of mixing, the homogeneity of suspensions, and the clarity of solutions.

(f) Competent and responsible key personnel shall check actual against theoretical yield of a batch of drug, and in the event of any significant unexplained discrepancies shall prevent distribution of the batch in question and other associated batches of drugs that may have been involved in a mixup with it.

§ 133.9 Product containers.

Suitable specifications, test methods, cleaning procedures, and, when indicated, sterilization procedures shall be used to insure that containers, closures, and other component parts of drug packages are suitable for their intended use so that the container is nonreactive, nonadditive, and nonabsorptive to the drug and furnishes adequate protection against its deterioration or contamination.

§ 133.10 Packaging and labeling.

Packaging and labeling operations shall be adequately controlled to insure that only those drugs that have met the specifications established in the master-formula records shall be finished; to prevent mixups between drugs during the packaging and labeling operations; to insure that correct labeling is employed for the drug; and to identify finished products with lot or control numbers that permit determination of the history of the manufacture and control of the batch of drug. Packaging and labeling operations shall:

(a) Be performed with adequate physical segregation of such operations from operations on any other drugs to avoid mixups.

(b) Provide that each type of labeling used shall be stored in a manner that avoids mixups between labelings and shall be carefully checked for identity and conformity to the labeling specified in the batch-production records.

(c) Provide adequate control of the quantities of packaging and labeling materials issued for use in finishing a batch of drug. (Competent, responsible key personnel shall reconcile any discrepancy between the quantity of drug finished and the quantity of packaging and labeling materials issued. In the event of any significant unexplained discrepancy, such personnel shall prevent distribution of the batch in question and other associated batches of drugs that may have been involved in a mixup.)

(d) Provide for adequate examination and laboratory testing of adequately representative samples of finished products after packaging and labeling to safeguard against any error in the finishing operations, and to prevent distribution of any batch until all specified tests have been met.

§ 133.11 Laboratory controls.

Laboratory controls shall include the establishment of adequate specifications and test procedures to insure that raw materials, drug preparations in the course of processing, and finished products conform to appropriate standards of identity, strength, quality, and purity. Laboratory controls shall include:

(a) The establishment of master records containing appropriate specifications for each kind and quality of raw material used in drug production and a description of the test procedures used to check them, including provision for testing adequately representative samples. Such records shall also provide for appropriate retesting of materials subject to deterioration.

(b) The establishment of appropriate specifications, when needed, for drug preparations in the course of processing, and a description of the test procedures to check them, including provision for testing adequately representative samples.

(c) The establishment of appropriate finished-product specifications and a description of laboratory test procedures to check them, including provision for testing adequately representative samples.

(d) Adequate provision for checking the identity and strength of all active ingredients of drugs, for insuring the sterility of articles purporting to be sterile, and the freedom from pyrogens of articles that should be tested for freedom from pyrogens.

(e) Adequate provision to check the reliability, accuracy, and precision of any unverified laboratory test procedures used.

(f) Provision for complete records of all data concerning laboratory tests performed, including the dates and endorsements of individuals making the tests, and provision for specifically relating the tests to each batch of drug to which they apply. Such records shall be retained for at least 2 years after all the batch to which they relate has been distributed.

§ 133.12 Distribution records.

Complete records shall be maintained of the distribution of each batch of drug in a manner that will facilitate its recall if necessary. Such records shall be retained for at least 2 years after all the batch has been distributed and shall include the name and address of the consignee, the date and quantity shipped, and the lot or control numbers identifying the batch of drug.

§ 133.13 Stability.

Adequate provision shall be made for testing the stability of raw materials, drug preparations in the course of processing, when needed, and finished drugs. Such stability tests shall:

(a) Make adequate provision for determining the reliability and specificity of stability test methods employed .

(b) Make adequate provision to determine the stability of products in the containers in which they are marketed to insure, among other things, that the container is nonreactive, nonadditive, and nonabsorbtive to the drug.

(c) Provide for stability studies of any solutions prepared as directed in the drug labeling at time of dispensing.

(d) Provide for suitable expiration dates to appear in the labeling of the drug when needed to insure that the drug meets appropriate standards of identity, strength, quality, and purity at time of use.

These proposed regulations have been prepared primarily to establish criteria of current good manufacturing practice for the production of finished pharaceuticals. It is recognized that some modification of these proposed concepts is indicated in connection with their application to the manufacture of chemicals and other raw materials used as components of finished drugs and in connection with their application to the production of such drugs as medicated feeds for administration to animals, in which current practice involves less rigid conditions. Consideration is being given to additional proposed regulations dealing with these areas.

The Commissioner of Food and Drugs hereby offers an opportunity to all interested persons to submit their views in writing with reference to this proposal to the Hearing Clerk, Department of

Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., within 45 days from the date of publication of this notice in the FEDERAL REGISTER. Views and comments should be submitted in triplicate.

Dated: February 11, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-1612; Filed, Feb. 13, 1963; 8:45 a.m.]