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# FEDERAL REGISTER

VOLUME 28 NUMBER 149

Washington, Thursday, August 1, 1963

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# Codification Guide

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# Rules and Regulations

## Title 1—GENERAL PROVISIONS

### Chapter I—Administrative Committee of the Federal Register CFR CHECKLIST

### 1963 Issuances

This checklist, published in the first issue of each month, is arranged in order of titles, and shows the issuance date and price of revised volumes and pocket supplements of the Code of Federal Regulations issued to date during 1963. New units issued during the month are announced in the FEDERAL REGISTER as they become available. Order from Superintendent of Documents, Government Printing Office, Washington D.C. 20402.

| *CFR unit (as of Jan. 1, 1963)* | *Price* |
|---|---|
| 1–4 Supp | $1.25 |
| 3 1962 Supp | 1.75 |
| 5 Supp | .60 |
| 6 Rev | 2.50 |
| 7 Parts: | |
| 1–50 Supp | .70 |
| 51–52 Supp | 1.00 |
| 53–209 Supp | .65 |
| 210–399 Supp | .55 |
| 400–899 Rev | 3.25 |
| 900–944 Rev | 1.00 |
| 945–980 Rev | .70 |
| 981–999 Rev | .60 |
| 1000–1029 Rev | 1.00 |
| 1030–1059 Rev | 1.00 |
| 1060–1089 Rev | .70 |
| 1090–1119 Rev | .65 |
| 1120–end Rev | .70 |
| 8 Supp | .50 |
| 9 Supp | .70 |
| 10–11 Rev | 4.50 |
| 12 Rev | 4.75 |
| 13 Rev | 4.25 |
| 14 Parts: | |
| 1–19 Rev | 2.50 |
| 20–199 Rev | 2.00 |
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| 16 Supp | .70 |
| 17 Supp | 1.00 |
| 18 Supp | .50 |
| 19 Supp | .45 |
| 20 Supp | .50 |
| 21 Rev | 3.00 |
| 22–23 Supp | .60 |
| 24 Supp | .40 |
| 25 Supp | .60 |
| 26 Parts: | |
| 1 (§§ 1.0–1—1.400) Supp | .50 |
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| 30–31 Supp | 1.00 |
| 32 Parts: | |
| 1–39 Supp | 1.00 |
| 40–399 Supp | .55 |
| 400–589 Supp | .35 |
| 590–699 Supp | .40 |
| 700–799 Supp | .35 |
| 800–999 Supp | $0.60 |
| 1000–1099 Rev | 1.75 |
| 1100–end Supp | .35 |
| 32A Supp | .65 |
| 33–34 Supp | .50 |
| 35 Supp | .35 |
| 36 Supp | .40 |
| 37 Supp | .30 |
| 38 Supp | 1.50 |
| 39 Supp | 1.00 |
| 40–41 Rev | 2.50 |
| 42 Supp | .50 |
| 43 Rev | 2.50 |
| 44 Supp | .40 |
| 45 Supp | .50 |
| 46 Parts: | |
| 1–145 Rev | 8.00 |
| 146–149 Rev | 2.25 |
| 146–149 Supp.[1] | .65 |
| 150–end Supp | 1.25 |
| 47 Parts: | |
| 1–29 Supp | 2.00 |
| 30–end Supp | .45 |
| 49 Parts: | |
| 0–70 Rev | 5.25 |
| 71–90 Rev | 2.75 |
| 91–164 Supp | .55 |
| 165–end Supp | .35 |
| 50 Supp | .45 |

[1] Semiannual supplement, as of July 1, 1963.

## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

### PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

### United States Information Agency

Effective upon publication in the FEDERAL REGISTER, paragraph (k) is added to § 6.324 as set out below.

**§ 6.324 United States Information Agency.**

* * * * *

(k) One Special Assistant to the Director.

(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. 63–8098; Filed, July 31, 1963; 8:53 a.m.]

### PART 29—RETIREMENT

### Exclusion of Temporary Employees of Census Bureau

Subparagraph (16) is added to paragraph (a) of § 29.2 as set out below.

**§ 29.2 Exclusions from Retirement Coverage.**

(a) The following groups of employees in the executive branch of the Government are excluded from the Civil Service Retirement Act:

* * * * *

(16) Temporary employees of the Census Bureau employed under temporary limited appointments exceeding one year.

(Sec. 16, 70 Stat. 758; 5 U.S.C. 2266)

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

[F.R. Doc. 63–8099; Filed, July 31, 1963; 8:53 a.m.]

## Title 7—AGRICULTURE

### Chapter III—Agricultural Research Service, Department of Agriculture

### PART 362—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

### Terms Defined and Construed; Labeling Requirements

Pursuant to section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135d), §§ 362.2, 362.6, and 362.9 of the regulations promulgated under such act (7 CFR 362.2, 362.6, 362.9) are hereby amended as follows:

1. New paragraphs (k) and (l) are added to § 362.2 to read respectively:

(k) *Vertebrate animals.* "Vertebrate animals" means all species in the subphylum vertebrata including domestic vertebrates and vertebrate species of fish and wildlife.

(l) *Invertebrate animals.* "Invertebrate animals" means all forms of animal life other than vertebrate animals, including both domestic and wild species.

**§§ 362.6, 362.9 [Amendment]**

2. Sections 362.6 and 362.9 are amended by inserting the word "useful" before the phrase "vertebrate animals" wherever the latter appears in said sections.

These amendments make no substantive changes in the requirements of the regulations but are made for the purposes of clarification and consistency. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

*Effective date.* The foregoing amendments shall become effective upon issuance.

Done at Washington, D.C., this 26th day of July 1963.

M. R. CLARKSON,
*Acting Administrator,*
*Agricultural Research Service.*

[F.R. Doc. 63-8125; Filed, July 31, 1963; 9:00 a.m.]

## Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order No. 32]

## PART 1032—MILK IN SUBURBAN ST. LOUIS MARKETING AREA

### Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Suburban St. Louis marketing area (7 CFR Part 1032), it is hereby found and determined that:

(a) The following provisions of the order no longer tend to effectuate the declared policy of the Act for the month of August 1963.

(1) In § 1032.7(b) the following: "any number of days during the months of March through July or to the extent of not more than 10 days' production during any month from August through February"; and

(2) In paragraph (b) of § 1032.13 the following: "not less than 50 percent of total receipts of" where it first appears in such paragraph.

(b) Thirty days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

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

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension relates to the limit on diversion of producer milk and the shipping requirement for supply plants to maintain pool status for the month of August 1963. This action will enable supply plants to maintain pool status and facilitate the orderly disposition of the market's reserve supply of milk which will not be needed during the month of August 1963.

(4) Substantial evidence pertaining to the need for unlimited diversion of producer milk and elimination of the shipping requirements for pool supply plants for the month of August was presented on the record of a hearing held at Effingham and Peoria, Illinois, on January 3–12, 1962, pursuant to notice thereof which was issued December 14, 1961 (26 F.R. 12132). The proposed amendments to the Suburban St. Louis order contained in the Assistant Secretary's recommended decision, issued November 13, 1962 (27 F.R. 11369), on the issues of that hearing provide for extension through August of the period for unlimited diversion of producer milk and automatic qualification of pool supply plants. This suspension is necessary to effectuate these changes in the order, pending the issuance of the amended order heretofore recommended.

(5) This action was requested by cooperative associations which represent over three-fourths of the producers supplying the market.

Therefore, good cause exists for making this order effective August 1, 1963.

*It is therefore ordered,* That the aforesaid provisions of the order are hereby suspended for the month of August 1963.

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

Signed at Washington, D.C., on July 29, 1963.

JOHN P. DUNCAN, Jr.,
*Assistant Secretary.*

[F.R. Doc. 63-8118; Filed, July 31, 1963; 8:58 a.m.]

[Milk Order No. 37]

## PART 1037—MILK IN NORTH CENTRAL OHIO MARKETING AREA

### Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the North Central Ohio marketing area (7 CFR Part 1037) it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act for the months of July and August 1963:

In § 1037.12(b) the words "for not more than one-third of the days of delivery for such producer during any month in such period, except the months of March through June".

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

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

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension is necessary to accommodate the orderly disposition of milk received from producers in cans. Because of the rapid conversion to bulk tank delivery and the discontinuance of receipt of can milk by most handlers in the market, only one major plant now has facilities for receiving milk in cans. During July and August the supply of milk in cans is exceeding the capacity of this plant to handle such receipts and it is necessary to divert a portion of such milk to manufacturing plants. This suspension will permit the producers of the milk so diverted to continue to participate in the pool of the diverting handler during the months of July and August.

(4) This suspension was requested by the cooperative association which represents the producers whose milk is being diverted and by the handler who has found it necessary to divert such milk.

Therefore, good cause exists for making this order effective July 1, 1963.

*It is therefore ordered,* That the aforesaid provision of the order is hereby suspended for the months of July and August 1963.

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

Effective date: July 1, 1963.

Signed at Washington, D.C., on July 29, 1963.

JOHN P. DUNCAN, Jr.,
*Assistant Secretary.*

[F.R. Doc. 63-8119; Filed, July 31, 1963; 8:58 a.m.]

## Chapter XIV—Commodity Credit Corporation, Department of Agriculture

### SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[C.C.C. Grain Price Support Reseal Regs., Extension 3]

## PART 1421—GRAINS AND RELATED COMMODITIES

### Subpart—1959 Crop Reseal Loan Program for Corn, Extension 3

An extended reseal loan program has been announced for the 1959 crop of corn for the 1963–64 storage period. The 1959 C.C.C. Grain Price Support Bulletin 1 (23 F.R. 9651) issued by Commodity Credit Corporation and containing the general requirements with respect to price support operations for grains and related commodities produced in 1959, supplemented by regulations containing the specific requirements for the 1959-crop price support program for corn, are hereby further supplemented as follows:

Sec.

| | |
|---|---|
| 1421.3321 | Applicable sections of 1959 C.C.C. Grain Price Support Bulletin 1 and commodity supplements. |
| 1421.3322 | Availability. |
| 1421.3323 | Eligible producer. |
| 1421.3324 | Eligible commodity. |
| 1421.3325 | Approved storage. |
| 1421.3326 | Quantity eligible for extended reseal loan. |
| 1421.3327 | Commingling. |
| 1421.3328 | Storage and track-loading payments. |
| 1421.3329 | Maturity. |
| 1421.3330 | Settlement. |
| 1421.3331 | Support rates, premiums and discounts. |
| 1421.3332 | Death, incompetency or disappearance. |
| 1421.3333 | Delegation of authority. |

AUTHORITY: §§ 1421.3321 to 1421.3333 issued under sec. 4, 62 Stat. 1070, as amended, 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 105, 401, 63 Stat. 1051, 1054 as amended, 15 U.S.C. 714c; 7 U.S.C. 1421.1441.

### § 1421.3321 Applicable sections of 1959 C.C.C. Grain Price Support Bulletin 1 and commodity supplements.

The following sections of the 1959 C.C.C. Grain Price Support Bulletin 1 published in (23 F.R. 9651) shall be applicable to the extended reseal loan programs for the 1959-crop corn: §§ 1421.-

4001, 1421.4008, 1421.4010, 1421.4011, 1421.4012(b), 1421.4013, 1421.4014, 1421.4015, 1421.4016, 1421.4017, 1421.4019, and 1421.4020. In addition, the provisions of 27 F.R. 609 shall apply. Applicable sections of the corn supplement are as follows: §§ 1421.4139, 1421.4140, 1421.4141 (24 F.R. 4199 and 10249). Other sections of the 1959 C.C.C. Grain Price Support Bulletin 1 and supplements thereto for corn shall be applicable to the extent indicated in this subpart. Any reference in this subpart to a section of another bulletin shall be deemed to refer to the section and any amendments thereto.

**§ 1421.3322 Availability.**

(a) *Area and scope.* The extended reseal loan program will be available in all States where 1959-crop corn is under reseal loan and ASC State committees determine that the corn can be safely stored on the farm for the period of the extended reseal loan and that it will be advantageous to producers and CCC to permit producers to extend reseal loans. In angoumois moth areas designated by the ASC State committee, reseal loans may be made only if in addition to the foregoing the loan is approved by the ASC State committee and the corn is shelled.

(b) *Application requirements*—(1) *Where to apply.* A producer who has in effect a reseal loan on the 1959-crop corn and who desires to extend such loan must apply for an extended loan at the county office which approved his reseal loan.

(2) *Final date of application.* The producer must make application for an extended reseal loan on or before October 31, 1963.

(c) *New forms.* Where required by State law, or when corn covered by two or more loans are commingled under the provisions of § 1421.3327 a new Producer's Note and new Chattel Mortgage shall be completed when a farm-storage loan is extended. Where new forms are not completed extension of farm-storage loans shall not affect the rights of CCC, including its right to accelerate the maturity date of the note, and the rights and responsibilities of the producer as set forth in this subpart and in the original approved forms completed by the producer.

**§ 1421.3323 Eligible producer.**

An eligible producer shall be an individual, partnership, association, corporation, estate, trust, or other business enterprise, or legal entity, and wherever applicable a State, political subdivision of a State, or any agency thereof who produced corn in 1959 as landowner, landlord, tenant, or sharecropper, who has in effect a reseal loan on such crop. Executors, administrators, trustees, or receivers who represent an eligible producer or his estate may qualify to participate in this program provided the reseal documents executed by them are legally valid. Where the county committee has experienced difficulties in settling farm-storage loans with a producer the county committee shall determine that he is not eligible for an extension of his reseal loan under this program and such determinations shall remain in effect unless the State committee, after a review of the facts, determines that CCC would be adequately protected from loss if the producer receives an extension of his loan.

**§ 1421.3324 Eligible commodity.**

(a) *Requirements of eligibility.* The corn (1) must be in farm storage presently under reseal loan, (2) must meet the requirements set forth in § 1421.4138 (a), (b), (c) and (d); (3) must grade No. 3 or better or No. 4 on the factor of test weight only but otherwise No. 3 or better; (4) must contain not in excess of 16.0 per cent moisture in the case of ear corn nor in excess of 14.0 per cent moisture in the case of shelled corn; and (5) must not grade Weevily.

(b) *Inspection.* If a producer makes application to extend his reseal loan for the 1963–64 reseal period, the commodity loan inspector shall reinspect the corn and the farm storage structures in which the corn is stored. If recommended by either the commodity loan inspector or the producer, a sample of the corn shall be taken and submitted for grade analysis.

**§ 1421.3325 Approved storage.**

The corn must be stored in structures which meet the requirements for farm-storage loans as provided in § 1421.40006 (a). Consent for storage for any reseal loans extended must be obtained by the producer for a period of 60 days following the July 31, 1964, if the structure is owned or controlled by someone other than the producer or if the lease expires prior to 60 days following July 31, 1964.

**§ 1421.3326 Quantity eligible for extended reseal loan.**

The quantity of corn eligible for an extended reseal loan shall be the quantity shown on the original note and chattel mortgage less (a) any quantity delivered not including the quantity represented by overdelivery for which overrun payment is made and (b) the quantity redeemed.

**§ 1421.3327 Commingling.**

(a) *When authorized.* If authorized by the State committee, the county committee may permit a producer to commingle corn which is under more than one loan and which is deemed safe for commingling by the county committee, subject to the following conditions: (1) Corn of not more than three crop years may be commingled; (2) Corn to be commingled must be of the same class and meet the applicable eligibility requirements before commingling; and (3) Corn owned by more than one producer may be commingled only if the original loan was made jointly to the same producers and the other requirements of this section are complied with.

(b) *Special conditions.* Notwithstanding any other provision of these regulations, the following shall apply in the event corn covered by more than one loan is commingled: (1) Partial deliveries of the commingled corn shall not be permitted. (2) If partial redemptions are made in accordance with other provisions of these regulations, the quantity redeemed shall be prorated to each loan on the basis of the ratio of the quantity on which the loan was made to the total quantity on which all the loans covering the commingled corn, were made. The dollar amount to be credited to each loan shall be based on the amount of the loan represented by the quantity determined to have been redeemed from the loan. (3) Producers whose corn in commingled shall be jointly and severally responsible for the amount of each loan represented by the commingled corn. (4) For settlement purposes, if corn of more than one crop year has been commingled, the quantity delivered shall be prorated to each loan based on the ratio that the quantity on which the loan was made bears to the quantity covered by all the loans on the commingled corn. If less than the total quantity covered by the commingled loan is delivered, the quantity delivered shall be applied first to the loan having the corn with the lowest basic support rate up to the total amount on which the loan was made, and the balance, if any, shall be applied to the other loans proceeding successively in order of the loans having increasingly higher basic support rates. (5) If corn of different grades and qualities is delivered, the quantity of each grade and quality to be credited to each loan shall be as determined by the county office, provided that the total quantity credited to the loan shall equal the quantity applied to the loan under subparagraph (4) of this paragraph.

**§ 1421.3328 Storage and track-loading payments.**

(a) *Storage payment for 1962–63 reseal period.* (1) A producer who extends his reseal loan for the 1963–64 reseal period will at the time of such extension receive a payment for storage earned during the 1962–63 reseal loan period. This payment will be disbursed by the ASCS county office and will be 14 cents per bushel.

(2) Upon delivery of 1959-crop corn to CCC, the actual quantity of such commodity held in farm-storage under the extended reseal loan will be determined by weighing. The storage payment earned by the producer covering the 1960–61, 1961–62 and 1962–63 reseal periods will then be recomputed on the basis of the actual quantity determined to have been covered by the extended reseal loan. Any amount due the producer for such storage on the quantity delivered in excess of the quantity stated in the extended reseal loan documents will be regarded as an additional credit in settlement with the producer. The amount of any over-payment which is determined to have been made to the producer at the time the reseal loan was extended shall be collected from the producer.

(3) No storage payment will be made for the 1962–63 reseal period (i) where the producer has made any false representation in the loan documents or in obtaining the loan, or in deliveries or settlement of the loan, (ii) where during or prior to the 1962–63 reseal period, the corn has been abandoned or the corn was damaged or otherwise impaired due to negligence on the part of the producer,

or (iii) where during or prior to the 1962–63 reseal period the corn was converted by the producer or at any time subsequent thereto there was conversion of the commodity by the producer with intent to defraud CCC.

(b) *Full storage payment for 1963–64 reseal period.* A storage payment in the amount of 14 cents per bushel will be made to the producer on the quantity involved if he (i) redeems the corn on or after July 31, 1964, or (ii) delivers the corn to CCC on or after July 31, 1964.

(c) *Prorated storage payment for 1963–64 reseal period*—(1) *Early deliveries and CCC assumed losses.* A storage payment determined according to the length of time the commodity was in store beginning 60 days subsequent to July 31, 1963, will be made to the producer in the case of: (i) Losses assumed by CCC, or (ii) Deliveries prior to the maturity date of the reseal loan. The prorated payment will be computed at the daily rate of $0.00046 per bushel, but not to exceed the applicable amount specified in paragraph (b) of this section. In case of losses assumed by CCC, the period for computing the storage payment shall end on the date of the loss and in the case of deliveries of the corn to CCC the period for computing the storage payment shall end on the date delivery is completed, or the final date for delivery specified by the county office, whichever is earlier.

(2) *Redemptions prior to maturity.* On redemptions prior to the maturity date of the reseal loan, a storage payment will be made to the producer. Such storage payment will be determined according to the length of time the commodity was in store for the period beginning August 1, 1963, and ending on the date of repayment. The prorated payment will be computed at the daily rate of $0.00038, but not to exceed the applicable amount specified in paragraph (b) of this section.

(d) *Quantity eligible.* Except in the case of partial loans, the quantity eligible for storage payment under the preceding paragraphs of this section shall be (i) in the case of delivery to CCC, or losses assumed by CCC the entire quantity in the bin, (ii) in the case of redemptions, the quantity in the bin but not to exceed the measured quantity adjusted for test weight. The quantity eligible for a storage payment in the case of a partial loan shall not exceed the quantity under loan.

(e) *No storage payments.* Notwithstanding the foregoing provisions of this section, in no case will any storage payment be made for the 1963–64 reseal period (i) where the producer has made any false representation in the loan documents or in obtaining the loan or in deliveries or settlement under the loan, (ii) where the corn has been abandoned, (iii) where there has been conversion on the part of the producer, or (iv) where the corn was damaged or otherwise impaired due to negligence on the part of the producer.

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

**§ 1421.3329 Maturity.**

Extended reseal loans will mature on demand but not later than July 31, 1964.

**§ 1421.3330 Settlement.**

The producer must pay off his loan, plus interest on or before maturity or deliver the corn in accordance with the instructions of the county committee. If the producer desires to deliver the corn he should, prior to maturity, give the county committee notice in writing of his intention to do so. The producer may, however, pay off his loan and redeem his corn at any time prior to delivery to CCC or removal of the corn by CCC. Credit will be given at the applicable settlement value according to the grade and quality for the total quantity delivered. Delivery of the corn will be accepted only from the structure(s) in which the corn was stored under the extended reseal loan, and the producer shall not include in the quantity delivered in settlement of a loan any corn which has been added to or substituted for the corn covered by the loan documents. The provisions of § 1421.4146 (a) (1), (d) and (f) shall also apply.

(b) *Fraud.* The making of any fraudulent representation by the producer, in connection with settlement or deliveries under the loan shall render the producer personally liable, aside from any additional liability under criminal and civil frauds statutes; for the amount of the loan, for any additional amount paid to the producer on the commodity, and for all costs which the CCC would not have incurred had it not been for the producer's fraudulent representation, together with interest at the rate of 6 per cent per annum on such amounts from the date of disbursement. For the purpose of establishing any deficiency remaining due in the event the producer has made any such fraudulent representation, the value of the corn delivered to the CCC under the loan or removed by CCC, shall be the market value, as determined by the CCC, on the date of delivery or removal, or the sales price if the corn is sold by CCC in order to determine its market value.

**§ 1421.3331 Support rates, premiums and discounts.**

(a) The support rate for the extended reseal loan shall remain the same as for the original loan.

(b) The applicable discounts or premiums established for variation in quality as shown for corn in § 1421.4143 shall apply in settlement.

**§ 1421.3332 Death, incompetency or disappearance.**

In case of the death, incompetency or disappearance of any producer who is entitled to a payment of any sum under these regulations, the payment of such sum shall be made to the person or persons who would be entitled to such producer's payment under the regulations contained in §§ 1472.1151 to 1472.1154 of this chapter (Payment Program for Shorn Wool and Unshorn Lambs (Pulled Wool) 27 F.R. 933, February 1, 1962, as amended) upon proper application to the office of the county committee which made the loan. Application forms may be obtained from the office of the county committee.

**§ 1421.3333 Delegation of authority.**

No delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, or his designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee, or ASCS commodity office, or the ASCS Data Processing Center.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 26, 1963.

E. A. JAENKE,
*Acting Executive Vice President, Commodity Credit Corporation.*

[F.R. Doc. 63-8126; Filed, July 31, 1963; 9:00 a.m.]

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[1960 C.C.C. Grain Price Support Reseal Loan Reg. for Corn, Extension 1]

## PART 1421—GRAINS AND RELATED COMMODITIES

### Subpart—1960-Crop Reseal Loan Programs for Corn, Extension 1

An extended reseal loan program has been announced for the 1960 crop of corn for the 1963–64 storage period. This program provides, under certain conditions, for extension of 1960 farm-storage loans. The 1960 C.C.C. Grain Price Support Bulletin 1 (25 F.R. 2380) issued by Commodity Credit Corporation and containing the general requirements with respect to price support operations for grains and related commodities produced in 1960, supplemented by regulations containing the specific requirements for the 1960-crop price support programs for corn are hereby further supplemented as follows:

Sec.



AUTHORITY: §§ 1421.3341 to 1421.3354 issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 105, 301, 401, 63 Stat. 1051, 1054, sec. 308, 70 Stat. 206; 15 U.S.C. 714c; 7 U.S.C. 1421.1441, 1442, 1447.

**§ 1421.3341 Applicable sections of 1960 C.C.C. Grain Price Support Bulletin 1 and commodity supplements.**

The following sections of the 1960 C.C.C. Grain Price Support Bulletin 1,

as amended, published in (25 F.R. 2380) shall be applicable to the 1960 reseal loan programs for corn: §§ 1421.5001, 1421.5009, 1421.5011, 1421.5012, 1421.5013(b), 1421.5014, 1421.5015, 1421.5016, 1421.5017, 1421.5018, 1421.5020, and 1421.5021. In addition, the provisions of 27 F.R. 609 shall apply. Applicable sections of the corn supplement are as follows: §§ 1421.5140 and 1421.5141 (25 F.R. 5563). Other sections of the 1960 C.C.C. Grain Price Support Bulletin 1 and supplements thereto for corn shall be applicable to the extent indicated in this subpart. Any reference in this subpart to a section of another bulletin shall be deemed to refer to the section and any amendments thereto.

**§ 1421.3342 Availability.**

(a) *Area and scope.* The extended reseal loan program will be available in those States where 1960-crop corn is under reseal loan, and where ASC State committees determine that the commodity can be safely stored on farms for the period of the reseal loan and that it will be advantageous to producers and CCC to permit producers to obtain reseal loans. In angoumois moth areas designated by the ASC State committee, reseal loans may be made only if in addition to the foregoing the loan is approved by the ASC State committee and the corn is shelled.

(b) *Application requirements*—(1) *Where to apply.* A producer who has in effect a reseal loan on the 1960 crop corn and who desires to participate must apply for an extended reseal loan at the county office which approved his reseal loan.

(2) *Final date for application.* The producer must make application on or before October 31, 1963.

**§ 1421.3343 Eligible producer.**

An eligible producer shall be an individual, partnership, association, corporation, estate, trust, or other business enterprise, or legal entity, and wherever applicable a State, political subdivision of a State, or any agency thereof producing corn in 1960 as landowner, landlord, tenant, or sharecropper, who has in effect a farm-storage loan covering such corn of the 1960-crop. Executors, administrators, trustees, or receivers who represent an eligible producer or his estate may qualify to participate in this program provided reseal documents executed by them are legally valid. Where the county committee has experienced difficulties in settling farm-storage loans with a producer the county committee shall determine that he is not eligible for an extension of his reseal loan under this program, and such determination shall remain in effect unless the State committee, after a review of the facts, determine that CCC would be adequately protected from loss if the producer receives an extension of his loan.

**§ 1421.3344 Eligible commodity.**

(a) *Requirements of eligibility.* The corn (1) must be in farm-storage presently under reseal loan; (2) must meet the requirements set forth in § 1421.5138 (a), (b), (c), and (d); (3) must grade No. 3 or better or No. 4 on the factor of test weight only but otherwise No. 3 or better; (4) must contain not in excess of 16.0 percent moisture in the case of ear corn nor in excess of 14.0 percent moisture in the case of shelled corn; and (5) must not grade weevily.

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

**§ 1421.3345 Storage requirements.**

(a) *Approved storage.* For any loans extended the commodity must be stored in structures which meet the requirements for farm-storage loans as provided in § 1421.5007(a).

(b) *Consent for storage.* Consent for storage for any loans extended must be obtained by the producer for a period of 60 days following the applicable maturity date of the reseal loan for the commodity, if the structure is owned or controlled by someone other than the producer or if the lease expires prior to 60 days following the maturity date of the reseal loan.

**§ 1421.3346 Commingling.**

(a) *When authorized.* If authorized by the State committee, the county committee may permit a producer to commingle corn which is under more than one loan and which is deemed safe for commingling by the county committee, subject to the following conditions: (1) A commodity of not more than three crop years may be commingled; (2) The corn to be commingled must be of the same class and meet the applicable eligibility requirements before commingling; and (3) Corn owned by more than one producer may be commingled only if the original loan was made jointly to the same producers and the other requirements of this section are complied with.

(b) *Special conditions.* Notwithstanding any other provision of these regulations, the following shall apply in the event corn covered by more than one loan is commingled: (1) Partial deliveries of the commingled corn shall not be permitted. (2) If partial redemptions are made in accordance with other provisions of these regulations, the quantity redeemed shall be prorated to each loan on the basis of the rate of the quantity on which the loan was made to the total quantity on which all the loans covering the commingled corn was made. The dollar amount to be credited to each loan shall be based on the amount of the loan represented by the quantity determined to have been redeemed from the loan. (3) Producers whose corn is commingled shall be jointly and severally responsible for the amount of each loan represented by the commingled corn. (4) For settlement purposes, if corn of more than one crop year has been commingled, the quantity delivered shall be prorated to each loan based on the ratio that the quantity on which the loan was made bears to the quantity covered by all the loans on the commingled corn. If less than the total quantity covered by the commingled loan is delivered, the quantity delivered shall be applied first to the loan having the corn with lowest basic support rate up to the total amount on which the loan was made, and the balance, if any, shall be applied to the other loans proceeding successively in other of the loans having increasingly higher basic support rates. (5) If corn of different grades and qualities is delivered, the quantity of each grade and quality to be credited to each loan shall be determined by the county office, provided that the total quantity credited to the loan shall equal the quantity applied to the loan under subparagraph (4) of this paragraph.

**§ 1421.3347 Approved forms.**

(a) *Revenue stamps.* The approved forms, which together with provisions of this subpart govern the rights and responsibilities of the producer, shall consist of Producer's Note and Supplemental Loan Agreement, secured by a Commodity Chattel Mortgage, and such other forms and documents as may be prescribed by CCC. Notes and chattel mortgages must have State and documentary revenue stamps affixed thereto where required by law. Loan documents executed by an administrator, executor or trustee will be acceptable only where legally valid.

(b) *New forms required.* Where required by State law, or when corn covered by two or more loans are commingled under the provisions of § 1421.3346, a new Producer's Note and Chattel Mortgage shall be completed when a farm-storage loan is extended. Where new forms are not completed extension of farm-storage loans shall not affect the rights of CCC, including its right to accelerate the maturity date of the note, and the rights and responsibilities of the producer as set forth in this subpart and in the original approved forms completed by the producer.

**§ 1421.3348 Quantity eligible for reseal.**

The quantity of the corn eligible for reseal shall be the quantity shown on the original note and chattel mortgage less (a) any quantity delivered not including the quantity represented by overdelivery for which overrun payment is made and (b) the quantity redeemed.

**§ 1421.3349 Storage and track-loading payment.**

(a) *Storage payment for 1962–63 reseal period.* (1) A producer who extends his reseal loan for the 1963–64 reseal period will, at the time of such extension, receive a payment for storage earned during the 1962–63 reseal loan period. This payment will be disbursed by the ASCS county office and will be 14 cents per bushel. (2) Upon delivery of the corn to CCC, the actual quantity held in farm-storage under the extended reseal loan will be determined by weighing. The storage payment earned by the producer covering the 1961–62 and 1962–63 reseal periods will then be recomputed on the basis of the actual quantity determined to have been covered by the extended reseal loan. Any amount due the producer for such storage on the quantity

delivered in excess of the quantity stated in the extended reseal loan documents will be regarded as an additional credit in settlement with the producer. The amount of any overpayment which is determined to have been made to the producer at the time the reseal loan was extended shall be collected from the producer. (3) No storage payment will be made for the 1962–63 reseal period (i) where the producer has made any false representation in the loan documents or in obtaining the loan, or in deliveries or settlement of the loan, (ii) where during or prior to the 1962–63 reseal period, the corn has been abandoned or was damaged or otherwise impaired due to negligence on the part of the producer, or (iii) where during or prior to the 1962–63 reseal period the commodity was converted by the producer or at any time subsequent thereto there was conversion of the commodity by the producer with intent to defraud CCC.

(b) (1) *Storage payment for full 1963–64 reseal storage period.* A storage payment of 14 cents per bushel will be made to the producer if he (i) redeems the corn from the loan on or after July 31, 1964, or (ii) delivers the corn to CCC on or after July 31, 1964.

(2) *Prorated storage payment*—(i) *Early deliveries and CCC assumed losses.* A storage payment determined according to the length of time the corn was in store beginning 60 days subsequent to July 31, 1963, will be made to the producer in the case of: (*a*) Losses assumed by CCC, or (*b*) deliveries prior to the maturity date of the reseal loan. The prorated payment will be computed at the daily rate of $0.00046 per bushel, but not to exceed the applicable amount specified in paragraph (a) of this section. In case of losses assumed by CCC, the period for computing the storage payment shall end on the date of the loss and in the case of deliveries of the commodity to CCC the period for computing storage shall end on the date delivery is completed or the final date for delivery specified by the county office, whichever is earlier.

(ii) *Redemptions prior to maturity.* On redemptions prior to the maturity date of the reseal loan, a storage payment will be made to the producer. Such storage payment will be determined according to the length of time the commodity was in store for the period beginning August 1, 1963, and ending on the date of repayment. The prorated payment will be computed at the daily rate of $0.00038, but not to exceed the applicable amount specified in paragraph (a) of this section.

(c) *Quantity eligible.* Except in the case of partial loans, the quantity eligible for storage payment under paragraphs (a) and (b) of this section shall be (1) in the case of delivery to CCC, or losses assumed by CCC the entire quantity in the bin, (2) in the case of redemptions, the quantity in the bin but not to exceed the measured quantity adjusted for test weight. The quantity eligible for a storage payment in the case of a partial loan shall not exceed the quantity under loan.

(d) *No storage payments.* Notwithstanding the provision of this paragraph, in no case will any storage payment be made (1) where the producer has made any false representation in the loan documents, in obtaining the loan, or in settlement of the loan, (2) where the commodity has been abandoned, (3) where there has been conversion on the part of the producer, or (4) where the commodity was damaged or otherwise impaired due to negligence on the part of the producer.

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

**§ 1421.3350 Maturity.**

Loans will mature on demand but not later than July 31, 1964.

**§ 1421.3351 Settlement.**

(a) *General.* The producer must pay off his loan plus interest on or before maturity or deliver the mortgaged corn in accordance with the instructions of the county office. If the producer desires to deliver the corn, he should, prior to maturity, give the county office notice in writing of his intention to do so. The producer may, however, pay off his loan and redeem his corn at any time prior to the delivery of the corn to CCC or removal of the corn by CCC. Credit will be given at the applicable settlement value according to grade and quality for the total quantity delivered. Delivery of the corn will be accepted only from the structure(s) in which the corn under reseal is stored, and the producer shall not include in the quantity of the corn delivered in settlement of a loan any commodity which has been added to or substituted for the corn described in the note and chattel mortgage covering the loan. The provisions of § 1421.5019 (a), (b), and (f) and § 1421.5146 (a)(1), (d), and (f) shall apply to settlement of reseal loans.

(b) *Fraud.* The making of any fraudulent representation by the producer, in connection with settlement or deliveries under the loan shall render the producer personally liable, aside from any additional liability under criminal and civil frauds statutes, for the amount of the loan, for any additional amounts paid to the producer on the corn, and for all costs which the corporation would not have incurred had it not been for the producer's fraudulent representation, together with interest at the rate of 6 percent per annum on such amounts from the date of disbursement. For the purpose of establishing any deficiency remaining due in the event the producer has made any such fraudulent representation, the value of the corn delivered to the corporation under the loan or removed by the corporation, shall be the market value, as determined by the corporation, on the date of delivery or removal, or the sales price if the corn is sold by CCC in order to determine its market value.

**§ 1421.3352 Support rates, premiums and discounts.**

(a) The support rate for an extended farm-storage loan shall remain the same as for the original loan.

(b) The applicable discounts or premiums established for variation in quality as shown for corn in § 1421.5143(b) shall apply in settlement of loans on such commodities.

**§ 1421.3353 Death, incompetency, or disappearance.**

In case of the death, incompetency or disappearance of any producer who is entitled to the payment of any sum under the loan, the payment of such sum shall be made to the person or persons who would be entitled to such producer's payment under the regulations contained in §§ 1472.1151 to 1472.1154 of this chapter (Payment Program for Shorn Wool and Unshorn Lambs, 27 F.R. 933, February 1, 1962, as amended), upon proper application to the office of the county committee which made the loan. Application forms may be obtained from the office of the county committee.

**§ 1421.3354 Delegation of authority.**

No delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, or his designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee, or ASCS commodity office or the ASCS Data Processing Center.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed in Washington, D.C., on July 26, 1963.

E. A. JAENKE,
*Acting Executive Vice President,*
*Commodity Credit Corporation.*

[F.R. Doc. 63-8127; Filed, July 31, 1963; 9:01 a.m.]

# Title 9—ANIMALS AND ANIMAL PRODUCTS

## Chapter I—Agricultural Research Service, Department of Agriculture

### SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

### PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), AND NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS); PROHIBITED AND RESTRICTED IMPORTATIONS

### Designation of Cuba as a Country Where Foot-and-Mouth Disease Exists

Pursuant to the provisions of section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), and section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111), paragraph (a) of § 94.1, Title 9, Code of Federal Regulations, is hereby amended to read as follows:

**§ 94.1 Designation of countries where rinderpest or foot-and-mouth disease exists; importations prohibited.**

(a) Notice is hereby given that, in accordance with section 306 of the Act of June 17, 1930 (19 U.S.C. 1306), it has been determined, and official notice has been given to the Secretary of the Treas-

ury, that rinderpest or foot-and-mouth disease exists in the following designated countries:

(1) All countries east of the 30th meridian west longitude and west of the International Date Line, except Australia, the Channel Islands, Greenland, Iceland, New Zealand, Northern Ireland, Norway, the Republic of Ireland;

(2) All countries of South America;

(3) Curacao (the leeward islands of the Netherlands Antilles);

(4) Martinique;

(5) Cuba.

* * * * *

The foregoing amendment adds Cuba to the list of countries designated as countries infected with foot-and-mouth disease or rinderpest, and has the effect of prohibiting the importation into the United States from Cuba of certain animals and meats and restricting such importations of certain other animals, animal products, hay, straw, and similar material, as specified in 9 CFR Parts 92, 94, and 95. The amendment also changes the term "Island of Curacao" to "Curacao (The leeward islands of the Netherlands Antilles)" and the term "Island of Martinique" to "Martinique" in order to clarify the original intent in designating the areas in which foot-and-mouth disease or rinderpest exists, that is to include within each designation all closely related islands the capitol of which is located on the Islands of Curacao and Martinique, respectively. Certain other nonsubstantive changes are made in § 94.1(a) of the regulations.

The amendment should be made effective promptly in order to afford maximum protection to the livestock of the United States.

Accordingly, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure concerning this amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

This amendment shall become effective upon issuance.

(Sec. 306, 46 Stat. 689, as amended, sec. 2, 32 Stat. 792, as amended; 19 U.S.C. 1306, 21 U.S.C. 111)

Done at Washington, D.C., this 26th day of July 1963.

M. R. CLARKSON,
*Acting Administrator,*
*Agricultural Research Service.*

[F.R. Doc. 63-8124; Filed, July 31, 1963; 9:00 a.m.]

# Title 12—BANKS AND BANKING

## Chapter II—Federal Reserve System

### SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

### PART 224—DISCOUNT RATES

### Miscellaneous Amendments

Pursuant to section 14(d) of the Federal Reserve Act, and for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country, Part 224 is amended as set forth below:

1. Section 224.2 is amended to read as follows:

**§ 224.2 Advances and discounts for member banks under sections 13 and 13a.**

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

| Federal Reserve Bank of— | Rate | Effective |
|---|---|---|
| Boston | 3½ | July 17, 1963 |
| New York | 3½ | Do. |
| Philadelphia | 3½ | July 19, 1963 |
| Cleveland | 3½ | July 17, 1963 |
| Richmond | 3½ | Do. |
| Atlanta | 3½ | July 24, 1963 |
| Chicago | 3½ | July 19, 1963 |
| St. Louis | 3½ | July 17, 1963 |
| Minneapolis | 3½ | Do. |
| Kansas City | 3½ | July 26, 1963 |
| Dallas | 3½ | July 17, 1963 |
| San Francisco | 3½ | July 19, 1963 |

2. Section 224.3 is amended to read as follows:

**§ 224.3 Advances to member banks under section 10(b).**

The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

| Federal Reserve Bank of— | Rate | Effective |
|---|---|---|
| Boston | 4 | July 17, 1963 |
| New York | 4 | Do. |
| Philadelphia | 4 | July 19, 1963 |
| Cleveland | 4 | July 17, 1963 |
| Richmond | 4 | Do. |
| Atlanta | 4 | July 24, 1963 |
| Chicago | 4 | July 19, 1963 |
| St. Louis | 4 | July 17, 1963 |
| Minneapolis | 4 | Do. |
| Kansas City | 4 | July 26, 1963 |
| Dallas | 4 | July 17, 1963 |
| San Francisco | 4 | July 19, 1963 |

3. Section 224.4 is amended to read as follows:

**§ 224.4 Advances to persons other than member banks.**

The rates for advances to individuals, partnerships, or corporations other than member banks secured by direct obligations of the United States under the last paragraph of section 13 of the Federal Reserve Act are:

| Federal Reserve Bank of— | Rate | Effective |
|---|---|---|
| Boston | 4½ | July 17, 1963 |
| New York | 4½ | June 10, 1960 |
| Philadelphia | 4½ | Aug. 19, 1960 |
| Cleveland | 5 | July 17, 1963 |
| Richmond | 4½ | Do. |
| Atlanta | 5 | July 24, 1963 |
| Chicago | 5 | July 19, 1963 |
| St. Louis | 4½ | July 17, 1963 |
| Minneapolis | 4 | Aug. 15, 1960 |
| Kansas City | 4½ | July 26, 1963 |
| Dallas | 4½ | Sept. 9, 1960 |
| San Francisco | 4½ | June 3, 1960 |

For the reasons and good cause found as stated in § 224.7, there is no notice, public participation, or deferred effective date in connection with this action.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 347, 347b, 347c, 357)

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] MERRITT SHERMAN,
*Secretary.*

[F.R. Doc. 63-8089; Filed, July 31, 1963; 8:50 a.m.]

# Title 14—AERONAUTICS AND SPACE

## Chapter I—Federal Aviation Agency

### SUBCHAPTER E—AIRSPACE [NEW]

[Airspace Docket No. 62-WE-135]

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

### Alteration of Control Zone, Revocation of Control Area Extension and Designation of Transition Area

On April 19, 1963, a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 3873) stating that the Federal Aviation Agency proposed to alter the Fallon, Nev., control zone, revoke the Fallon control area extension and designate the Fallon transition area.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and no adverse comments were received regarding the proposed amendments.

Subsequent to the publication of the notice, the FAA has determined that the floor of the portion of the proposed Fallon transition area extension based on the Fallon TACAN 139° True radial, extending from 23 to 44 miles southeast, could be raised from 1,200 feet above the surface to 9,500 feet MSL with no adverse effect on instrument flight activity. The action taken herein reflects this change.

The substance of the proposed amendments having been published and for the reasons stated in the notice, the following actions are taken:

1. In § 71.171 (27 F.R. 220-91, November 10, 1962), the Fallon, Nev., control zone is amended to read:

*Fallon, Nev.*

Within a 5-mile radius of NAAS Fallon (latitude 39°25'10" N., longitude 118°42'00" W.); within 2 miles each side of the NAAS Fallon TACAN 139° radial, extending from the 5-mile radius zone to 8 miles SE of the TACAN, and within 2 miles NE and 2.5 miles SW of the Fallon TACAN 296° radial, extending from the 5-mile radius zone to 5.5 miles NW of the TACAN.

2. Section 71.165 (27 F.R. 220-59, November 10, 1962) is amended by revoking the following control area extension: Fallon, Nev.

3. Section 71.181 (27 F.R. 220-139, November 10, 1962) is amended by adding the following:

*Fallon, Nev.*

That airspace extending upward from 700 feet above the surface within a 11-mile

radius of the NAAS Fallon TACAN, and within 2 miles NE and 2.5 miles SW of the Fallon TACAN 296° radial, extending from the 11-mile radius area to 15 miles NW of the TACAN; that airspace extending upward from 1,200 feet above the surface within 11 miles NW and 7 miles SE of the Hazen, Nev., VOR 061° and 241° radials, extending from 5 miles SW to 30 miles NE of the VOR, excluding the portion W of longitude 119°-00'00" W.; within 5 miles each side of the NAAS Fallon TACAN 039° radial, extending from the TACAN to 30 miles NE of the TACAN; within 12 miles SW and 10 miles NE of the Fallon TACAN 139° and 319° radials, extending from 10 miles NW to 23 miles SE of the TACAN; within a 20-mile radius of the Fallon TACAN extending clockwise from the TACAN 050° to the 110° radials; and that airspace extending upward from 9,500 feet MSL within 12 miles SW and 10 miles NE of the NAAS Fallon TACAN 139° radial, extending from 23 miles to 44 miles SE of the TACAN. The portions within R-4803, R-4804 and R-4810 shall be used only after obtaining prior approval from appropriate authority.

These amendments shall become effective 0001, e.s.t., September 19, 1963.

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

Issued in Washington, D.C., on July 24, 1963.

H. B. HELSTROM,
*Acting Chief,*
*Airspace Utilization Division.*

[F.R. Doc. 63-8064; Filed, July 31, 1963; 8:46 a.m.]

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[Airspace Docket No. 63-EA-71]

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

### Alteration of Control Zone

The purpose of this amendment to § 71.171 of the Federal Aviation Regulations is to alter the Pittsburgh, Pa. (Allegheny County Airport), control zone.

The Allegheny County control zone is designated, in part, with reference to the Cecil, Pa., radio beacon. The Federal Aviation Agency has scheduled the decommissioning of the Cecil radio beacon and the cancellation of the associated ADF instrument approach procedure on or about August 22, 1963. However, the presently designated control zone extension based on this facility will also serve an ADF instrument approach procedure (proposed for establishment August 17, 1963), based on the Pittsburgh radio beacon, but is not required with the alignment and to the extent presently designated. Accordingly, action is taken herein to realign the Allegheny County control zone west extension on the 257° bearing from the Pittsburgh radio beacon and to terminate it 6 miles west of the radio beacon. In addition, it has been determined that the control zone east extension based on the extended centerline of the Allegheny County east/west runway is no longer required for air traffic control purposes and may be revoked. Controlled airspace requirements will be reviewed at a later date under the CAR Amendments 60-21/60-29 implementation program.

Since the change effected by this amendment imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, § 71.171 (27 F.R. 220-91, November 10, 1962), the Pittsburgh, Pa. (Allegheny County) control zone is amended to read:

*Pittsburgh, Pa. (Allegheny County)*

Within a 5-mile radius of Allegheny County Airport (latitude 40°21'15" N., longitude 79°55'40" W.); within 2 miles each side of the 257° bearing from the Pittsburgh RBN, extending from the 5-mile radius zone to 6 miles W of the RBN, and within 2 miles each side of the Pittsburgh VORTAC 047° radial, extending from the 5-mile radius zone to the VORTAC.

This amendment shall become effective 0001, e.s.t., August 22, 1963.

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

Issued in Washington, D.C., on July 24, 1963.

H. B. HELSTROM,
*Acting Chief,*
*Airspace Utilization Division.*

[F.R. Doc. 63-8065; Filed, July 31, 1963; 8:46 a.m.]

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[Airspace Docket No. 62-CE-90]

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

### Designation of Control Zone and Alteration of Transition Area

On April 10, 1963, a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 3489) stating that the Federal Aviation Agency proposed to designate a control zone and alter the transition area at Dubuque, Iowa.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and no adverse comments were received regarding the proposed amendments.

The substance of the proposed amendments having been published and for the reasons stated in the notice, the following actions are taken:

1. Section 71.171 (27 F.R. 220-91, November 10, 1962) is amended by adding the following:

*Dubuque, Iowa*

Within a 5-mile radius of the Dubuque Municipal Airport (latitude 42°24'10" N., longitude 90°42'32" W.) from 0600 to 2100 hours, local time, daily.

2. In § 71.181 (27 F.R. 220-139, November 10, 1962) the Dubuque, Iowa, transition area is amended to read:

*Dubuque, Iowa*

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Dubuque Municipal Airport (latitude 42°24'10" N., longitude 90°42'32" W.); and within 8 miles NE and 5 miles SW of the Dubuque VOR 159° and 339° radials, extending from 6 miles NW to 14 miles SE of the VOR.

These amendments shall become effective 0001, e.s.t., September 19, 1963.

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

Issued in Washington, D.C., on July 24, 1963.

H. B. HELSTROM,
*Acting Chief,*
*Airspace Utilization Division.*

[F.R. Doc. 63-8066; Filed, July 31, 1963; 8:46 a.m.]

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[Airspace Docket No. 62-SW-67]

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

### Designation of Transition Area

*Correction*

In F.R. Doc. 63-7911, appearing at page 7671 of the issue for Saturday, July 27, 1963, a bracket should appear in the heading, as set forth above.

# Title 21—FOOD AND DRUGS

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

### SUBCHAPTER A—GENERAL

## PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

### Food; Exemptions From Labeling Requirements

*Correction*

In F.R. Doc. 63-7919, appearing at page 6272 of the issue for Saturday, July 27, 1963, the closing phrase of the last sentence in the third paragraph should read "to purchase preweighed units." instead of "to purchase preweighted units.".

# Title 29—LABOR

## Chapter V—Wage and Hour Division, Department of Labor

### SUBCHAPTER B—STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS NOT DIRECTLY RELATED TO REGULATIONS

## PART 778—OVERTIME COMPENSATION

## PART 779—THE FAIR LABOR STANDARDS ACT AS APPLIED TO RETAILERS OF GOODS OR SERVICES

### Miscellaneous Amendments

Pursuant to a notice published in the FEDERAL REGISTER (27 F.R. 10259) there has been oral and written expression of data, views and argument by interested persons supplying information useful in resolving the question of the records which should be required to be kept to facilitate administration of the overtime compensation exemption provided by section 7(h) of the Fair Labor Standards Act of 1938. Under section 7(h) of the act, if more than half the compensation of an employee of a retail or service establishment for a representative period (not less than one month) represents commissions on goods or services, his employer will not, in any workweek when

the employee's regular rate of pay is more than one and one-half times the minimum hourly rate applicable under section 6 of the act, be deemed to violate the act by employing the employee for more than the applicable number of hours specified in section 7(a) without payment of the overtime compensation prescribed by that subsection.

Employers were represented by The Associated Men's Wear Retailers of New York, The National Association of Retail Clothiers and Furnishers, The American Retail Federation, The National Association of Shoe Chain Stores, Inc., National Association of Music Merchants, National Retail Merchants Association, The National Retail Furniture Association, and by officers of the Labor Standards Association, The J. L. Hudson Company of Detroit, Michigan, and Rhodes, Incorporated of Atlanta, Georgia.

Employees were represented by the Retail Clerks International Association, AFL–CIO, and the Amalgamated Clothing Workers of America.

Information submitted regarding wages, hours, conditions and practices of employment has been reviewed to determine the kinds of such information which will be needed in the employer's records to substantiate the selection of a period of employment as a "representative period" for an employee within the meaning of section 7(h). The information received has also been reviewed to determine the character of the information needed in the records to support the classification of particular payments as compensation which "represents commissions on goods or services." The information received also reveals certain problems and possible solutions relating to the treatment of compensation representing commissions for employees who are not exempt under section 7(h). My resolution of these questions is presented in proposed amendments to 29 CFR 548 which are intended for effect at the same time as the amendments to the recordkeeping regulation proposed herein.[1] Some of the witnesses also addressed themselves to the question of what is an employee's regular rate of pay. The principles which will guide the Department of Labor in determining this and other related questions pertinent to the interpretation and application of section 7(h) of the Act are set forth in 29 CFR 778 and 29 CFR 779, as amended by this document.

1. Subpart E of 29 CFR Part 779 is amended by revoking §§ 779.411 through 779.415 and substituting in lieu thereof the following, containing the official interpretations which indicate, with respect to the matters discussed, the construction of the law which the Secretary of Labor and the Administrator believe to be correct and which will guide them in the performance of their duties under the Act unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect:

[1] See under Department of Labor, Wage and Hour Division, in Proposed Rule Making section, *infra*.

EMPLOYERS COMPENSATED PRINCIPALLY BY COMMISSIONS

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AUTHORITY: §§ 779.411 to 779.431 issued under 52 Stat. 1062, as amended; 29 U.S.C. 201.

EMPLOYEES COMPENSATED PRINCIPALLY BY COMMISSIONS

### § 779.411 Statutory provision.

Section 7 of the Act provides, in subsection (h):

(h) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services.

There are briefly set forth in §§ 779.412 to 779.431 some guiding principles for determining whether an employee's employment and compensation meet the conditions set forth in section 7(h).

### § 779.412 Employee of a "retail or service establishment."

In order for an employee to come within the exemption from the overtime pay requirement provided by section 7(h) for certain employees receiving commissions, the employee must be employed by a retail or service establishment. The term "retail or service establishment" is defined in section 13(a)(2) of the Act. The definition is set forth in § 779.424; its application is considered at length in Subpart D of this part. As used in section 7(h), as in other provisions of the Act, the term "retail or service establishment" means an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry.

### § 779.413 Compensation requirements for overtime pay exemption under section 7(h).

An employee of a "retail or service establishment" who is paid on a commission basis or whose pay includes compensation representing commissions need not be paid the premium compensation prescribed by section 7(a) for overtime hours worked in a workweek, provided the following conditions are met:

(a) The "regular rate" of pay of such employee must be more than one and one-half times the minimum hourly rate applicable to him under section 6; and

(b) More than half his compensation for a "representative period" (not less than one month) must represent commissions on goods or services.

### § 779.414 Methods of compensation of retail store employees.

Retail or service establishment employees are generally compensated (apart from any extra payments for overtime or other additional payments) by one of the following methods:

(a) *Straight salary or hourly rate.* Under this method of compensation the employee receives a stipulated sum paid weekly, biweekly, semimonthly or monthly or a fixed amount for each hour of work.

(b) *Salary plus commission.* Under this method of compensation the employee receives a commission on all sales in addition to a base salary (see paragraph (a) of this section).

(c) *Quota bonus.* This method of compensation is simliar to paragraph (b) of this section except that the commission payment is paid on sales over and above a predetermined sales quota.

(d) *Straight commission without advances.* Under this method of compensation the employee is paid a flat percentage on each dollar of sales he makes.

(e) *Straight commission with "advances", "guarantees", or "draws".* This method of compensation is similar to paragraph (d) of this section except that the employee is paid a fixed weekly, bi-weekly, semi-monthly, or monthly "advance", "guarantee" or "draw". At periodic intervals a settlement is made at which time the payments already made are supplemented by any additional amount by which his commission earnings exceed the amounts previously paid.

The above listing which reflects the typical methods of compensation is not, of course, exhaustive of the pay practices which may exist in retail or service establishments.

**§ 779.415 Types of employment in which this overtime pay exemption may apply.**

Section 7(h) was enacted to relieve an employed from the obligation of paying overtime compensation to certain employees of a retail or service establishment paid wholly or in greater part on the basis of commissions. These employees are generally employed in so-called "big ticket" departments and those establishments or parts of establishments where commission methods of payment traditionally have been used, typically those dealing in furniture, bedding and home furnishings, floor covering, draperies, major appliances, musical instruments, radios and television, men's clothing, women's ready to wear, shoes, corsets, home insulation, and various home custom orders. There may be other segments in retailing where the proportionate amount of commission payments would be great enough for employees employed in such segments to come within the exemption. Each such situation will be examined, where exemption is claimed, to make certain that the employees treated as exempt from overtime compensation under section 7(h) are properly within the statutory exclusion.

**§ 779.416 Compensation representing "commissions on goods or services."**

As explained earlier in this part, a retail or service establishment within the meaning of the Act is a physical place of business engaged in making "sales of goods or services" which meet the prescribed statutory tests. Section 7(h) provides an overtime pay exemption for an employee of such an establishment on the condition, among others, that more than half his compensation over a representative period "represents commissions on goods or services." In so providing, the Congress plainly must have had in mind employees compensated principally on an incentive basis through payments representing commissions on the goods or services in which the retail or service establishment deals, pursuant to the traditional methods of commission compensation (see §§ 779.414, 779.415) used in retail businesses. Although typically in retail or service establishments commission payments are keyed to sales, the requirement of the exemption is that more than half the employee's compensation represent commissions "on goods or services", which would include all types of commissions customarily based on the goods or services which the establishment sells, and not exclusively those measured by "sales" of these goods or services.

**§ 779.417 Computing employee's total compensation for the representative period.**

In determining for purposes of section 7(h) whether more than half of an employee's compensation "represents commissions on goods or services" it is necessary first to total all compensation paid to or on behalf of the employee as remuneration for his employment during the period. All such compensation in whatever form or by whatever method paid should be included, whether calculated on a time, piece, incentive or other basis, and amounts representing any board, lodging, or other facilities furnished should be included in addition to cash payments, to the extent required by section 3(m) of the Act and Part 531 of this chapter. Payments excludable from the employee's "regular rate" under section 7(d) may be excluded from this computation if, but only if, they are payments of a kind not made as compensation for his employment during the period. (See Part 778 of this chapter.)

**§ 779.418 Computing proportion of total compensation which "represents commissions".**

In computing the employee's total compensation for the representative period it will in many instances become clear whether more than half of it represents commissions. Where this is not clear, it will be necessary to identify and total all portions of the compensation which represent commissions on the goods or services that the retail or service establishment sells. In determining what compensation "represents commissions on goods or services" it is clear that any portion of the compensation paid as a weekly, biweekly, semimonthly, monthly, or other periodic salary, or as an hourly or daily rate of pay, does not "represent commissions" paid to the employee. On the other hand, it is equally clear that an employee paid entirely by commissions on the goods or services which the retail or service establishment sells will, in any representative period which may be chosen, satisfy the requirement that more than half of his compensation represents commissions. The same will be true of an employee receiving both salary and commission payments whose commissions always exceed the salary. If, on the other hand, the commissions paid to an employee receiving a salary are always a minor part of his total compensation it is clear that he will not qualify for the exemption provided by section 7(h). Some special situations in which it may be necessary to compute the proportion of an employee's compensation which represents commissions are considered in the following section.

**§ 779.419 What compensation "represents commissions" where dual systems of payment are used.**

(a) Employment arrangements which provide for a commission on goods or services to be paid to an employee of a retail or service establishment may also provide, as indicated in § 779.414, for the payment to the employee at a regular pay period of a fixed sum of money, which may bear a more or less fixed relationship to the commission earnings which could be expected, on the basis of experience, for an average period of the same length. Such periodic payments, which are variously described in retail or service establishments as "advances," "draws," or "guarantees," are keyed to a time base and are usually paid at weekly or other fixed intervals which may in some instances be different from and more frequent than, the intervals for payment of any earnings computed exclusively on a commission basis. They are normally smaller in amount than the commission earnings expected for such a period and if they prove to be greater, a deduction of the excess amount from commission earnings for a subsequent period, if otherwise lawful, may or may not be customary under the employment arrangement. A determination of whether or to what extent such periodic payments can be considered to represent commissions may be required in those situations where the employment arrangement is that the employee will be paid the stipulated sum, or the commission earnings allocable to the same period, whichever is the greater amount. The stipulated sum can never represent commissions, of course, if it is actually paid as a salary. If, however, it appears from all the facts and circumstances of the employment that the stipulated sum is not so paid and that it actually functions as an integral part of a true commission basis of payment, then the compensation paid under the dual system for each workweek ending in the representative period must be examined to determine whether in that workweek the stipulated periodic payment or the amount of commissions on goods or services attributable to the workweek is the factor which has decisive effect in determining the total compensation paid for the workweek. (Compare Walling v. Youngerman Reynolds Hardwood Co., 325 U.S. 419; Walling v. A. H. Belo Co., 311 U.S. 324.) If the commission earnings attributable to a particular workweek exceed the "advance," "guarantee," or "draw" paid for that workweek, the commission portion of the arrangement is the one which actually measures the total compensation the employee receives for that workweek, and all of his compensation for that workweek "represents commissions on goods or services" within the meaning of clause (2) of the section 7(h) exemption. If, on the other hand, the employee's computed commissions for that workweek do not yield an amount in excess of the "advance," "guarantee," or "draw" portion of his pay arrangement, the agreed commissions on goods or services have not been effective in determining any part of the total compensation, and none of it "represents commissions on goods or services" within the meaning of clause (2) in section 7(h) of the Act.

(b) The computation indicated in paragraph (a) of this section may be illustrated by the following example. Employee A, employed by a retail store, works under an arrangement by which he is to receive a stipulated commission on all sales of X merchandise, with the understanding that a stipulated amount of money will be paid each week as a "guarantee" to be charged against commissions for that week and to be paid him in any event in any workweek when the commission earnings which would otherwise be payable do not equal this stipulated payment. He receives no other forms of compensation. In a representative period of one month, his earnings are as follows:

| Workweek | "Guarantee" | Commissions computed | Total compensation | Compensation representing commissions |
|---|---|---|---|---|
| 1 | $75 | $100 | $100 | $100 |
| 2 | 75 | 85 | 85 | 85 |
| 3 | 75 | 70 | 75 | 0 |
| 4 | 75 | 95 | 95 | 95 |
| Representative period | 300 | 350 | 355 | 280 |

In this example, the total compensation of employee A during the representative period was $355, of which $280, or more than half, represented commissions. The requirment in clause (2) of section 7(h) for exemption was therefore met. If, however, the commissions computed for workweek 2 and workweek 4 had also failed to exceed the $75 "guarantee," his compensation representing commissions would have been only $100 out of a total compensation of $250, and the requirement of section 7(h)(2) would not have been met.

(c) As an example of the application of the principles stated in paragraph (a) of this section in the case of an employee compensated by a salary who also receives commissions, let us assume that the employment arrangement between a retail store and employee B is that he is to receive a fixed salary of $60 each week without regard to sales volume, and in addition 3 percent of all his sales. He receives no other forms of compensation. The following illustrates the computation required in a representative period of one month.

| Workweek | Salary | Commissions computed at 3 percent | Total compensation | Compensation representing commissions |
|---|---|---|---|---|
| 1 | $60 | $40 | $100 | $40 |
| 2 | 60 | 95 | 155 | 95 |
| 3 | 60 | 70 | 130 | 70 |
| 4 | 60 | 50 | 110 | 50 |
| | 240 | 255 | 495 | 255 |

In this example, the total compensation of employee B during the representative period was $495 of which $255, or more than half, represented commissions. The requirement in clause (2) of section 7(h) for exemption was met. If, however, the commissions for workweek 2 had been only $75 instead of $95, the requirement would not have been met because his compensation representing commissions would have totaled only $235, which is less than half of a total compensation in such case of $475 for the representative period.

### § 779.420 The "representative period" for testing employee's compensation.

Whether compensation representing commissions constitutes most of an employee's pay, so as to satisfy the exemption condition contained in clause (2) of section 7(h), must be determined by testing the employee's compensation for a "representative period" of not less than one month. The Act does not define a representative period, but plainly contemplates a period which can reasonably be accepted by the employer, the employee, and disinterested persons as being truly representative of the compensation aspects of the employee's employment on which this exemption test depends. A representative period within the meaning of this exemption may be described generally as a period which typifies the total characteristics of an employee's earning pattern in his current employment situation, with respect to the fluctuations of the proportion of his commission earnings to his total compensation.

### § 779.421 Factors affecting the representative period.

The efforts of an employee which result in commissions often are not confined to the particular workweek to which a commission is credited. Sales efforts, for example, may extend in some instances over a considerable period prior to the workweek in which the sales are made. Also, commissions may fluctuate from workweek to workweek for a number of reasons not necessarily connected with the employee's hours of work, among which are weather conditions, holidays, nature of the merchandise sold, seasonal demands, promotion of particular merchandise and buying habits of the public. Compensation other than commissions does not generally fluctuate to a significant extent from week to week. Consequently, for employees compensated in part through commissions, fluctuations in total compensation from pay period to pay period are generally attributable to fluctuations in commission earnings. Those factors which cause fluctuations in commission earnings must be taken into account in determining what is a representative period for ascertaining the proportion of compensation representing commissions under section 7(h).

### § 779.422 Period representative of employee's current earning pattern.

The exemption provided by section 7(h) by its terms requires a determination for each workweek in which the employee works overtime, as to whether his compensation in that workweek meets the conditions for exemption. The application of the exemption thus depends on how the individual employee is compensated in his current employment situation and, as previously indicated, the representative period used to determine the proportion of the employee's compensation which represents commissions should reflect as fully and fairly as possible the factors affecting his current earning pattern which are pertinent to this proportion—in other words, it must be representative of his current employment situation in this respect. For an employee whose compensation from all sources is computed and paid monthly for the workweeks ending in that month, this requirement can, of course, be met by taking the current month as the representative period for determining whether, in the workweeks ending therein for which payment is being made, more than half the employee's compensation represents commissions. In the more common situation of employees of a retail or service establishment who are paid more frequently than once a month, however, the representative period of one month or more must necessarily include past workweeks for which compensation has previously been computed and paid. It cannot, as a practical matter, include future workweeks in view of the impossibility of determining, at the pay day on which the Act requires the statutory compensation due for the pay period to be paid, what effect the employee's earnings for such future workweeks would have on his exemption.

### § 779.423 Representative character of past periods.

(a) Generally, where application of the exemption requires consideration of past compensation for the employment, a past employment period as close in time to the workweeks ending in the pay period as can practicably be adopted must be chosen as the representative period. For the reasons previously stated, any past period so chosen should be one which is as representative as possible to those factors in the terms, conditions, and circumstances of employment which may affect the presence or absence of a preponderance of compensation representing commissions in the total compensation of the employee under his present employment situation. To this end the period must be as recent a period, of sufficient length (see § 779.424 to fully and fairly reflect all such factors, as can practicably be used. Thus, as a general rule, if a month is long enough to reflect the necessary factors, the most recent month for which necessary computations can be made prior to the pay day for the first workweek in the current month should be chosen. Similarly, if it is necessary to use a period as long as a calendar or fiscal quarter year to fully represent such factors, the quarterly period used should ordinarily be the one ending immediately prior to the quarter in which the current workweek falls. If a period longer than a quarter year is required in order to include all the factors necessary to make it fully and fairly representative of the current period of employment for purposes of section 7(h), the end of such period should likewise be at least as recent as the end of the quarter year immediately preceding the quarter in which the current workweek falls. Thus, in the case of a representative period of six months or of one year, recomputation each quarter would be required so as to include in it the most recent two quarter-years for four quarter-years, as the case may be. The quarterly recomputation would tend to ensure that the period used reflects any gradual changes in the characteristics of the employment which could be important in determining the ratio between compensation representing commissions and other compensation in the current employment situation of the employee.

(b) Ordinarily a period less recent than the periods described in paragraph (a) of this section cannot qualify as a representative period for purposes of the section 7(h) exemption. While there may be circumstances in which it may be necessary to use a corresponding period in the preceding calendar or fiscal year

as a representative period for an employee whose compensation representing commissions cannot, because of unusual circumstances, be tested by a more recent period, this would be an exception to the general rule which could be justified only in a factual situation clearly demonstrating the representative character of the period chosen. Whether the facts are adequate to support the choice of such a period as representative within the meaning of the statute in any given case can be determined only by a careful review of all relevant aspects of the particular employment situation in that case.

**§ 779.424 Length of representative period.**

(a) The representative period for determining whether more than half of an employee's compensation represents commissions cannot, under the express terms of section 7(h), be less than one month. The period chosen should be long enough to stabilize the measure of the balance between the portions of the employee's compensation which respectively represent commissions and other earnings, against purely seasonal or plainly temporary changes. Although the Act sets no upper limit on the length of the period, the statutory intent would not appear to be served by any recognition of a period in excess of one year as representative for purposes of this exemption. There would seem to be no employment situation in a retail or service establishment in which a period longer than a year would be needed to represent the seasonal and other fluctuations in commission compensation which are referred to in §§ 779.420 and 779,421. Moreover, the inclusion in the period used under section 7(h) of any past weeks of employment more than one year prior to the beginning of the current quarter year would cause the period to reflect conditions too remote from the present to justify acceptance of the period as truly representative of the employee's earning pattern in his current employment situation. Subject to the above minimum and maximum limitations, and to the principles discussed in §§ 779.420 through 779.423, a period of any length suitable for a full and fair representation of the pertinent compensation characteristics of the employee's present employment will be accepted as a representative period for purposes of section 7(h) when properly designated and supported in the employer's records as required by Part 516 of this chapter (see also § 779.430).

**§ 779.425 Length of periods in some typical situations.**

(a) Subject to the conditions mentioned in § 779.424, in employments where it is typical for the employee's commissions to fluctuate upward or downward in particular weeks, or from season to season, in accordance with the factors referred to in 779.421, the period will be considered representative if it includes a sufficient number of workweeks to reflect such fluctuations throughout their full cycle, and is not longer than is ncessary for this purpose.

(b) In employments where there is no appreciable fluctuation, from pay period to pay period or from commission computation period to commission computation period, in the proportion of the employee's compensation which represents commissions, the designation and use of such a pay period or commission computation period as a representative period for such an employee will be proper under section 7(h), when such period is not less than one month and otherwise satisfies the conditions mentioned in § 779.424.

(c) With respect to employees whose compensation arrangements would meet the conditions of exemption expressed in clause 7(h)(2) regardless of the length of the period from a month to a year which may be chosen as representative, as, for example, employees compensated exclusively by commissions (without advances, draws or guarantees), any such representative period designated by the employer which otherwise meets the conditions mentioned in § 779.424 will be acceptable as a representative period for determining the application of the exemption.

**§ 779.426 Application of the representative period.**

As previously indicated, the representative period which must be applied in determining whether an individual employee is exempt from overtime pay pursuant to the provisions of section 7(h) is one which is representative of that particular employee's earning pattern as it relates to the proportionate part of his total compensation which represents commissions. Accordingly, for each employee whose exemption is to be tested in any workweek under clause (2) of section 7(h), an appropriate representative period or a formula for establishing such a period must be chosen and must be designated and substantiated in the employer's records (see § 516.28 of this chapter). When the facts change so that the designated period or the period established by the designated formula is no longer representative, a new representative period or formula therefor must be adopted which is appropriate and sufficient for the purpose, and designated and substantiated in the employer's records. Although the period selected and designated must be one which is representative with respect to the particular employee for whom exemption is sought, and the appropriateness of the representative period for that employee will always depend on his individual earning pattern, there may be situations in which the factors affecting the proportionate relationship between total compensation and compensation representing commissions will be substantially identical for a group or groups of employees in a particular occupation or department of a retail or service establishment or in the establishment as a whole. Where this can be demonstrated to be a fact, and is substantiated by pertinent information in the employer's records the same, representative period or formula for establishing such a period may properly be used for each of the similarly situated employees in the group. Whether used for one or more employees, however, there are, as previously indicated, certain time limitations on the use of any fixed period as representative of the compensation characteristics of an employee's employment in later workweeks. These limitations are generally met, however, if a representative period of one specific quarter year or more is not applied to computations under section 7(h) for more than the workweeks in the one following quarter, and if a specific representative period of less than one quarter year but not less than one month is not applied in computations for more workweeks than are included in a following period of the same length.

**§779.427 Grace period for computing portion of compensation representing commissions.**

Where it is not practicably possible for the employer to compute the commission earnings of the employee for all workweeks ending in a prior representative period in time to determine the overtime pay obligations, if any, for the workweek or workweeks immediately following, one month of grace may be used by the retail or service establishment. This month of grace will not change the length of the current period in which the prior period is used as representative. It will merely allow an interval of one month between the end of the prior period and the beginning of the current period in order to permit necessary computations for the prior period to be made. For example, assume that the representative period used is the quarter-year immediately preceding the current quarter, and commissions for the prior period cannot be computed in time to determine the overtime pay obligations for the workweeks included in the first pay period in the current quarter. By applying a month of grace, the next earlier quarterly period may be used during the first month of the current quarter; and the quarter-year immediately preceding the current quarter will then be used for all workweeks ending in a quarter-year period which begins one month after the commencement of the current quarter. Thus, a January 1–March 31 representative period may be used for purposes of section 7(h) in a quarterly period beginning May 1 and ending July 31, allowing the month of April for necessary commission computations for the representative period. Once this method of computation is adopted it must be used for each successive period in like manner. The prior period used as representative must, of course, as in other cases, meet all the requirements of a representative period as previously explained.

**§ 779.428 Dependence of the section 7(h) overtime pay exemption upon the level of the employee's "regular rate" of pay.**

If more than half of the compensation of an employee of a retail or service establishment for a representative period as previously explained represents commissions on goods or services, one additional condition must be met in order for the employee to be exempt under section 7(h) from the overtime pay requirement of section 7(a) of the Act in a

workweek when his hours of work exceed the maximum number specified in section 7(a). This additional condition is that his "regular rate" of pay for such workweek must be more than one and one-half times the minimum hourly rate applicable to him under the minimum wage provisions of section 6 of the Act. If it is not more than one and one-half times such minimum rate, there is no overtime pay exemption for the employee in that particular workweek.

**§ 779.429 Computing the "regular rate" of pay for purposes of section 7(h).**

The meaning of the "regular rate" of pay under the Act is well established. As explained by the Supreme Court of the United States, it is "the hourly rate actually paid the employee for the normal, nonovertime workweek for which he is employed" and "by its very nature must reflect all payments which the parties have agreed shall be received regularly during the workweek, exclusive of overtime payments." (Walling v. Youngerman-Reynolds Hardwood Co., 325 U.S. 419.) It is a rate per hour, computed for the particular workweek by a mathematical computation in which hours worked are divided into straight-time earnings for such hours to obtain the statutory regular rate (Overnight Motor Co. v. Missel, 316 U.S. 572). By definition (Act, section 7(d)), the "regular rate" as used in section 7 of the Act (of which section 7(h) was made a part by the 1961 amendments) includes "all remuneration paid to, or on behalf of, the employee" except payments expressly excluded by the seven numbered clauses of section 7(d). The computation of the regular rate for purposes of the Act is explained in Part 778 of this chapter. The "regular rate" is not synonymous with the "basic rate" which may be established by agreement or understanding of the parties to the employment agreement under the provisions of section 7(f)(3) of the Act; that section, like section 7(h), merely provides an exemption from the general requirement of overtime compensation based on the regular rate contained in section 7(a), if certain prescribed conditions are met (in section 7(f)(3) these include payment of overtime compensation on a basic rate established and authorized in accordance with its terms). The requirement of section 7(h) with respect to the "regular rate" of pay of an employee who may come within the exemption which it provides is a simple one: "the regular rate of pay of such employee," when employed "for a workweek in excess of the applicable workweek specified" in section 7(a), must be "in excess of one and one-half times the minimum hourly rate applicable to him under section 6." The employee's "regular rate" of pay must be computed, in accordance with the principles discussed above, on the basis of his hours of work in that particular workweek and the employee's compensation attributable to such hours. The hourly rate thus obtained must be compared with the applicable minimum rate of pay of the particular employee under the provisions of section 6 of the Act. If the latter rate is $1.00 an hour, for example, then the employee's regular rate must be more than $1.50 an hour if the exemption is to apply.

**§ 779.430 Recordkeeping requirements.**

The records which must be kept with respect to employees for whom the overtime pay exemption under section 7(h) is taken are specified in § 516.28 of this chapter. As previously indicated, these include a designation of the "representative period" chosen, or of a formula used to establish such period, together with the information necessary to substantiate the character of such a period as a "representative" one for the statutory purpose. Other information pertinent to the application of the exemption must also be kept in the records, including the "regular rate" of pay of the employee in each workweek.

**§ 779.431 Basic rate for computing overtime compensation of nonexempt employees receiving commissions.**

The overtime compensation due employees of a retail or service establishment who do not meet the exemption requirements of section 7(h) may be computed under the provisions of section 7(f)(3) of the Act if the employer and employee agree to do so under the conditions there provided. Section 7(f)(3) permits the use of a basic rate established, pursuant to agreement or understanding in advance of the work, in lieu of the regular rate for the purpose of computing overtime compensation. The use of such a basic rate for employees of a retail or service establishment compensated wholly or partly by commissions is authorized under the conditions set forth in Part 548 of this chapter.

2. 29 CFR Part 778 is amended by changing the section title of § 778.2, by revoking paragraph (d) of such section and substituting in lieu thereof a revised paragraph (d), and by adding to § 778.3 new paragraphs (e) through (g), as follows:

**§ 778.2 Maximum nonovertime hours.**

* * * * *

(d) *Each workweek stands alone.* The act takes a single workweek as its standard and does not permit averaging of hours over two or more weeks. Thus, if an employee works 30 hours one week and 50 hours the next, he must receive overtime compensation for the overtime hours worked beyond the applicable maximum in the second week, even though the average number of hours worked in the two weeks is 40. This is true regardless of whether the employee works on a standard or swing-shift schedule and regardless of whether he is paid on a daily, weekly, biweekly, monthly or other basis. The rule is also applicable to pieceworkers and employees paid on a commission basis. It is therefore necessary to determine the hours worked and the compensation earned by pieceworkers and commission employees on a weekly basis.

* * * * *

**§ 778.3 Computing overtime pay based on the "regular rate"; definition.**

* * * * *

(e) *Commission payments, general.* Commissions (whether based on a percentage of total sales or of sales in excess of a specified amount, or on a fixed allowance per unit agreed upon as a measure of accomplishment, or some other formula) are payments for hours worked and must be included in the regular rate. This is true regardless of whether the commission is the sole source of the employee's compensation, or is paid, in addition to a guaranteed salary or hourly rate, or on some other basis, and regardless of the method, frequency, or regularity of computing, allocating and paying the commission. It does not matter whether the commission earnings are computed daily, weekly, biweekly, semimonthly, monthly, or at some other interval. The fact that the commission is paid on a basis other than weekly, and that payment is delayed for a time past the employee's normal pay day or pay period, does not excuse the employer from including this payment in the employee's regular rate.

(f) *Commission paid on a workweek basis.* When the commission is paid on a weekly basis, it is added to the employee's other earnings for that workweek (except overtime premiums and other payments excluded as provided in section 7(d) of the Act), and the total is divided by the total number of hours worked in the workweek to obtain the employee's regular hourly rate for the particular workweek. The employee must then be paid extra compensation at one-half of that rate for each hour worked in excess of the applicable maximum hours standard.

(g) *Deferred commission payments.* If the calculation and payment of the commission cannot be completed until some time after the regular pay day for the workweek, the employer may disregard the commission in computing the regular hourly rate until the amount of commission can be ascertained. Until that is done he may pay compensation for overtime at a rate not less than one and one-half times the hourly rate paid the employee, exclusive of the commission. When the commission can be computed and paid, additional overtime compensation due by reason of the inclusion of the commission in the employee's regular rate must also be paid. To compute this additional overtime compensation, it is necessary, as a general rule, that the commission be apportioned back over the workweeks of the period during which it was earned. The employee must then receive additional overtime compensation for each week during the period in which he worked in excess of the applicable maximum hours standard. The additional compensation for that workweek must be not less than one-half of the increase in the hourly rate of pay attributable to the commission for that week multiplied by the number of hours worked in excess of the applicable maximum hours standard in that workweek. If it is not possible or practicable to allocate the commission among the

workweeks of the period in proportion to the amount of commission actually earned or reasonably presumed to be earned each week, some other reasonable and equitable method must be adopted The following methods may be used:

(1) Assume that the employee earned an equal amount of commission in each week of the commission computation period and compute any additional overtime compensation due on this amount. This may be done as follows:

(i) For a commission computation period of one month, multiply the commission payment by 12 and divide by 52 to get the amount of commission allocable to a single week. If there is a semimonthly computation period, multiply the commission payment by 24 and divide by 52 to get each week's commission. For a commission computation period of a specific number of workweeks, such as every 4 weeks (as distinguished from every month) divide the total amount of commission by the number of weeks for which it represents additional compensation to get the amount of commission allocable to each week.

(ii) Once the amount of commission allocable to a workweek has been ascertained, for each week in which overtime was worked the commission for that week would be divided by the total number of hours worked in that week, to get the increase in the hourly rate. Additional overtime due would be computed by multiplying one-half of this figure by the number of overtime hours worked in the week. A shorter method of obtaining the amount of additional overtime compensation due is to multiply the amount of commission allocable to the week by the decimal equivalent of the fraction $\frac{\text{Overtime hours}}{\text{Total hours} \times 2}$. A coefficient table (WH–134) has been prepared which contains the appropriate decimals for computing the extra half-time due for hours over 40, 42 and 44.

(iii) Examples:

(*a*) If there is a monthly commission payment of $41.60, the amount of commission allocable to a single week is $9.60 ($41.60 × 12 = $499.20 ÷ 52 = $9.60). In a week in which an employee who is due overtime compensation after 40 hours works 48 hours, dividing $9.60 by 48 gives the increase to the regular rate of $0.20. Multiplying one-half of this figure by 8 overtime hours gives the additional overtime pay due of $0.80. The $9.60 may also be multiplied by .083 (the appropriate decimal shown on the coefficient table), to get the additional overtime pay due of $0.80.

(*b*) An employee received $38.40 in commissions for a 4-week period. Dividing this by 4 gives him a weekly increase of $9.60. Assume that he is due overtime compensation after 40 hours and that in the 4-week period he worked 44, 40, 44 and 48 hours. He would be due additional compensation of $0.44 for the first and third weeks ($9.60 ÷ 44 = 0.22 ÷ 2 = 0.11 × 4 overtime hours = $0.44), no extra compensation for the second week during which no overtime hours were worked, and $0.80 for the fourth week, computed in the same manner as weeks one and three. The additional overtime pay due may also be computed by multiplying the amount of the weekly increase by the appropriate decimal on the coefficient table, for each week in which overtime was worked.

(2) If there are facts which make it inappropriate to assume equal commission earnings for each workweek as outlined in subparagraph (1) of this paragraph, assume that the employee earned an equal amount of commission in each hour that he worked during the commission computation period, and divide the amount of the commission payment by the number of hours worked in the period to obtain the amount of increase in the regular rate allocable to the commission payment. One-half of this figure should be multiplied by the number of overtime hours worked by the employee in the commission computation period, to get the amount of additional overtime compensation due for this period.

*Example.* An employee received commissions of $19.20 for a commission computation period of 96 hours, including 16 overtime hours (i.e., two workweeks of 48 hours each). Dividing the $19.20 by 96 gives a $0.20 increase in the hourly rate. If the employee is entitled to overtime after 40 hours in a workweek, he is due an additional $1.60 for the commission computation period, representing an additional $0.10 for each of the 16 overtime hours.

(3) If there are delays in crediting sales or debiting returns or allowances which affect the computation of commissions, the amounts paid to the employee for the computation period will be accepted as the total commission earnings of the employee during such period, and the commission may be allocated over the period from the last commission computation date to the present commission computation date, even though there may be credits or debits resulting from work which actually occurred during a previous period. The hourly increase resulting from the commission may be computed as outlined in the preceding paragraphs.

(4) Overtime pay for employees paid wholly or partly on a commission basis may be computed on an estabilshed basic rate, in lieu of the method described above. See § 778.20 and Part 548 of this chapter.

(52 Stat. 1060, as amended; 29 U.S.C. 201)

Signed at Washington, D.C., this 27th day of July 1963.

CLARENCE T. LUNDQUIST,
*Administrator.*

[F.R. Doc. 63–8110; Filed, July 31, 1963; 9:01 a.m.]

# Title 33—NAVIGATION AND NAVIGABLE WATERS

## Chapter II—Corps of Engineers, Department of the Army

## PART 207—NAVIGATION REGULATIONS

### Key West Harbor and Gulf of Mexico, Fla.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.173 is hereby amended in its entirety redesignating the boundaries of the restricted area in Key West Harbor, Florida, § 207.173a is hereby prescribed establishing and governing the use and navigation of new restricted areas in the harbor, and § 207.174 establishing and governing the use of a seaplane restricted area in the Gulf of Mexico is hereby amended with respect to paragraphs (b) (1) and (6), effective 30 days after publication in the FEDERAL REGISTER, as follows:

**§ 207.173 Key West Harbor at U.S. Naval Base, Key West, Fla.; dummy minefield and swimming and diving training area.**

(a) *The area.* An irregular area south of Key West Island the coordinates of which are as follows: A point on the shoreline of Key West Island at latitude 24°32′44″, longitude 81°48′01″; latitude 24°32′02″, longitude 81°47′43″; latitude 24°31′56″, longitude 81°47′58″; latitude 24°32′15″, longitude 81°48′14″; a point on the shoreline of Key West Island at latitude 24°32′42″, longitude 81°48′10″. Within this area are five spherical yellow buoys 34 inches in diameter each with a 2-foot by 2-foot plywood square painted with day glow and mounted on a 6-foot staff. Buoys numbered 1 through 4 are located on a bearing 164° T from a point on the shoreline of Key West Island due south of Key West Light at the following intervals from shore respectively: 500 yards; 750 yards; 1,000 yards; and 1,500 yards. Buoy number 5 is located 300 yards 245° T from buoy number 2. All dummy mines are laid on the bottom.

(b) *The regulations.* (1) All craft shall reduce speed and proceed with caution when underway in this restricted area.

(2) All craft shall stay well clear of naval craft displaying the Four flag (a red flag with a diagonal white cross) and be particularly alert to observe and obey signals from such craft.

(3) Laying lobster pots in this area is prohibited.

(4) The regulations in this section shall be enforced by the Commander, U.S. Naval Base, Key West, Florida, and such agencies as he may designate.

**§ 207.173a Key West Harbor, at U.S. Naval Base, Key West, Fla.; naval restricted areas.**

(a) *The areas.* (1) All waters within one hundred yards of the U.S. Naval Station, beginning at a point one hundred yards due south of the south end of Whitehead Street and extending westerly and northerly around the U.S. Naval Station to the northern end of the U.S. Coast Guard Base.

(2) All waters within one hundred yards of the U.S. Naval Station Annex, the U.S. Naval Seaplane Base-Heliport, and the north and east shores of the Trumbo Point Navy Housing area.

(3) All waters within one hundred yards of Fleming Key.

(b) *The regulations.* (1) Entering or crossing any of the restricted areas described in paragraph (a) of this section is prohibited except as follows: Privately-owned vessels properly registered and bearing identification in accordance with Federal and/or State laws and regulations, and at night showing lights

required by Federal laws and U.S. Coast Guard regulations or, if no constant lights are required, then a bright white light showing all around the horizon, may transit the following portion of the restricted areas:

(i) The channel about 75 yards in width extending from the northwest corner of the U.S. Naval Station Annex eastward beneath the Fleming Key Bridge along the north shore of the U.S. Naval Station Annex, the U.S. Naval Seaplane Base-Heliport, and the north and east shores of the Trumbo Point Navy Housing area to Garrison Bight.

(ii) A channel 150 feet in width which will extend easterly from the main ship channel into Key West Bight, the northerly edge of which channel passes 25 feet south of the Navy Annex piers on the north side of the Bight.

(iii) A channel 100 feet in width, the eastern edge of which forms the western boundary of the restricted seaplane landing area east of Fleming Key (see § 207.174).

(2) Stopping or landing in any of the restricted areas described in paragraph (a) of this section is prohibited.

(3) Vessels using the restricted channel areas described in subdivisions (i), (ii) and (iii) of subparagraph (1) of this paragraph shall proceed at a slow speed.

(4) No object that might endanger seaplane operations shall be cut adrift or thrown overboard in the restricted areas described in subparagraphs (2) and (3) of paragraph (a) of this section.

(5) The regulations in this section shall be enforced by the Commander, U.S. Naval Base, Key West, Florida, and such agencies as he may designate.

**§ 207.174 Gulf of Mexico, seaplane restricted area, Naval Air Station, Key West, Fla.**

* * * * *

(b) *The regulations.* (1) Entering or crossing the seaplane restricted areas is prohibited except as follows: Privately-owned vessels properly registered and bearing identification in accordance with Federal and/or State laws and regulations, and at night showing lights required by Federal laws and U.S. Coast Guard regulations or, if no constant lights are required, then a bright white light showing all around the horizon, may transit the seaplane landing area except at such times as seaplane operations are scheduled when navy patrol boats will order all other boats to clear the landing area.

* * * * *

(6) The regulations in this section shall be enforced by the Commander, U.S. Naval Base, Key West, Florida, and such agencies as he may designate.

[Regs., July 19, 1963, 1507-32 (Key West, Fla.)—ENGCW-ON] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

J. C. LAMBERT,
*Major General, U.S. Army,*
*The Adjutant General.*

[F.R. Doc. 63-8060; Filed, July 31, 1963; 8:45 a.m.]

# Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

## Chapter I—Veterans Administration

## PART 13—DEPARTMENT OF VETERANS BENEFITS, CHIEF ATTORNEYS

### Miscellaneous Amendments

1. In § 13.71, paragraph (b) is amended to read as follows:

**§ 13.71 Payment of cost of veteran's maintenance in institution.**

* * * * *

(b) *By direct payment.* When payment of compensation, pension or emergency officers' retirement pay in behalf of a veteran rated incompetent by the Veterans Administration by reason of mental illness, who has no wife or child and is being furnished hospital treatment, institutional or domiciliary care by a political subdivision of the United States, has been stopped because his estate has reached $1,500, the Chief Attorney may certify to the adjudication agency the amount to be released to the responsible official to pay for the cost of the veteran's current care and maintenance. The amounts paid in such cases shall not exceed the amount of the benefit otherwise payable less any amounts apportioned to dependent parents and in no event exceed the amount which the Chief Attorney shall determine to be the proper charge as fixed by statute or administrative regulation.

2. Section 13.102 is revised to read as follows:

**§ 13.102 Biennial report of custodian.**

(a) Except as provided in paragraphs (b) and (c) of this section, legal custodians will furnish a written report to the Chief Attorney at his request once every 2 years and at such lesser intervals as protection of the beneficiary's interests may require in individual situations. Such report will be secured by the Chief Attorney of the regional office in whose area the custodian resides and will contain a statement showing the facts establishing the continuance of the custodianship, and, in addition, will set forth the total amount received, disbursed, balance on hand, and bond, if any.

(b) Accounts will not be required of a legal custodian who is the natural parent, adoptive parent or stepparent of a minor beneficiary so long as it has been determined that all Veterans Administration benefits paid or payable to the legal custodian on behalf of such beneficiary are required for the beneficiary's current support and maintenance, or all Veterans Administration benefits payable are so required and the estate is less than $200, except that, upon reasonable cause, the Chief Attorney may request an account as protection of the beneficiary's interests may require in individual cases.

(c) Accounts will not be required, in the discretion of the Chief Attorney, (1) when the custodian and beneficiary permanently reside in a jurisdiction other than a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico or the Republic of the Philippines, or (2) when as to any beneficiary, the total estate is less than $200 and monthly payments do not exceed $15.

3. In § 13.104, paragraph (c) is amended to read as follows:

**§ 13.104 Accounts of guardians.**

* * * * *

(c) Annual accounts will not be required, in the discretion of the Chief Attorney, in cases (1) when the fiduciary and ward permanently reside in a jurisdiction other than a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico or the Republic of the Philippines, and the fiduciary apointment was made in said jurisdiction, or (2) when as to any beneficiary, the total estate in less than $200 and monthly payments do not exceed $15.

(72 Stat. 1114; 38 U.S.C. 210)

These VA Regulations are effective the date of approval.

Approved: July 29, 1963.

By direction of the Administrator.

[SEAL] W. J. DRIVER,
*Deputy Administrator.*

[F.R. Doc. 63-8103; Filed, July 31, 1963; 8:54 a.m.]

# Title 39—POSTAL SERVICE

## Chapter I—Post Office Department

## PART 15—MATTER MAILABLE UNDER SPECIAL RULES

## PART 47—FORWARDING MAIL

## PART 61—MONEY ORDERS

### Miscellaneous Amendments

The regulations of the Post Office Department are amended as follows:

In Part 15—Matter Mailable Under Special Rules:

**§ 15.4 [Amendment]**

I. In § 15.4 *Plant quarantines* amend subdivision (iv) of paragraph (c) (6) by adding "Dos Palos, Etna, and Fort Jones" and deleting "Hopland" in the alphabetical list therein of terminal inspection places in California.

In Part 47—Forwarding Mail:

II. In § 47.1 amend paragraph (a) (1) for the purpose of clarification to read as follows:

**§ 47.1 Order to change address.**

(a) *Ordinary mail*—(1) *Forwarding instructions.* To have first-, second-, or fourth-class mail, or third-class mail of obvious value, delivered to a new ad-

dress, file Form 3575, "Change of Address Order", which is available at any post office or from any carrier. All first class mail and parcels are forwarded on receipt of change of address order. Second-, other fourth-class, and third-class mail of obvious value are forwarded only when specifically requested by the order. A written and signed order or a telegram is acceptable. The order or telegram must be sent by the patron, his agent, or the person in whose care the mail will be accepted. The old and new address must always be furnished.

NOTE: The corresponding Postal Manual section is 157.11

III. In § 47.3 amend subparagraphs (2) through (4) for the purpose of clarification to read as follows:

**§ 47.3 Postage for forwarding.**

(b) *Change to another post office.* * * *

(2) *Second-class publications* are subject to additional postage for forwarding at the second-class transient rate computed on each individually addressed copy or package of unaddressed copies.

(3) *Controlled circulation publications* (see part 23 of this chapter) are subject to additional postage for forwarding at the single-piece third- or fourth-class rate according to weight. (See § 48.2(c) of this chapter.)

(4) *Third-class mail* is subject to collection of additional postage at the single-piece rate, when forwarded. (See § 24.1(a) of this chapter.)

NOTE: The corresponding Postal Manual sections are 157.32 b through d.

IIIa. In § 47.5 paragraph (d), as amended by 28 F.R. 1474, is further amended to provide for delivering rural route, star route, and post office boxholder mail for minimum period of 90 days following a change in postal service. As so amended, paragraph (d) reads as follows:

**§ 47.5 Change in post office service.**

* * * * *

(d) *Addressed to boxholder.* Mail addressed to post office, rural route, or star route boxholder (as prescribed in § 13.4 of this chapter) will be delivered to those patrons residing in the affected area until June 30 following establishment or conversion to city delivery service or for a period of 90 days, whichever is longer.

NOTE: The corresponding Postal Manual section 157.54.

In Part 61—Money Orders:

**§ 61.1 [Amendment]**

IV. In § 61.1 *Issuance of domestic money orders* amend paragraph (f)(2) for the purpose of clarification to read as follows:

(f) *Spoiled or lost money orders.* * * *

(2) *Orders lost, mutilated, or void by endorsements*—(i) *Application for duplicate order.* (*a*) The Post Office Department will replace without charge a money order (*1*) that is lost provided it was completed by the purchaser to show his name and address and the name of the intended payee, (2) a multilated order, or (3) one void by too many endorsements. The owner-purchaser, payee, or endorsee—should make application for a duplicate, using Form 6401, Inquiry as to Payment of a Money Order. If money order was lost before completion, report circumstances to Inspector-in-Charge.

(*b*) Patrons must wait 60 days after date of issue of original money order before filing Form 6401, Inquiry as to Payment of Money Order, when an order has been lost. Form 1510 should, however, be initiated and processed immediately if loss is believed to have occurred in the mail.

(*c*) Application for a duplicate of a multilated order or an order void by too many endorsements, on Form 6401, may be filed at any time if the order is attached.

(*d*) If the purchaser's receipt is presented, the post office shall endorse it "Form 6401 (date)" and return it to the applicant. The postmaster shall not keep any record of the filing of the form. Reply will be made directly to the inquirer.

(ii) *Issuance of duplicate order.* (*a*) A duplicate money order will be issued in accordance with the wishes of the purchaser-applicant without the consent of the payee or endorsee.

(*b*) The post office shall send the mutilated or void order to the Money Order Audit Division where duplicates are issued. A duplicate money order will be issued if the original order is not in the paid files at the Money Order Audit Division; it will show the serial number of the original order and the amount as entered on Form 6401. When a record of the amount of the original order is not available at the Money Order Audit Division, the Money Order Audit Division will issue the duplicate based on information shown on Form 6401 and will send the order to the post office of issue of the original order for verification. In such cases, Form 787, "Duplicate Money Order Transmittal Letter", accompanies the duplicate money order; it describes the verification required and the disposition of the order. The employee performing the verification will initial the duplicate if both the serial number and the amount are in agreement with the post office record (stub).

(iii) *Orders recovered after duplicate issued.* When a duplicate order has been issued, the postal employee shall write "Canceled-Duplicate Issued" on the original order and send it to the Money Order Audit Division. If the employee does not know whether a duplicate was actually issued, he shall send the recovered order with Form 6401, "Inquiry as to Payment of Money Order."

(iv) *Payment of duplicate orders.* A duplicate money order is payable only to the payee named thereon or to his endorsee.

NOTE: The corresponding Postal Manual section is 171.162.

V. § 61.2 is amended for the purpose of clarification and to bring up to date the list of countries where international money order service is available. As so amended, § 61.2 reads as follows:

**§ 61.2 Issuance of international money orders.**

(a) *Where sold.* International money orders may be purchased at almost all first-class post offices. Some second-, third-, and fourth-class post offices have been designated to provide this service. Post offices not designated but having sufficient need for the service will make application to the regional controller. International money orders will be issued to addressees in those countries that have agreed with the United States to conduct such business.

(b) *Application.* (1) For all countries and localities listed in paragraphs (h) and (i) of this section the international money order form is used and application must be made on Form 6701. In some cases, the order is written in foreign currency. In most cases, the amount is written in United States dollars and converted into foreign currency in the country where payable.

(2) Purchasers must use Form 6083, "Supplemental International Money Order Advice", written in the foreign language, when they send money orders payable in Greece, Lebanon, Syria, Yugoslavia, and Japan.

(3) When the international money order form is used, purchasers will be given a receipt. The postmaster will arrange for sending the order abroad, as prescribed in paragraph (d)(2)(iii) of this section.

(4) Purchasers must state the following details in their application regarding the payee: Full name, exact address, name of city, town, or village: name of the canton, department, or district as the case may be. If payee is a woman, state whether single, married, or widowed.

(c) *Issuance of domestic international money orders.* For countries listed in paragraph (g) of this section the domestic money order form is used and there is no application.

(d) *Preparation of orders*—(1) *When domestic form is used.* Postal employees shall handle in the same manner as for domestic orders. For Canada, the amount on the order must be expressed in both U.S. and Canadian money. Consult the current conversion table. Put the amount received in U.S. money in the "figure" block and write "U.S." before it. Write the Canadian amount under the figure blocks and put "Canadian" before it.

(2) *When international form is used.* Postal employees shall complete the transaction the same way as for a domestic money order, with these exceptions:

(i) Print all particulars of the application on the order, including office of payment, if known.

(ii) Enter amount in U.S. money. If patron requests foreign equivalent of an order payable in one of the following countries, consult Form 6749a, Conversion Tables for Use in International Money Order Business, and enter that amount also: British Guiana, Great Britain and Northern Ireland, Ireland, New Zealand, Union of South Africa, Belgium, Denmark, France, Luxembourg, Netherlands, Norway, Surinam, Sweden, Switzerland, and Tunis.

(iii) Give receipt to patron, and send order to the proper U.S. exchange office. When necessary, also attach any required foreign language advices, Form 6083, Supplemental International Money Order Advice. (See paragraph (b) (2) of this section.)

(e) *Refunds.* The amounts of orders sent on the international form may not be repaid here until authorized by the foreign postal department. Form 6759, Application for Authority for Repayment of International Money Orders, shall be sent to the proper U.S. exchange office when purchaser requests repayment on U.S. issued orders.

(f) *Lost reissued orders.* The postmaster shall report the facts concerning lost reissued orders (an order certified to the United States by a foreign country and reissued in the United States) to the proper U.S. exchange office.

(g) *Countries where service is available on domestic basis.*

| *Country and Address* |
|---|
| Antigua; Administrator, St. Johns, Antigua. |
| Bahamas; Postmaster, Nassau, Bahamas. |
| Barbados; Postmaster General, Bridgetown, Barbados. |
| Bermuda; Colonial Postmaster, Hamilton, Bermuda. |
| British Honduras; Postmaster General, Belize, British Honduras. |
| British Virgin Islands; Administrator, Tortola, British Virgin Islands. |
| Canada; Deputy Postmaster General, Financial Branch, Money Order Division, Ottawa 8, Ontario, Canada. |
| Canal Zone; Director of Posts, Balboa Heights, Canal Zone. |
| Dominica; Colonial Postmaster, Dominica, West Indies. |
| Grenada; Colonial Postmaster, Grenada, West Indies. |
| Jamaica; Postmaster General, Kingston, Jamaica. |
| Montserrat; Administrator, Montserrat, West Indies. |
| Saint Kitts-Nevis-Anguilla; Administrator, St. Kitts-Nevis-Anguilla, West Indies. |
| Saint Lucia; Postmaster General, Saint Lucia, West Indies. |
| Saint Vincent; Colonial Postmaster, Saint Vincent, West Indies. |
| Trinidad and Tobago; Postmaster General, Port of Spain, Trinidad, West Indies. |

(h) *Countries where service is available on direct exchange basis.* Direct exchange of international money orders is conducted between the United States exchange office and the foreign exchange office of the places named in the following table:

| *U.S. Exchange Office* | *Foreign country* |
|---|---|
| Dallas, Tex., 75221. | Mexico. |
| San Francisco, Calif., 94103. | China, Republic of (Formosa). |
| | Commonwealth of Australia: |
| | New South Wales. |
| | Queensland. |
| | South Australia. |
| | Tasmania. |
| | Victoria. |
| | Western Australia. |
| | Japan. |
| | New Zealand. |
| | Philippines. |
| | Ryukyu Islands. |
| New York, N.Y., 10001. | Argentina. |
| | Austria. |
| | Belgium. |
| | British Guiana. |
| | Chile. |
| | Colombia. |
| | Costa Rica. |
| | Czechoslovakia (except Province of Ruthenia). |
| | Denmark. |
| | Egypt (United Arab Republic). |
| | Finland. |
| | France. |
| | Germany.[1] |
| | Great Britain and Northern Ireland. |
| | Greece. |
| | Guatemala. |
| | Hungary. |
| | Iceland. |
| | Ireland. |
| | Italy. |
| | Lebanon. |
| | Luxembourg. |
| | Morocco, Kingdom of. |
| | Netherlands. |
| | Netherlands Antilles (Aruba, Bonaire, Curacao, Saba, St. Eustatious, and southern part of St. Martin). |
| New York, N.Y., 10001—Con. | Norway. |
| | Peru. |
| | Poland. |
| | Salvador. |
| | South Africa, Republic of. |
| | Surinam. |
| | Sweden. |
| | Switzerland. |
| | Syria.[2] |
| | Thailand. |
| | Tunis. |
| | United Arab Republic (Egyptian Territory). |
| | Uruguay. |
| | Vatican City. |
| | Yugoslavia. |

[1] Money order service is in effect with the American, British, and French zones of Germany and the western sector of Berlin only.

[2] Syria comprises Aleppo, Damascus, Euphrates, Hama, Hauran, Homs, Jebel Druze, Jezireh, and Latakia.

(i) *Countries where service is available on indirect exchange basis.* (Orders are paid in the designated country through an intermediary country which reserves the right to deduct a fee for the service.)

| *Country or locality* | *Basis: Through intermediary of—* |
|---|---|
| Aden | Great Britain. |
| Including Kamaran Island. | |
| Aegean Island (See Dodecanese Islands) | Greece. |
| Aitutaki, Cook Islands | New Zealand. |
| Algeria | France. |
| Andaman Islands | Great Britain. |
| Azores[1] | Great Britain. |
| Baluchistan (See Pakistan) | Great Britain. |
| Basutoland | South Africa, Republic of. |
| Bechuanaland Protectorate | South Africa, Republic of. |
| Borneo, North | Great Britain. |
| British Somaliland (See Somali Republic) | Great Britain. |
| Burma | Great Britain. |
| Cameroon, Republic of | France. |
| Central African Republic (Oubanghi-Chari) | France. |
| Ceylon | Great Britain. |
| Chad, Republic of (Tchad) | France. |
| Chios (Dodecanese Islands) | Greece. |
| Comoro Islands | France. |
| Congo, Republic of (Brazzaville) | France. |
| Cook Islands | New Zealand. |
| Aitutaki, Rarotonga. | |
| Corsica | France. |
| Cos (Dodecanese Islands) | Greece. |
| Crete | Greece. |
| Cyprus | Great Britain. |
| Famagusta, Kyrenia, Larnaca, Lefka, Lefkara, Lefkoniko, Limassol, Mophou, Nicosia, Paphos, Pedhoulas, Platres, Polis, Troodos, Yialousa. (Pedhoulas, Platres, and Troodos are summer offices only.) | |
| Dahomey, Republic of | France. |
| Dodecanese Islands | Greece. |
| Astypalaia, Kalymnos (Calino, Calymnos), Karpathos (Scarpanto), Kassos, Kastellorizon, Cos, Leros (lero), Nissyros (nisiro), Patmos, Rhodes (Rodi), and Symi. | |
| Ellice Islands | New South Wales. |
| Falkland Islands | Great Britain. |
| Fanning Island | New Zealand. |
| Faroe Islands | Denmark. |
| Fiji Islands | Great Britain. |
| French Cameroon (See Cameroon Republic) | France. |
| French Equatorial Africa (See Central African Republic, Chad, Congo and Gabon Republic). | France. |
| French Guiana | France. |
| French Oceania (See Polynesia) | France. |
| French Sudan (See Soudanese Republic) | France. |
| French Togoland (See Togo) | France. |

| Country or locality | Basis: Through intermediary of— |
|---|---|
| French West Africa (See Dahomey, Soudanese Republic, Ivory Coast, Mauritania, Niger, Senegal, Upper Volta). | France. |
| Friendly Islands (or Tonga Islands) | New South Wales. |
| Gabon Republic | France. |
| Gambia | Great Britain. |
| Barre (paid through Bathurst), Basse, Bathurst, Cape St. Mary (paid through Bathurst), Georgetown, Kunta-Ur, Macarthy Island (paid through Georgetown) | |
| Ghana | Great Britain. |
| Gibraltar | Great Britain. |
| Gilbert and Ellice Islands Colony | New South Wales. |
| Guadeloupe | France. |
| India | Great Britain. |
| Iraq [2] | Great Britain. |
| Islamic Republic (See Mauritania) | France. |
| Ivory Coast, Republic of | France. |
| Kalymnos (Dodecanese Islands) | Greece |
| Kamaran Island (Aden) | Great Britain. |
| Karpathos (Dodecanese Islands) | Greece. |
| Kenya | Great Britain. |
| Leros (Dodecanese Islands) | Greece. |
| Lesbos (Dodecanese Islands) | Greece. |
| Liechtenstein, Principality of | Switzerland. |
| Madagascar (Malagasy Republic) | France. |
| Madeira Islands [1] | Great Britain. |
| Makatea (Polynesia) | France. |
| Malagasy Republic (See Madagascar) | France. |
| Malaya (Federation of) and Singapore (State of) | Great Britain. |
| Johore, Kedah, Kelantan, Malacca, Negri Sembilan, Pahang, Penang (including Province of Wellesley), Perak, Perlis, Selangor and Trengganau and Singapore. | |
| Mali, Republic of | France. |
| Malta | Great Britain. |
| Birkirkara, Notabile, Siggieui, Sliema, Valletta, Victoria (Gozo). | |
| Martinique | France. |
| Mauritania (Islamic Republic) | France. |
| Mauritius | Great Britain. |
| Middle Congo (See Congo, Republic of) | France. |
| Monaco | France. |
| Mozambique (Portuguese East Africa) | South Africa, Republic of. |
| Nauru Island | New South Wales. |
| New Caledonia | France. |
| New Guinea, Territory of | New South Wales. |
| New Hebrides | New South Wales. |
| Nicobar Islands | Great Britain. |
| Niger, Republic of | France. |
| Nigeria | Great Britain. |
| Nissyros (Dodecanese Islands) | Greece. |
| Niue or Savage Island | New Zealand. |
| Norfolk Island | New South Wales. |
| North Borneo | Great Britain. |
| Northern Rhodesia | South Africa, Republic of. |
| Nyasaland | Great Britain. |
| Oceania, French (See Polynesia) | France. |
| Oubanghi-Chari (See Central African Republic) | France. |
| Pakistan (including Baluchistan) | Great Britain. |
| Papeete, Tahiti | France. |
| Papua (Territory of) | New South Wales. |
| Penrhyn Island | New Zealand. |
| Persian Gulf Ports | Great Britain. |
| (Bahrain, Dubai, including Sharjah, Muscat and Qatar.) | |
| Polynesia, French | France. |
| Makatea, Raiatea, Society Islands, Tahiti. | |
| Portugal [1] | Great Britain. |
| Portuguese East Africa (Mozambique) | South Africa, Republic of. |
| Raiatea, Polynesia | France. |
| Rarotonga (Cook Islands) | New Zealand. |
| Reunion Island | France. |
| Rhodes (Dodecanese Islands) | Greece. |
| Rhodesia (Northern and Southern) | South Africa, Republic of. |
| Rodrigues, Island of | Great Britain. |
| Saar | Germany. |
| Saint Helena | Great Britain. |
| Saint Pierre and Miquelon | France. |
| Samoa (Western) | New Zealand. |
| Samos (Dodecanese Islands) | Greece. |
| San Marino, Republic of | Italy. |
| Sarawak | Great Britain. |
| Savage Islands (Niue) | New Zealand. |
| Senegal, Republic of | France. |
| Seychells Islands | Great Britain. |
| Sierra Leone | Great Britain. |
| Bauya, Blama, Bo, Bonthe, Cline Town, Daru, Freetown, Hangka, Kabala, Kailahun, Kambia, Kenema, Lunsar, Magburaka (Makump), Makeni, Mano, Moyamba, Pensembu, Port Loko, Punjehun, Rotifunk, Segbwema, Sembehun, Sumbuya, Waterloo. | |
| Singapore (State of) | Great Britain. |
| Society Islands, French Polynesia | France. |
| Solomon Islands | New South Wales. |
| Somali Republic (Northern Region only) | Great Britain. |
| Soudanese Republic (See Mali, Republic of) | France. |
| Southern Rhodesia | South Africa, Republic of. |
| Southwest Africa | South Africa, Republic of. |
| Sudan, French (See Mali Republic) | France. |
| Swaziland | South Africa, Republic of. |
| Tahiti (French Polynesia) | France. |
| Tanganyika | Great Britain. |
| Tchad (See Chad Republic) | France. |
| Togo | France. |
| Anécho, Atakpamé, Lomé, Palimé. | |
| Tonga Islands (or Friendly Islands) | New South Wales. |
| Uganda | Great Britain. |
| Arua, Bombo, Busambatia, Butiaba, Entebbe, Fort Portal, Gulu, Hoima, Iganga, Jinja, Kabale, Kaberamaido, Kakira, Kaliro, Kampala, Kamuli, Kitgum, Lira, Lugazi, Masaka, Masindi, Mbale, Mbarara, Mubende, Nanasagali, Ngora, Soroti, Tororo. | |
| Upper Volta | France. |
| Western Samoa | New Zealand. |
| Zanzibar Protectorate | Great Britain. |

[1] The maximum amount which may be sent on any one day by the same purchaser is £40.
[2] The maximum amount which may be sent on any one day by the same purchaser is £10.

NOTE: The corresponding Postal Manual section is 171.2.

§ 61.6 [Amendment]

VI. In § 61.6 *Inquiries*, paragraph (b) (3) is amended for the purpose of clarification to read as follows:

(b) *Inquiries regarding payment.* * * *

(3) *Orders issued by other countries.* Send all inquiries, applications for duplicates and requests for photostats of money orders issued in countries with which business is conducted on the domestic-international basis directly to the country of origin. See paragraph (g) of this section for addresses.

NOTE: The corresponding Postal Manual section is 171.623.

(R.S. 161, as amended, 5 U.S.C. 22, 39 U.S.C. 501, 505)

LOUIS J. DOYLE,
*General Counsel.*

[F.R. Doc. 63-8102; Filed, July 31, 1963; 8:54 a.m.]

# Title 41—PUBLIC CONTRACTS

## Chapter 5C—Defense Materials Service, General Services Administration

## PROCUREMENT AND PURCHASING

A new Chapter 5C is added to Title 41 as follows:

Part
5C-1 General.
5C-2 Procurement by formal advertising.
5C-3 Procurement by negotiation.
5C-6 Foreign purchases.
5C-70 Exhibits.

## PART 5C-1—GENERAL

Sec.
5C-1.000 Scope of part.

Subpart 5C-1.1—Introduction

5C-1.101 Scope of subpart.
5C-1.102 Establishment of Chapter 5C General Services Administration Procurement Regulations.
5C-1.103 Relationship of Chapter 5C to the FPR and Chapter 5, GSPR.
5C-1.104 Applicability.
5C-1.105 Exclusions.
5C-1.106 Method of issuance.
5C-1.107 Arrangement.
5C-1.107-1 General plan.
5C-1.107-2 Numbering.
5C-1.107-3 Cross-references.
5C-1.108 Citation.
5C-1.109 Deviation.

Subpart 5C-1.3—General Policies

5C-1.310 Responsible prospective contractor.
5C-1.310-6 Determination of responsibility.
5C-1.315 Use of liquidated damages provisions in procurement contracts.
5C-1.315-2 Policy.

AUTHORITY: §§ 5C-1.000 to 5C-1.315-2 issued under sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); and 41 CFR 5-1.101(c), 28 F.R. 4559.

### § 5C-1.000 Scope of part.

This part describes the method and procedures by which the Defense Materials Service (DMS) implements and supplements the Government-wide Federal Procurement Regulations (Chapter 1 of Title 41, Code of Federal Regulations) and the GSA-wide procurement policies and procedures (Chapter 5 of the General Services Administration Procurement Regulations; Chapter 5 of Title 41, Code of Federal Regulations).

### Subpart 5C-1.1—Introduction

### § 5C-1.101 Scope of subpart.

This subpart establishes Chapter 5C of the General Services Administration Procurement Regulations (41 CFR 5C); states its relationship to the Federal Procurement Regulations (FPR) and Chapter 5 of the General Services Administration Procurement Regulations (GSPR); and sets forth other introductory information.

### § 5C-1.102 Establishment of Chapter 5C, General Services Administration Procurement Regulations.

This Chapter 5C of the GSPR is prescribed by the Commissioner, Defense Materials Service, and is established to provide all DMS activities with additional uniform operating policies and procedures applicable to the procurement of personal property and nonpersonal services.

### § 5C-1.103 Relationship of Chapter 5C to the FPR and Chapter 5, GSPR.

(a) Chapter 5C implements and supplements the FPR and Chapter 5, GSPR. Implementing material is that which expands upon related FPR or Chapter 5 material. Supplementing material is that for which there is no counterpart in the FPR or Chapter 5.

(b) Material published in the FPR or Chapter 5 becomes effective throughout DMS upon the effective date of the particular FPR or Chapter 5 material. Such material will not be repeated, paraphrased, or restated in Chapter 5C. Therefore, all three must be consulted to obtain comprehensive coverage of DMS-wide procurement operating policies and procedures.

(c) Material in Chapter 5C implements and supplements but does not supersede the FPR or Chapter 5, unless a deviation has been authorized and the deviation is explicitly referenced. In cases of other conflict or when Chapter 5C contains no related material implementing the FPR or Chapter 5, the FPR or Chapter 5 will govern.

### § 5C-1.104 Applicability.

Chapter 5C applies to all purchases and contracts made by DMS for the procurement of personal property and nonpersonal services.

### § 5C-1.105 Exclusions.

(a) Certain DMS procurement policies and procedures within the scope of this chapter may nevertheless be excluded from it when there is justification. These exclusions include the following categories:

(1) Subject matter which bears a security classification.

(2) Policies or procedures which are expected to be effective for a period of less than six months.

(3) Policies or procedures which are effective on an experimental basis for a reasonable period.

(4) Policies or procedures pertaining to other functions of DMS as well as to procurement functions where the issuance should be made available simultaneously to all DMS employees concerned.

(5) Where speed of issuance is essential and numerous changes are required in Chapter 5C, which changes cannot be made promptly.

(b) Procurement policies and procedures issued in other than the FPR System format under paragraphs (a) (4) and (5) of this section will be codified into Chapter 5C at the earliest practicable date, but in any event not later than six months from date of issuance.

### § 5C-1.106 Method of issuance.

(a) All Chapter 5C material deemed necessary to enable business concerns, and others interested, to understand DMS procurement policies and procedures will be published in the FEDERAL REGISTER. Other related material also may be published in the FEDERAL REGISTER when its inclusion will provide a logical, comprehensive statement of DMS procurement policies and procedures.

(b) GSPR Chapter 5C material published in the FEDERAL REGISTER will be published in cumulative form in Chapter 5C of Title 41 of the Code of Federal Regulations (41 CFR Ch. 5C). The FEDERAL REGISTER and Title 41 of the Code of Federal Regulations may be purchased from the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

### § 5C-1.107 Arrangement.

### § 5C-1.107-1 General plan.

Chapter 5C is divided into parts, subparts, sections, subsections, and further subdivisions as required.

### § 5C-1.107-2 Numbering.

(a) Generally, the numbering system used in Chapter 5C conforms to that of the FPR (see § 1-1.007-2). Thus, a particular procurement policy or procedure is identified by the same number in both the FPR, Chapter 5, and Chapter 5C, except that the first digit of the number is either 1, 5, or 5C.

(b) Where Chapter 5C implements a part, subpart, section, or subsection of the FPR or Chapter 5, the implementing part, subpart, section, or subsection of Chapter 5C will be numbered (and captioned) to correspond to the FPR or the Chapter 5 part, subpart, section, or subsection.

(c) Where Chapter 5C supplements the FPR or Chapter 5 and thus deals with subject matter not contained in the FPR or Chapter 5, the numbers in the group 70 through 89 will be assigned to the respective supplementing parts, subparts, sections, or subsections.

(d) Where the subject matter contained in a part, subpart, section, or subsection of the FPR or Chapter 5 requires no implementation, Chapter 5C will contain no corresponding part, subpart, section, or subsection number. Thus, there may be gaps in the Chapter 5C series of part, subpart, section, or subsection numbers. In such cases, reference must be made to the FPR and Chapter 5 for policy and procedure applicable throughout DMS.

§ 5C–1.107–3 Cross-references.

(a) Within Chapter 5C, cross-references to the FPR and Chapter 5 will be made in the same manner as used within the FPR. Illustrations of cross-references to Chapter 5 are:

(1) Part 5–3.

(2) Subpart 5–3.1.

(3) § 5–3.413–5.

(b) Within Chapter 5C, cross-references to parts, subparts, and sections will be made in a manner generally similar to that used in making cross-references to the FPR. For example, this paragraph would be referenced as "§ 5C–1.107–3(b)."

§ 5C–1.108 Citation.

(a) Citation in formal documents, such as legal briefs, shall give the number of the part, subpart, or section of Chapter 5C, following the words "General Services Administration Procurement Regulations" and shall include an appropriate reference to "41 CFR ——" where the material has been published in the FEDERAL REGISTER.

(b) For brevity, any section of Chapter 5C may be informally identified as "GSPR," followed by the section number. For example, this paragraph could be identified in a memorandum as "GSPR 5C–1.108(b)."

§ 5C–1.109 Deviation.

(a) The term "deviation," as used in this Chapter 5C, is defined in the same manner as described in § 1–1.009–1.

(b) Deviation from the FPR and Chapter 5 will be processed in accordance with § 5–1.109(b). In order to maintain uniformity to the greatest extent feasible, deviation by DMS activities from this Chapter 5C will be kept to a minimum and controlled as follows:

(1) Deviation will be made only after prior approval by the Commissioner, DMS.

(2) Requests for authority to deviate from Chapter 5C shall be submitted to the Commissioner, DMS, supported by statements adequate to disclose fully the nature of the deviation and the reasons for special action.

(3) Deviations authorized under subparagraph (1), above, will expire, unless extended, 12 months after the date of approval, or unless sooner rescinded, all without prejudice to any action taken thereunder.

(c) Except as otherwise authorized, when a deviation from a Chapter 5C contract form provision is authorized, physical change may not be made in the printed form, but shall be made by appropriate provision in the schedule specification, or continuation sheet as appropriate.

### Subpart 5C–1.3—General Policies

§ 5C–1.310 Responsible prospective contractor.

§ 5C–1.310–6 Determination of responsibility.

DMS contracting activities shall notify each bidder determined not to be responsible, by letter, signed by the contracting officer, after clearance with the Director or Deputy Director, Materials Division, or the Director, Industrial Equipment Division, or the Director, Emergency Programs Division, and legal counsel as appropriate, of the reasons for rejecting his bid.

§ 5C–1.315 Use of liquidated damages provisions in procurement contracts.

§ 5C–1.315–2 Policy.

A liquidated damages provision shall not be used in supply or service contracts without the prior approval of the Director or Deputy Director, Materials Division, DMS.

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## PART 5C–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5C–2.2—Solicitation of Bids

Sec.

5C–2.205 Bidders mailing lists.
5C–2.205–1 Establishment of lists.
5C–2.205–2 Removal of names from bidders mailing lists.
5C–2.205–70 Additions to bidders mailing lists.
5C–2.205–71 Maintenance of bidders mailing lists.

Subpart 5C–2.4—Opening of Bids and Award of Contract

5C–2.407 Award.
5C–2.407–8 Protests against awards.
5C–2.407–70 Award when only one bid is received.

AUTHORITY: §§ 5C–2.205 to 5C–2.407–70 issued under sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); and 41 CFR 5–1.101(c), 28 F.R. 4559.

### Subpart 5C–2.2—Solicitation of Bids

§ 5C–2.205 Bidders mailing lists.

§ 5C–2.205–1 Establishment of lists.

When circumstances justify, suppliers may be listed in the absence of receipt of applications on the basis of information derived from records of previous purchases of similar requirements, trade directories, classified catalog files, trade journals, the classified sections of city directories or telephone directories, and listings of other Federal agencies.

§ 5C–2.205–2 Removal of names from bidders mailing lists.

If any concern fails to respond to or acknowledge receipt of three successive bid invitations or solicitations for offers, its name may, in the discretion of the contracting officer, be removed from the bidders mailing list, and such concern shall be promptly notified in writing of the action taken.

§ 5C–2.205–70 Additions to bidders mailing lists.

When a concern requests that its name be included in the general bidders mailing list without specifying the item or items in which it has an interest, it should be requested to identify the item or items which it is prepared to furnish to the Government. If the concern accedes to such request, its name should be placed upon the bidders mailing list for each item so identified; but if it fails or refuses so to do, its name shall nevertheless be included in the general bidders mailing list.

§ 5C–2.205–71 Maintenance of bidders mailing lists.

Each procuring activity shall assure the efficient maintenance of bidders mailing lists on a current basis by careful and continuous review and revision of such lists.

### Subpart 5C–2.4—Opening of Bids and Award of Contract

§ 5C–2.407 Award.

§ 5C–2.407–8 Protests against award.

When oral protests are received, the person making the protest shall be requested to submit the protest in writing, stating therein his interest in the matter. Any protest of award received shall be referred to the contracting officer for preparation of a reply and shall normally be processed as follows:

(a) *Protests before award.* When a protest is received prior to making an award, no award shall be made pending resolution of the protest, except where the items to be procured are urgently required or if it is otherwise in the best interests of the Government to do so; provided, however, that no awards under such circumstances shall be made without advice from the appropriate legal counsel and the approval of the Director or Deputy Director, Materials Division, or the Director, Emergency Programs Division, or the Regional Director, DMS, as appropriate, or higher authority.

(b) *Protests after award.* When protests are received after award has been made, the contracting officer shall develop the facts in the case and prepare a reply to the protest in letter form for the signature of the Director or Deputy Director, Materials Division, or the Director, Emergency Programs Division, or the Regional Director, DMS, as appropriate. Such replies must be concurred in by legal counsel.

§ 5C–2.407–70 Award when only one bid is received.

When only one bid is received in response to an invitation for bids, such bid may be considered and accepted if (a) the specifications used in the invitation were not restrictive, (b) adequate competition was solicited, (c) the price is reasonable, and (d) the bid is otherwise in accordance with the invitation for bids and governing requirements.

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## PART 5C–3—PROCUREMENT BY NEGOTIATION

### Subpart 5C–3.4—Types of Contracts

§ 5C–3.450 Oral commitments.

(a) Contracts for the procurement of rubber and cordage fibers may be negotiated by telephone at the market price prevailing at the time of negotiation. Oral commitments are essential in this type of procurement because of rapid price fluctuations occurring in the worldwide marketing and distribution system peculiar to these commodities.

(b) The contracting officer shall arrange immediately to reduce each such oral commitment to writing, using approved GSA forms.

(Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); and 41 CFR 5–1.101(c), 28 F.R. 4559)

## PART 5C–6—FOREIGN PURCHASES

### Subpart 5C–6.70—Commodity Contracts

Sec.
5C–6.7001 Use of American Flag vessels.
5C–6.7002 Restrictive Charter clause.

Authority: §§ 5C–6.7001 and 5C–6.7002 issued under sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); 41 CFR 5–1.101(c), 28 F.R. 4559.

### Subpart 5C–6.70—Commodity Contracts

#### § 5C–6.7001 Use of American Flag vessels.

All DMS contracts for the procurement of commodities which are to be transported on ocean vessels shall contain the following provisions:

USE OF AMERICAN FLAG VESSELS

Any materials, commodities or equipment required under this contract which are to be transported on ocean vessels shall be transported in accordance with the provisions of Section 901(b) of the Merchant Marine Act, 1936, as amended (68 Stat. 832, 46 U.S.C. 1241–1246).

(Implements sec. 901(b), 68 Stat. 832; 46 U.S.C. 1241–1246)

#### § 5C–6.7002 Restrictive Charter clause.

All DMS contracts for the procurement of commodities which are to be transported on ocean vessels shall contain the following Restrictive Charter clause:

RESTRICTIVE CHARTER CLAUSE

(a) The Contractor agrees to include the following Restrictive Charter clause in any charter party agreement entered into by it for the transportation on foreign flag vessels of the material purchased hereunder:

"The vessel will not enter any Communist Far East Port until after sixty days from the date of completion of discharge of the entire cargo under this charter. In the event of failure to comply with said agreement, twenty-five percent of the freight charges for ocean transportation hereunder will not be earned. Twenty-five percent of the freight charges payable hereunder will be withheld by the charterer until the owner or his authorized agent submits evidence satisfactory to the charterer that the vessel has not entered any Communist Far East Port until after the expiration of the sixty-day period following such discharge under the charter, and in the absence of such evidence, the withheld portion of the charges will not be paid."

The Contractor further agrees to notify the vessel owner, or his authorized agent, that in the event of violation of the provisions of said clause all vessels of the owner may be barred from further chartering for the transportation of cargoes owned by or destined for the Government of the United States of America.

(b) Promptly after expiration of the sixty-day period provided in the Restrictive Charter clause stated in paragraph (a), above, the Contractor, on the basis of the evidence furnished it by the vessel owner or his authorized agent, shall determine whether the vessel has complied with the above Restrictive Charter clause. If the Contractor determines that the Restrictive Charter clause has been complied with, the Contractor shall pay to the owner of the vessel or his authorized agent the aforesaid withheld twenty-five percent. If the Contractor determines that said Restrictive Charter clause has not been complied with, the Contractor shall notify the owner of the vessel or his authorized agent of such determination of violation of the clause and shall afford said owner or his authorized agent thirty (30) days within which to furnish to the Contractor any additional evidence which will show to the satisfaction of the Contractor that the Restrictive Charter clause has not been violated. During said thirty-day period the Contractor shall continue to withhold the aforesaid twenty-five percent of the freight charges. If upon the expiration of said thirty-day period the owner of the vessel or his authorized agent has not established proof satisfactory to the Contractor of compliance with said Restrictive Charter clause, the Contractor shall advise the owner of the vessel or his authorized agent of such final determination and shall thereafter promptly pay to the Government the full amount of the freight charges withheld by the Contractor pursuant to the aforesaid Restrictive Charter clause.

(c) Promptly after expiration of the sixty-day period provided in the above-stated Restrictive Charter clause, the Contractor shall furnish the Contracting Officer with a complete statement of the evidence submitted to it by the owner of the vessel or his authorized agent pursuant to the provisions of the above Restrictive Charter clause on which the Contractor has based its determination that there has been compliance or noncompliance with said Restrictive Charter clause. In the event of a determination by the Contractor of noncompliance with said clause, the Contractor shall thereafter furnish the Government, promptly after receipt by it, such additional information as may be received by it from the vessel owner or his authorized agent within the thirty-day period provided for in paragraph (b), above.

(d) Notwithstanding any other provision of this Article, the Contractor and the Government agree and stipulate that the question of compliance or noncompliance by the vessel owner with the Restrictive Charter clause is one of fact. Consequently, if at any time after payment by the Contractor to the vessel owner or his authorized agent of the aforesaid withheld twenty-five percent the Government should discover that the vessel in question did in fact enter a Communist Far East Port before expiration of the sixty-day period provided in said clause, the Contractor shall be indebted to and shall pay the Government in full amount of said withheld twenty-five percent of the freight charges. Conversely, if at any time after the Contractor has finally determined that there has been noncompliance with the Restrictive Charter clause and has paid the withheld twenty-five percent of the freight charges to the Government pursuant to paragraph (b) of this Article, it should be conclusively established that the vessel in question did not in fact enter a Communist Far East Port before expiration of the sixty-day period provided in the Restrictive Charter clause, the Government shall reimburse the Contractor with the full amount of the twenty-five percent of freight charges withheld by the Contractor from the vessel owner.

*Effective date.* These regulations are effective upon publication in the FEDERAL REGISTER.

Dated: July 25, 1963.

MAURICE J. CONNELL,
*Commissioner,*
*Defense Materials Service.*

[F.R. Doc. 63–8095; Filed, July 31, 1963; 8:52 a.m.]

# Title 42—PUBLIC HEALTH

## Chapter I—Public Health Service, Department of Health, Education, and Welfare

### SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

## PART 73—BIOLOGICAL PRODUCTS

### Additional Standards; Measles Immune Globulin (Human)

On March 8, 1963 a notice was published in the FEDERAL REGISTER (28 F.R. 2284) proposing to amend Part 73 of the Public Health Service Regulations to include specific standards of safety, purity and potency for the manufacture of Measles Immune Globulin (Human).

Views and arguments respecting the proposed standards were invited to be submitted within 30 days after publication of the notice in the FEDERAL REGISTER, and notice was given of intention to make any amendments that were adopted effective on the date of their publication in the FEDERAL REGISTER, in order to assure the availability of Measles Immune Globulin (Human) for use with Measles Virus Vaccine, Live, Attenuated, for which standards were adopted as published in the FEDERAL REGISTER on March 19, 1963. An amendment to the notice was published May 9, 1963 (28 F.R. 4674) to insert a provision for a dating period.

After consideration of all comments submitted, the following amendment to Part 73 of the Public Health Service Regulations is hereby adopted to become effective immediately.

Amend Part 73 of the Public Health Service Regulations by adding thereto the following sections:

ADDITIONAL STANDARDS; MEASLES IMMUNE GLOBULIN (HUMAN)

Sec.
73.350 The product.
73.351 Manufacture of Measles Immune Globulin (Human).
73.352 The final product.
73.353 Potency.
73.354 General requirements.

AUTHORITY: §§ 73.350–73.354 issued under sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Interpret or apply sec. 351, 58 Stat. 702; 42 U.S.C. 262.

#### § 73.350 The product.

(a) *Proper name and definition.* The proper name of the product shall be Measles Immune Globulin (Human). It shall consist of a sterile solution of 10 to 18 percent globulin derived from human blood, having a measles antibody level of 0.5 times the level of the NIH measles reference serum. Measles Immune Globulin shall be made from a sterile 16.5±1.5 percent solution of human globulin.

(b) *Source material.* The source of Measles Immune Globulin (Human) shall be blood, plasma or serum from human donors determined at the time of donation to have been free of causa-

tive agents of diseases that are not destroyed or removed by the processing method, as determined by the donor's history and from such physical examination and clinical tests as appear necessary for each donor at the time the blood was obtained. The source blood, plasma or serum shall not contain a preservative and shall be stored in a manner that will prevent contamination by microorganisms, pyrogens or other impurities.

(c) *Additives in source material.* Source blood, plasma or serum shall contain no additives other than citrate or acid citrate dextrose anticoagulant solution, unless it is shown that the processing method yields a product free of the additive to such an extent that the safety, purity and potency of the product will not be affected adversely.

**§ 73.351 Manufacture of Measles Immune Globulin (Human).**

(a) *Processing method.* The globulin shall be prepared by a processing method that (1) has been shown to be capable of concentrating tenfold from source material at least two different antibodies, (2) does not affect the integrity of the globulins and is capable of consistently yielding a product which is safe for subcutaneous and intramuscular injection and (3) will not transmit viral hepatitis.

(b) *Reference materials.* The following reference material shall be obtained from the Division of Biologics Standards: NIH reference measles serum for correlation of measles antibody titers with globulin products.

(c) *Microbial contamination.* Low temperatures or aseptic techniques shall be used to minimize contamination by microorganisms. Preservatives to inhibit growth of microorganisms shall not be used during processing.

(d) *Bulk storage.* The globulin fraction may be stored in bulk prior to further processing provided it is stored in well-marked hermetically closed containers. Purified globulin as either a liquid concentrate or a solid and containing alcohol or more than 5 percent moisture shall be stored at a temperature not to exceed −10° C. Purified globulin as a solid free from alcohol and containing less than 5 percent moisture, shall be stored at temperatures not to exceed 0° C.

(e) *Determination of the lot.* Each lot of Measles Immune Globulin (Human) shall represent a pooling of material from not less than 1,000 donors.

(f) *Sterilization and dilution.* The product shall be prepared initially as a 16.5 percent solution and this preparation shall be sterilized promptly after solution. After sterilization the product shall not be exposed to temperatures above 45° C. for more than a total of 72 hours. Dilution of this sterile globulin solution shall be made only to adjust the required measles antibody level.

**§ 73.352 The final product.**

(a) *Final solution.* The final product shall be a 10 to 18 percent solution of globulin containing 0.3 molar glycine and a preservative.

(b) *Protein composition.* No less than 90 percent of the globulin shall have an electrophoretic mobility not faster than $-2.8\times10^{-5}$ centimeters per volt per second, when measured at a 1 percent protein concentration in sodium diethylbarbiturate at pH 8.6 and 0.1 ionic strength.

**§ 73.353 Potency.**

*Antibody levels and tests.* Each lot of final product shall contain no less than the minimum levels of antibodies for diphtheria and measles as follows:

(a) The product shall contain no less than 2 units of diphtheria antitoxin per ml, adjusted for dilution from the 16.5 percent solution.

(b) Each lot of final product shall contain a measles antibody level of 0.5 times the level of the NIH reference measles serum. The measles antibody potency shall be determined by simultaneous determinations of the neutralizing antibody titers of the globulin on tests and of a reference preparation against 100 $TCID_{50}$ (50–500 $TCID_{50}$ when based upon a single test) of measles virus in a tissue culture system. The potency test shall also include a determination of virus titer and controls for globulin toxicity and cell culture viability. Twofold serial dilutions of the globulin under test and of the reference preparation shall be employed in this determination. In applying these requirements a plus or minus variation of one twofold dilution is acceptable.

**§ 73.354 General requirements.**

(a) *Heat stability test.* Approximately 2 ml of final container material of each lot shall not show any visible sign of gelation after hearing in a 12×75 mm. stoppered glass tube at 57° C. for four hours.

(b) *Hydrogen ion concentration.* The pH of final container material shall be $6.8\pm0.4$ when measured in a solution diluted to 1 percent protein with 0.15 molar sodium chloride.

(c) *Turbidity.* The product shall be free of turbidity as determined by visual inspection of final containers.

(d) *Date of manufacture.* The date of manufacture is the date of initiating the last valid measles antibody test as required in § 73.353(b).

(e) *Period of cold storage.* The final product may be held by the manufacturer in cold storage at a temperature not above 5° C. for three years after the date of manufacture without decreasing the length of the dating period. The provisions of § 73.84 shall not apply.

(f) *Dating.* The dating period shall be three years provided the labeling recommends storage from 2–10° C.

(g) *Samples and protocols.* For each lot of globulin, the following materials shall be submitted to the Director, Division of Biologics Standards, National Institutes of Health, Bethesda 14, Maryland.

(1) 30 ml of final product.

(2) All protocols relating to the history of the manufacture of each lot and all results of all tests prescribed in these additional standards.

Dated: July 16, 1963.

[SEAL] LUTHER L. TERRY,
*Surgeon General.*

Approved: July 26, 1963.

ANTHONY J. CELEBREZZE,
*Secretary.*

[F.R. Doc. 63-8090; Filed, July 31, 1963; 8:51 a.m.]

# Title 49—TRANSPORTATION

## Chapter I—Interstate Commerce Commission

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[No. 32248]

## PART 131—UNITED STATES SAFETY APPLIANCE STANDARDS (RAILROAD)

### Track Motor Cars and Push Trucks

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 25th day of July A.D. 1963;

It appearing, that as a result of the holding of the Supreme Court of the United States in The Baltimore and Ohio Railway Company v. Daniel T. Jackson, 353 U.S. 325, decided May 13, 1957, that track motor cars and push trucks when operated as trains are subject to the provisions of the Safety Appliance Acts, the Commission entered an order on May 21, 1963, amending the United States Safety Appliance Standards (49 CFR Part 131) by adding thereto § 131.22, *Operation of track motor cars* reading as follows:

**§ 131.22 Operation of track motor cars.**

On and after August 1, 1963, it shall be unlawful for any railroad subject to the requirements of the Safety Appliance Acts to operate or permit to be operated on its line track motor cars to pull or haul trailers, push trucks, hand cars, or similar cars or equipment.

It further appearing, that on June 26, 1963, a joint petition for reconsideration and vacation of the said order of May 21, 1963, was filed by the Association of American Railroads and the American Short Line Railroad Association; for oral hearing in the matter to receive evidence on which the safety requirements of the Safety Appliance Acts could be adapted to small track vehicles; for adaption of such safety requirements; for postponement of the effective date of said order of May 21, 1963, pending final disposition by the Commission of the said petition for reconsideration and vacation of order, and, in the event of denial of such petition, until 90 days after the service of an order constituting or containing such denial; for oral argument; and for such other and further relief as may appear appropriate;

It further appearing, that in order for a proper disposition of the complex issue presented in this proceeding it is essential and necessary that a further and more complete record be developed;

And it further appearing, that a prehearing conference is desirable to discuss informally the procedure to be followed and the factual matter to be developed upon the record at a subsequent hearing and how such matters may best be shown.

Upon consideration of the above matters:

*It is ordered*, That:

1. The effective date of said order of May 21, 1963, be, and it is hereby, postponed until the further order of the Commission.

2. This proceeding be reopened and a further investigation under the caption hereof be, and it is hereby, instituted for the purpose of determining the action to be taken in giving effect to the holding of the Supreme Court of the United States in The Baltimore and Ohio Railway Company v. Daniel T. Jackson, supra.

3. This proceeding be, and the same is hereby, assigned for pre-hearing conference before Examiner Henry J. Vinskey at 9:30 a.m., U.S. standard time (or 9:30 a.m., l.d.s.t., if that time is observed), on August 28, 1963, at the offices of the Interstate Commerce Commission, in Washington, D.C.

4. Should the record of the prehearing conference indicate a need for oral hearing, that such hearing be held at a time and place to be hereinafter designated.

5. The said petition of the Association of American Railroads and the American Short Line Railroad Association, except to the extent granted herein be, and it is hereby, denied.

6. Disposition of this proceeding be assigned to Division 3.

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 it with the Director, Office of the Federal Register.

By the Commission.

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

[F.R. Doc. 63-8093; Filed, July 31, 1963; 8:51 a.m.]

# Title 50—WILDLIFE AND FISHERIES

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

### SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

### PART 10—MIGRATORY BIRDS

### Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds

Section 3 of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 704), authorizes and directs the Secretary of the Interior, from time to time, having due regard for the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means, such birds or any part, nest or egg thereof, may be taken, captured, killed, possessed, sold, purchased, shipped, carried, or transported.

By notice of proposed rule making published in the FEDERAL REGISTER on May 2, 1963 (28 F.R. 4359), notification was given that the Secretary of the Interior proposed to amend Part 10, Title 50, Code of Federal Regulations. These amendments would specify open seasons, certain closed seasons, hunting methods, shooting hours, transportation and importation controls, and bag and possession limits for migratory game birds for the 1963–64 hunting season.

In this connection all interested persons were invited to submit their views, data, or arguments regarding proposed amendments, in writing to the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D.C., within thirty days following the date of publication of the notice.

Subsequently, after due consideration of migratory game bird survey data obtained through investigations conducted by the Bureau of Sport Fisheries and Wildlife and State game departments, and from other sources, the several State game departments were informed concerning the shooting hours, season lengths, and daily bag and possession limits proposed to be prescribed for the 1963–64 seasons on rails, gallinules, mourning and white-winged doves, band-tailed pigeons, woodcock, and Wilson's snipe, and on waterfowl, coots, and little brown cranes in Alaska. The State game departments were invited to submit recommendations for hunting seasons on applicable species in their respective States; such hunting seasons to conform to the shooting hours, daily bag and possession limits, and season lengths within frameworks of opening and closing dates, as established by this Department.

Accordingly, each State game department having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory game birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, it has been determined that certain sections of Part 10 shall be amended as set forth below.

The taking of the designated species of migratory game birds is presently prohibited. These amendments will permit taking of these species within specified periods of time beginning as early as September 1, as has been the case in past years. Since these amendments benefit the public by relieving existing restrictions, they shall become effective upon publication in the FEDERAL REGISTER.

1. Paragraph (a) of § 10.7 is amended to read as follows:

**§ 10.7 Importations from Canada, Mexico, or other foreign country.**

* * * * *

(a) The following listed birds shall be limited as to the numbers permitted to be entered and transported by one person, either in a single shipment or by multiple shipments, as follows:

| *From—* | *Not to exceed—* |
|---|---|
| Province of British Columbia, Canada | 16 ducks and 10 geese per season. |
| Provinces of Alberta, Manitoba, and Saskatchewan, Canada. | 10 ducks and 10 geese per season. |
| Province of Ontario, Canada | 10 ducks and 10 geese per calendar week.[1] |
| Any other Province of Canada | 12 ducks and 10 geese per calendar week.[1] |
| Mexico or any other foreign country (except Canada) or subdivision thereof. | 10 ducks and 5 geese per calendar week.[1] |
| Any foreign country or subdivision thereof: | |
| Pigeons (all species) | 10 of each species per calendar week.[1] |
| Doves (all species) | 25, singly or in the aggregate of all species, per calendar week.[1] |
| Rails (except sora and coot) | 30, singly or in the aggregate of all species, per calendar week.[1] |
| Coots | 25 per calendar week.[1] |
| Sora rails | 25 per calendar week.[1] |
| Wilson's snipe | 8 per calendar week.[1] |
| Woodcock | 16 per calendar week.[1] |
| Brant | 6 per calendar week.[1] |
| Cranes | 5 per calendar week.[1] |

[1] A calendar week begins on Sunday.

* * * * *

2. Section 10.41 is amended to read as follows:

**§ 10.41 Seasons and limits on doves and wild pigeons.**

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species of doves and wild pigeons designated in this section are prescribed between the dates of September 1, 1963, and January 15, 1964, as follows:

(a) *Mourning doves—Eastern Management Unit.*

| | |
|---|---|
| Daily bag limit | 10. |
| Possession limit | 20. |
| Shooting hours | See footnote 1. |
| Seasons in: | |
| Alabama[2] | Oct. 1–Nov. 9.<br>Dec. 12–Jan. 10. |
| Connecticut | Closed season. |
| Delaware | Sept. 13–Oct. 12.<br>Nov. 15–Dec. 6.<br>Dec. 23–Jan. 9. |
| District of Columbia | Closed season. |
| Florida | Oct. 5–Nov. 3.<br>Nov. 16–Dec. 2.<br>Dec. 21–Jan. 12. |

| | |
|---|---|
| Seasons in: | |
| Georgia | Sept. 20–Oct. 20. |
| | Dec. 9–Jan. 15. |
| Illinois | Sept. 1–Nov. 9. |
| Indiana | Closed season. |
| Kentucky | Sept. 1–Oct. 20. |
| | Dec. 1–Dec. 20. |
| Louisiana | Sept. 2–Sept. 16. |
| | Oct. 12–Nov. 3. |
| | Dec. 7–Jan. 7. |
| Maine | Closed season. |
| Maryland | Sept. 12–Oct. 31. |
| | Dec. 23–Jan. 11. |
| Massachusetts | Closed season. |
| Michigan | Closed season. |
| Mississippi | Sept. 14–Sept. 29. |
| | Oct. 26–Nov. 11. |
| | Dec. 10–Jan. 15. |
| New Hampshire | Closed season. |
| New Jersey | Do. |
| New York | Do. |
| North Carolina | Sept. 7–Oct. 12. |
| | Dec. 13–Jan. 15. |
| Ohio | Closed season. |
| Pennsylvania | Sept. 2–Nov. 9. |
| Rhode Island | Sept. 16–Oct. 13. |
| | Nov 1–Dec. 12. |
| South Carolina | Sept. 14–Oct. 5. |
| | Nov. 11–Nov. 30. |
| | Dec. 19–Jan. 15. |
| Tennessee | Sept. 2–Sept. 30. |
| | Oct. 31–Nov. 30. |
| | Jan. 1–Jan. 10. |
| Vermont | Closed season. |
| Virginia | Sept. 14–Nov. 2. |
| | Dec. 16–Jan. 4. |
| West Virginia | Oct. 12–Dec. 20. |
| Wisconsin | Closed season. |

[1] Shooting hours are from 12 o'clock noon until sunset (standard time).

[2] Check State regulations for additional State restrictions.

(b) *Mourning doves—Central Management Unit.*

| | |
|---|---|
| Daily bag limit | 10.[2] |
| Possession limit | 20.[2] |
| Shooting hours | See footnote 1. |
| Seasons in: | |
| Arkansas | Sept. 1–Oct. 5. |
| | Dec. 18–Jan. 11. |
| Colorado | Sept. 1–Oct. 30. |
| Iowa | Closed season. |
| Kansas | Sept. 1–Oct. 30. |
| Minnesota | Closed season. |
| Missouri | Sept. 1–Oct. 10. |
| | Nov. 10–Nov. 29. |
| Montana | Closed season. |
| Nebraska | Do. |
| New Mexico [2] | Sept. 1–Oct. 30. |
| North Dakota | Sept. 21–Oct. 31. |
| Oklahoma | Sept. 1–Oct. 30. |
| South Dakota | Closed season. |
| Texas [1 3] | See footnote 3. |
| Wyoming | Closed season. |

[1] Shooting hours are from one-half hour before sunrise until sunset in all States except Texas. In Texas, shooting hours are from 12 o'clock noon until sunset (standard time).

[2] In New Mexico, the daily bag limit on mourning and white-winged doves is 10, singly or in the aggregate of both kinds, and the possession limit is 20, singly or in the aggregate of both kinds.

[3] Texas: In Val Verde, Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, Williamson, Milam, Robertson, Leon, Houston, Cherokee, Nacogdoches, and Shelby Counties and all counties north and west thereof open season dates are Sept. 1–Oct. 30; in the rest of the State open season dates are Sept. 21–Nov. 19.

(c) *Mourning doves—Western Management Unit.*

| | |
|---|---|
| Daily bag limit | 10.[2] |
| Possession limit | 20.[2] |
| Shooting hours | See footnote 1. |
| Seasons in: | |
| Arizona | Sept. 1–Sept. 25. |
| | Dec. 7–Dec. 31. |
| California [2] | Sept. 1–Sept. 30. |
| Idaho | Sept. 1–Sept. 15. |
| Nevada [2] | Sept. 1–Oct. 20. |
| Oregon | Sept. 1–Sept. 30. |
| Utah [3] | Sept. 1–Sept. 30.[3] |
| Washington | Sept. 1–Sept. 30. |

[1] Shooting hours are from one-half hour before sunrise until sunset.

[2] In those counties of California and Nevada having an open season on white-winged doves, the daily bag limit on mourning and white-winged doves is 10, singly or in the aggregate of both kinds, and the possession limit is 20, singly or in the aggregate of both kinds.

[3] Check State regulations for additional State restrictions.

(d) *White-winged doves.*

| | |
|---|---|
| Daily bag and possession limits. | See footnote 2. |
| Shooting hours | See footnote 1. |
| Seasons in: | |
| Arizona [2] | Sept. 1–Sept. 25. |
| | Dec. 7–Dec. 31. |
| California: [2] | |
| Counties of Imperial, Riverside, and San Bernardino. | Sept. 1–Sept. 30. |
| Remainder of State | Closed season. |
| Nevada: [2] | |
| Clark County | Sept. 1–Oct. 20. |
| Remainder of State | Closed season. |
| New Mexico [2] | Sept. 1–Oct. 30. |

[1] Shooting hours are from one-half hour before sunrise until sunset.

[2] In Arizona, the daily bag and possession limit on white-winged doves is 25. In New Mexico and the open counties in California and Nevada, the daily bag limit on white-winged and mourning doves is 10, singly or in the aggregate of both kinds, and the possession limit is 20, singly or in the aggregate of both kinds.

(e) *Band-tailed pigeons.*

| | |
|---|---|
| Daily bag limit | 8. |
| Possession limit | 8. |
| Shooting hours | See footnote 1. |
| Seasons in: | |
| California: | |
| Counties of Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity. | Sept. 28–Oct. 27. |
| Remainder of State | Dec. 14–Jan. 12. |
| Oregon | Sept. 1–Sept. 30. |
| Washington | Sept. 1–Sept. 30. |

[1] Shooting hours are from one-half hour before sunrise until sunset.

3. Section 10.46 is amended to read as follows:

**§ 10.46 Seasons and limits on gallinules rails, woodcock, and Wilson's snipe.**

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed between the dates of September 1, 1963, and January 15, 1964, as follows:

(a) *Atlantic Flyway States.*

| | Gallinules and Rails (except coots) | | Woodcock | Wilson's snipe |
|---|---|---|---|---|
| | Sora rail | Other rails and gallinules (singly or in the aggregate) | | |
| Daily bag limit | 25 | 15 | 5 | 8 |
| Possession limit | 25 | 30 | 10 | 8 |
| Shooting hours | Sunrise until sunset on all species.[1] | | | |
| Seasons in: | | | | |
| Connecticut | Sept. 2–Oct. 29 | | Oct. 19–Nov. 27 | Oct. 19–Nov. 16. |
| Delaware | Sept. 2–Nov. 10 | | Nov. 15–Jan. 3 | Nov. 15–Dec. 29. |
| District of Columbia | Closed season | | Closed season | Closed season. |
| Florida | Sept. 7–Nov. 15 | | Nov. 16–Jan. 4 | Nov. 16–Dec. 30. |
| Georgia | Sept. 2–Nov. 10 | | Nov. 27–Jan. 15 | Dec. 2–Jan. 15. |
| Maine | Sept 2–Nov. 9 | | Oct. 1–Nov. 19 | Oct. 1–Nov. 14. |
| Maryland | Sept. 1–Oct. 20 | | Nov. 15–Jan. 3 | Nov. 15–Dec. 28. |
| Massachusetts | Sept. 1–Nov. 9 | | Oct. 10–Nov. 28 | Sept. 1–Oct. 15. |
| New Hampshire | Sept. 1–Nov. 9 | | Oct. 1–Nov. 19 | Oct. 1–Nov. 14. |
| New Jersey | Sept. 2–Nov. 10 | | Oct. 12–Nov.30 | Oct. 26–Dec. 9. |
| New York [1] | Sept. 1–Nov. 9 | | Oct. 7–Nov. 25 | Oct. 7–Nov. 20. |
| North Carolina | Sept. 5–Nov. 13 | | Nov. 23–Jan. 11 | Nov. 23–Jan. 6. |
| Pennsylvania | Sept. 2–Nov. 9 | | Oct. 12–Nov. 30 | Sept. 16–Oct. 30. |
| Rhode Island | Sept. 16–Nov. 24 | | Nov. 1–Dec. 20 | Nov. 1–Dec. 15. |
| South Carolina | Oct. 1–Dec. 9 | | Nov. 27–Jan. 15 | Dec. 2–Jan. 15. |
| Vermont | Sept. 1–Nov. 9 | | Oct. 1–Nov. 19 | Oct. 1–Nov. 14. |
| Virginia | Sept. 23–Dec. 1 | | Nov. 18–Jan. 6 | Nov. 18–Jan. 1. |
| West Virginia | Oct. 12–Dec. 20 | | Oct. 12–Nov. 30 | Oct. 12–Nov. 25. |

[1] In New York, shooting hours for woodcock are from 7 a.m. to 5 p.m. based on official prevailing time.

(b) *Mississippi Flyway States.*

| | Gallinules and rails (except coots) | | Woodcock | Wilson's snipe |
|---|---|---|---|---|
| | Sora rail | Other rails and gallinules (singly or in the aggregate) | | |
| Daily bag limit | 25 | 15 | 5 | 8 |
| Possession limit | 25 | 15 | 10 | 8 |
| Shooting hours | Sunrise until sunset on all species.[1] [2] | | | |
| Seasons in: | | | | |
| Alabama | Oct. 1–Nov. 19 | | Nov. 27–Jan. 15 | Dec. 2–Jan. 15. |
| Arkansas | Sept. 1–Oct. 20 | | Nov. 27–Jan. 15 | Dec. 1–Jan. 14. |
| Illinois [3] [4] | Closed season | | Nov. 16–Dec. 31 | See footnote 3. |
| Indiana | Sept. 1–Oct. 20 | | Oct. 12–Nov. 30 | Oct. 12–Nov. 25. |
| Iowa [2] | Closed season | | Closed season | See footnote 2. |
| Kentucky | Nov. 21–Jan. 9 | | Nov. 21–Jan. 9 | Nov. 21–Jan. 4. |
| Louisiana | Oct. 5–Nov. 23 | | Nov. 27–Jan. 15 | Nov. 30–Jan. 13. |
| Michigan [1] [2] | See footnote 1 | | | See footnote 2. |
| Zone 1 and 2 | | | Oct. 1–Nov. 10 | |
| Zone 3 | | | Oct. 21–Nov. 19 | |
| Minnesota | Sept. 21–Nov. 9 | | Sept. 21–Nov. 9 | Sept. 21–Nov. 4. |
| Mississippi | Oct. 1–Nov. 19 | | Nov. 27–Jan. 15 | Dec. 2–Jan. 15. |
| Missouri | Sept. 1–Oct. 20 | | Oct. 1–Nov. 19 | Oct. 1–Nov. 14. |
| Ohio | Sept. 2–Oct. 21 | | Oct. 1–Nov. 19 | Oct. 1–Nov. 14. |
| Tennessee [1] | See footnote 1 | | Nov. 18–Jan. 6 | Nov. 18–Jan. 1. |
| Wisconsin [1] [2] | See footnote 1 | | Sept. 28–Nov. 16 | See footnote 2. |

[1] Rails and gallinules: Season will open and run concurrently with the open season for ducks: *Provided*, That the open season shall not extend beyond the last day of the duck season or 50 consecutive days, whichever is the shorter period. Shooting hours on the opening day of the season are from 12 o'clock noon until sunset (standard time).

[2] Wilson's snipe: Season will open and run concurrently with the open season for ducks: *Provided*, That the open season shall not extend beyond the last day of the duck season or 45 consecutive days, whichever is the shorter period. Shooting hours on the opening day of the season are from 12 o'clock noon until sunset (standard time).

[3] Wilson's snipe: Season will open and run concurrently with the open season for ducks: *Provided*, That the open season shall not extend beyond the last day of the duck season or 30 consecutive days, whichever is the shorter period. Shooting hours on the opening day of the season are from 12 o'clock noon until sunset (standard time).

[4] Check State regulations for additional State restrictions.

(d) *Pacific Flyway States.*

| | Gallinules and Rails (except coots) | | Woodcock | Wilson's snipe |
|---|---|---|---|---|
| | Sora rail | Other rails and gallinules (singly or in the aggregate) | | |
| Daily bag limit | 25 | 15 | 5 | 8 |
| Possession limit | 25 | 15 | 10 | 8 |
| Shooting hours | Sunrise until sunset on all species.[1] | | | |
| Seasons in: | | | | |
| Colorado | Sept. 1–Oct. 20 | | Closed season | Sept. 1–Oct. 15. |
| Kansas | Sept. 1–Oct. 20 | | Oct. 1–Nov. 19 | Oct. 1–Nov. 14. |
| Montana | Closed season | | Closed season | Closed season. |
| Nebraska | Oct. 5–Nov. 23 | | Closed season | Oct. 5–Nov. 18. |
| New Mexico | Sept. 1–Oct. 20 | | Closed season | Sept. 1–Oct. 15. |
| North Dakota [1] | Closed season | | Closed season | See footnote 1. |
| Oklahoma | Sept. 11–Oct. 30 | | Nov. 21–Jan. 9 | Nov. 1–Dec. 15. |
| South Dakota | Closed season | | Closed season | Oct. 1–Oct. 31. |
| Texas | Sept. 1–Oct. 20 | | Nov. 27–Jan. 15 | Dec. 2–Jan. 15. |
| Wyoming | Closed season | | Closed season | Closed season. |

[1] Wilson's snipe: Season will open concurrently with the first day of the open season on ducks for the State and will run for 45 consecutive days. Shooting hours on opening day of the season are from 12 o'clock noon until sunset (standard time).

(c) *Central Flyway States.*

| | Wilson's snipe |
|---|---|
| Daily bag limit | 8 |
| Possession limit | 8 |
| Shooting hours | One-half hour before sunrise until sunset.[1] |
| Seasons in: | |
| Arizona | Nov. 22–Jan. 5. |
| California [2] | See footnote 2. |
| Idaho | Oct. 26–Dec. 9. |
| Nevada | Nov. 1–Dec. 15. |
| Oregon | Oct. 26–Dec. 9. |
| Utah | Oct. 12–Nov. 25. |
| Washington [1] | See footnote 1. |

[1] Wilson's snipe: Season will open concurrently with the first day of the open season on ducks for the State and will run for 45 consecutive days. Shooting hours on opening day of the season are from 12 o'clock noon until sunset (standard time).

[2] Wilson's snipe: Season will open and run for 45 consecutive days. Check State regulations for specific open season dates.

4. Section 10.51 is revised to read as follows:

**§ 10.51 Migratory game bird hunting seasons in Alaska.**

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed between the dates of September 1, 1963, and January 15, 1964, as follows:

| | Ducks | Geese | Coots | Brant | Wilson's snipe | Little brown cranes |
|---|---|---|---|---|---|---|
| Daily bag limit | [1] 5 | [2] 6 | 15 | 3 | 8 | 2 |
| Possession limit | [1] 10 | [2] 12 | 15 | 3 | 8 | 4 |
| Season dates in: | | | | | | |
| Aleutian and Pribilof Islands. | Oct. 15–Jan. 15 | | | | Sept. 1–Oct. 15 | Sept. 1–Sept. 30. |
| Rest of Alaska | Sept. 1–Dec. 14 | | | | Sept. 1–Oct. 15 | Sept. 1–Sept. 30. |
| Shooting hours | One-half hour before sunrise until sunset on all species. | | | | | |

[1] Ducks: No open season is prescribed on canvasback and redhead ducks. In addition to the daily bag and possession limits prescribed in the above table, a daily bag limit of 15 and a possession limit of 30, singly or in the aggregate of the following species is permitted: scoter, eider, harlequin, old-squaw, and American and red-breasted mergansers.

[2] Geese: The daily bag and possession limits may not include more than 3 daily and 6 in possession, singly or in the aggregate, of white-fronted geese and Canada geese or subspecies of Canada or white-fronted geese.

5. Section 10.53 is amended to read as follows:

**§ 10.53 Seasons and limits on waterfowl, coots, and gallinules.**

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed between the dates of September 1, 1963, and February 15, 1964, as follows:

(a) A special open season for taking scoter, eider, and old-squaw ducks is prescribed during the period October 1 through January 15 in all coastal waters and all waters of rivers and streams lying seaward from the first upstream bridge in the States of Maine, Massachusetts, New Hampshire, Rhode Island, and Connecticut; and in those coastal waters of New York State lying in Long

Island and Block Island Sounds and the waters of Gardiner's Bay lying east of a line from the Long Beach Bay lighthouse to the most easterly point of Ram Head on Shelter Island to the Cedar Point light; but not including any coastal waters of New York lying south of Long Island. Daily shooting hours are from sunrise until sunset, and the daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. In all other areas of these States and in all other States in the Atlantic Flyway, scoter, eider, and old-squaw ducks may be taken only during the open seasons for taking other ducks. During the open seasons on other ducks in all States in the Atlantic Flyway, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and old-squaw ducks, singly or in the aggregate of these species, are permitted in addition to the daily bag and possession limits prescribed for other ducks.

(Sec. 3, 40 Stat. 755, as amended; 16 U.S.C. 704; E.O. 10250, 16 F.R. 5385, 3 CFR 1949–1953 Comp. p. 757)

STEWART L. UDALL,
*Secretary of the Interior.*

JULY 26, 1963.

[F.R. Doc. 63–8022; Filed, July 31, 1963; 8:45 a.m.]

# Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 1030 ]

[Docket No. AO–101–A29]

### MILK IN CHICAGO, ILL., MARKETING AREA

### Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Chicago, Illinois, May 23–29, 1963, pursuant to notices thereof issued April 15, 1963 (28 F.R. 3858) and April 30, 1963 (28 F.R. 4463).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Secretary on July 11, 1963 (28 F.R. 7301; F.R. Doc. 63–7512) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. No exceptions were filed.

The material issue, findings and conclusions, rulings, and general findings of the recommended decision (28 F.R. 7301; F.R. Doc. 63–7512) are hereby approved and adopted and are set forth in full herein.

The material issues on the record of the hearing relate to:

1. Eliminating three townships in Lake County, Indiana, from the marketing area.
2. Changing the qualifications for attaining pool plant status.
3. Providing for a skim milk and butterfat basis of accounting.
4. Including in two classes the classification now contained in Class I, Class II and Class III.
5. Establishing butterfat differentials applicable to Class I and Class II milk and to the uniform price.
6. Revising location differentials applicable to class prices and in paying producers.
7. Discontinuing the base and excess plan in paying producers.
8. Administrative and conforming changes.

This decision relates only to material issue 7, discontinuing the base and excess plan in paying producers. The remainder of the material issues are reserved for further decision on the record of this hearing.

*Findings and conclusions.* The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

7. The "base and excess" plan of distributing returns for milk among producers should be discontinued.

The base and excess plan was incorporated in the order September 1, 1954, to supplement the seasonally variable Class I and Class II prices in providing incentive to reduce the seasonality of milk delivered to the market. The base and excess plan establishes a base for each producer for the months of March through June according to his deliveries to pool plants during the preceding September, October and November. In each month of March through June separate uniform prices for "base milk" and "excess milk" are computed so that Class I and Class II utilizations are first allotted to base milk. For all other months producers receive the market-wide uniform price for all milk delivered to pool plants.

There was no opposition to the proposal of the major producer associations in the market to remove the base and excess plan from the order.

The base and excess plan of distributing returns to producers in the Chicago market has served the purpose for which it was established and need for the provision no longer exists. In 1962, May production was 15 percent above the monthly average for the year and 35 percent above that for the month of lowest production. For May 1952, the corresponding figures were 25 percent more than the monthly average and 50 percent more than the lowest production month. Total production for the market from 1952 to 1962 increased from 3.8 to 5.9 billion pounds.

The producer associations attributed part of the substantial yearly increases in total production in the Chicago market to the incentive a base-excess plan tends to provide farmers to increase production, not only in the months when bases are formed but also in the other months of the year.

It is not possible to separate clearly the effects of a base-excess plan in contributing to increased production from the incentive for higher production provided by other factors. However, under current and prospective conditions, the variable seasonal Class I prices may reasonably be expected to obtain adequate production for the market without the added incentive of the base-excess plan.

Deleting the base-excess plan for distributing returns from milk among producers will not change handlers' cost of milk in its various use classifications.

*Rulings on proposed findings and conclusions.* Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

*General findings.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Marketing agreement and order.* Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Chicago, Illinois Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Chicago, Illinois Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*It is hereby ordered,* That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

*Determination of representative period.* The month of May 1963 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Chicago, Illinois marketing area, is approved or favored

by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on July 29, 1963.

JOHN P. DUNCAN, JR.,
*Assistant Secretary.*

*Order*[1] *Amending the Order Regulating the Handling of Milk in the Chicago, Illinois, Marketing Area*

**§ 1030.0 Findings and determinations.**

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago, Illinois marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Order relative to handling.* It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Chicago, Illinois marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Assistant Secretary on July 11, 1963, and published in the FEDERAL REGISTER on July 17, 1963 (28 F.R. 7301; F.R. Doc. 63–7512), shall be and are the terms and provisions of this order, and are set forth in full herein.

1. Revoke § 1030.18.
2. Revoke § 1030.30(a)(3).
3. In § 1030.30(b)(1) revoke the provision "and for the delivery periods of September through November, and March through June, the number of days on which milk was received,".
4. Revoke § 1030.69.
5. Revoke § 1030.71(d).
6. In § 1030.71(f) revoke the provision, "except that for the months of March, April, May and June the price resulting from the computations made pursuant to this section shall be the uniform price for base milk".
7. Revoke § 1030.71(g).
8. In § 1030.80(b) revoke the provision, "of July through February".
9. Revoke § 1030.80(c).
10. In the introductory text of § 1030.81 revoke the provision, "and (c)".

[F.R. Doc. 63–8120; Filed, July 31, 1963; 8:58 a.m.]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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**[7 CFR Part 1031]**

[Docket No. AO–170–A15]

## MILK IN SOUTH BEND-LAPORTE-ELKHART, IND., MARKETING AREA

### Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at South Bend, Indiana, May 7–8, 1963, pursuant to notice thereof issued April 15, 1963 (28 F.R. 3872).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Secretary on July 11, 1963 (28 F.R. 7302; F.R. Doc. 63–7516) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. No exceptions were filed.

The material issue, findings and conclusions, rulings, and general findings of the recommended decision (28 F.R. 7302; F.R. Doc. 63–7516) are hereby approved and adopted and are set forth in full herein.

The material issues on the record of hearing relate to:

1. Expansion of the marketing area.
2. The supply-demand adjustment applicable to the Class I price.
3. Class II and Class III milk: classification and pricing.
4. Revision of location differential adjustments.
5. Reduction of butterfat differential rates.
6. Discontinuing the base-excess plan in paying producers.
7. Increasing the marketing service assessment.
8. Miscellaneous administrative and conforming changes.

This decision relates only to material issue 6, discontinuing the base and excess plan in paying producers. The remainder of the material issues are reserved for further decision on the record of this hearing.

*Findings and conclusions.* The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

6. The "base and excess" plan of distributing returns for milk among producers should be discontinued.

The base and excess plan establishes a base for each producer for the months of April through July according to his deliveries to pool plants during the preceding September through December. In each month of April through July, separate uniform prices for "base milk" and "excess milk" are computed so that Class I milk sales are allotted first to base milk. For all other months, producers receive the marketwide uniform price for all milk deliveries to pool plants.

There was no opposition to the proposal of the producer association to remove the base and excess plan from the order.

The base and excess plan was incorporated in the order September 1, 1954, to supplement the seasonally variable Class I price in providing incentive to reduce the seasonality of milk delivered to the market. A similar plan was also made effective then in the Chicago order.

The base and excess plan in this market was established at the same time as that of the Chicago market in order to align prices to producers under both orders. The producer association in this market, which represents a substantial number of producers in the Chicago market, proposed discontinuing the base and excess plan under the Chicago order. A decision on the Chicago order (28 F.R. 7301) recommends discontinuance of its base-excess plan.

There is substantial overlapping of production areas of the Chicago and South Bend-La Porte-Elkhart markets. Discontinuing the Chicago order base-excess plan and the need for maintaining similar prices in the overlapping production areas make it inappropriate to continue such plan under this order.

Under current and prospective conditions, the variable seasonal Class I prices reasonably may be expected to obtain adequate production for the market without the added incentive of the base-excess plan.

Deleting the base-excess plan for distributing returns from milk among producers will not change handlers' costs of milk in its various use classifications.

*Rulings on proposed findings and conclusions.* Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were con-

sidered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

*General findings.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act:

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Marketing agreement and order.* Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the South Bend-LaPorte-Elkhart, Indiana Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the South Bend-LaPorte-Elkhart, Indiana Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*It is hereby ordered,* That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

*Determination of representative period.* The month of May 1963 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the South Bend-LaPorte-Elkhart, Indiana marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on July 29, 1963.

JOHN P. DUNCAN, Jr.,
*Assistant Secretary.*

*Order[1] Amending the Order Regulating the Handling of Milk in the South Bend-LaPorte-Elkhart, Indiana, Marketing Area*

**§ 1031.0 Findings and determinations.**

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the South Bend-LaPorte-Elkhart, Indiana, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Order relative to handling.* It is therefore ordered, that on and after the effective date hereof, the handling of milk in the South Bend-LaPorte-Elkhart, Indiana marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Assistant Secretary, on July 11, 1963, and published in the FEDERAL REGISTER on July 17, 1963 (28 F.R. 7302; F.R. Doc. 63–7516), shall be and are the terms and provisions of this order, and are set forth in full herein.

(1) Revoke § 1031.18.
(2) Revoke § 1031.22(k).
(3) Revoke § 1031.30(a)(4).
(4) Revoke § 1031.31(b) (3) and (4).
(5) Revoke § 1031.62.
(6) Revoke § 1031.63.
(7) In the introductory text of § 1031.71, revoke the provision "of August through March".
(8) Revoke § 1031.72.
(9) In § 1031.80(a) revoke the provision "for the months of August through March and the uniform prices for base milk and excess milk for the months of April through July".
(10) In the first column heading of the schedule in § 1031.80(c), revoke the provision "or base price".
(11) In § 1031.81(b), revoke the provision "per hundredweight for the months of August through March, and the uniform price per hundredweight for base milk for the months of April through July,".

[F.R. Doc. 63–8122; Filed, July 31, 1963; 8:59 a.m.]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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## [ 7 CFR Part 1044 ]

[Docket No. AO–299–A6]

## MILK IN MICHIGAN UPPER PENINSULA MARKETING AREA

### Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the State Office Building, Escanaba, Michigan, beginning at 10:00 a.m., August 8, 1963, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Michigan Upper Peninsula marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Michigan Milk Producers Association:

*Proposal No. 1.* Amend § 1044.10(c) to read:

(c) A cooperative association with respect to milk of its member producers which is delivered to the fluid milk plant of another handler, or diverted to a nonfluid milk plant for the account of such cooperative association.

Proposed by the Milk Marketing Orders Division, Agricultural Marketing Service:

*Proposal No. 2.* Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Room 308, First National Bank Building, Escanaba, Michigan, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Signed at Washington, D.C., on July 26, 1963.

LINLEY E. JUERS,
*Acting Deputy Administrator, Regulatory Programs, Agricultural Marketing Service.*

[F.R. Doc. 63-8087; Filed, July 31, 1963; 8:50 a.m.]

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## [7 CFR Part 1130]

[Docket No. AO-259-A10]

## MILK IN CORPUS CHRISTI, TEXAS, MARKETING AREA

### Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Robert Driscoll Hotel, Corpus Christi, Texas, beginning at 10:00 a.m., local time, on August 12, 1963, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Corpus Christi, Texas, marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by the Coastal Bend Milk Producers Association:

*Proposal No. 1.* Delete § 1130.12 and substitute therefor the following:

**§ 1130.12 Supply plant.**

"Supply plant" means a plant, other than a distributing plant or a market equalization plant, from which fluid milk products meeting the Grade A inspection requirement of a duly constituted health authority are moved to and received at a distributing plant or a market equalization plant during the month.

*Proposal No. 2.* Delete § 1130.13(b) and substitute therefor the following:

**§ 1130.13 Fluid milk plant.**

* * * * *

(b) A supply plant from which milk, skim milk or cream approved by a duly constituted health authority for disposition under a Grade A label, is transferred to and received at a plant(s) qualified pursuant to paragraph (a) of this section or at a market equalization plant, in any amount during any month of February through July, or in an amount in excess of an average of 5,000 pounds per day, computed on a milk equivalent basis of 3.5 percent butterfat content, during any month of August through January.

*Proposal No. 3.* Delete § 1130.14 and substitute therefor the following:

**§ 1130.14 Market equalization plant.**

"Market equalization plant" means a nondistributing plant operated by a cooperative association performing marketing services pursuant to § 1130.84(b) which plant is approved by a duly constituted health authority for the receipt and disposition of Grade A milk and at which all fluid milk products received are as diversions pursuant to § 1130.16 or as transfers from fluid milk plants except that during any months of August through January such plant may also receive other source fluid milk products from nonfluid milk plants.

Proposed by the Milk Marketing Orders Division, Agricultural Marketing Service:

*Proposal No. 4.* Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 112 Tarlton Street, Corpus Christi, Texas; 834 Brooklyn Avenue, San Antonio 12, Texas, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Signed at Washington, D.C., on July 26, 1963.

LINLEY E. JUERS,
*Acting Deputy Administrator, Regulatory Programs, Agricultural Marketing Service.*

[F.R. Doc. 63-8088; Filed, July 31, 1963; 8:50 a.m.]

## [7 CFR Part 1138]

[Docket No. AO-335-A2]

## MILK IN RIO GRANDE VALLEY MARKETING AREA

### Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Albuquerque, New Mexico, on June 24, 1963, pursuant to notice thereof issued on June 18, 1963 (28 F.R. 6356).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Secretary on July 17, 1963 (28 F.R. 7430; F.R. Doc. 63-7688), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision (28 F.R. 7430; F.R. Doc. 63-7688 are hereby approved and adopted and are set forth in full herein:

The material issue on the record of the hearing relates to the rules which establish the eligibility of milk for "producer" status and the pricing of diverted producer milk.

*Findings and conclusions.* The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof.

The order should be amended to define the term producer so that it includes milk which is delivered to Rio Grande pool plants or which represents a reserve supply for pool plants. Milk which is diverted to nonpool plants should be priced at the location of the plant to which diverted.

A producer establishes his association with the market by delivery of milk to a pool plant. However, when his milk is not needed at the pool plant, it is usually diverted directly from the farm to a milk manufacturing plant. The issue on this record is concerned particularly with the delivery performance to pool plants which should be required to qualify certain milk as producer milk even though it is not physically received at pool plants.

When the Rio Grande Valley order first became effective in July 1962, it provided that a producer who delivered to a pool plant could have 9 days' production of diverted milk included as producer milk. The rule proved too onerous as it applied to certain producer members of one of the cooperatives which supply the market. At the request of the cooperative and after receiving no views opposing a proposed suspension, a sus-

pension order was issued which removed the nine-day limit on the amount of milk of a farmer which could maintain producer status on a diverted basis.

Following the suspension of the limitation on diverted producer milk, on April 1, 1963, the quantity of milk diverted rose sharply. The number of producers rose also from 341 in March to 443 in April and 644 in May. This rise in diverted milk and in number of producers indicates that milk of several farmers has been claimed as producer milk although it is in diverted status much of the time. It appears that the diversion privilege which is intended to facilitate the movement of milk regularly associated with this fluid market to nonpool manufacturing plants when it is not needed for fluid sales has been used to qualify milk for producer status which is not associated in any substantial degree with the market.

Except for the months of February, April, and May, most of the milk diverted from the Rio Grande Valley market was milk of members of the Dairy Farmers Association, a cooperative whose members deliver only to plants regulated under the Rio Grande milk order. In May the milk diverted by others was about three million pounds. Each hundredweight of diverted milk cost the pool fund at a rate equal to the difference between the blend price and the Class II price.

Two cooperative associations which market milk to handlers only in the Rio Grande Valley marketing area and which represent 288 producers and two-thirds of the producer milk on the market proposed that diverted milk be limited in terms of the percentage of milk marketed by a cooperative to pool plants. They proposed also that producer status be limited to farmers who maintained their eligibility by delivering milk on at least three days each month to a pool plant.

The three-day delivery requirement would assure that the producer's milk was acceptable in terms of quality for sale in the fluid market.

A cooperative association, in marketing the milk of its members located throughout a widespread market such as the Rio Grande Valley area, can direct its total supply most efficiently if it can divert, when necessary, that milk which is nearest to a manufacturing milk plant. Since the impact on the pool fund is the same whether the milk of one producer or another is diverted, the order should provide the flexibility needed by cooperatives in servicing the market efficiently. The same flexibility should be accorded also to handlers who may need to divert nonmember milk.

The two proponent cooperative associations proposed that the amount of milk eligible as diverted producer milk be limited to 20 percent of the quantity delivered by a cooperative to pool plants during the months March, April, May, June, July, and December and 10 percent in other months. A cooperative association which has a milk manufacturing plant at Erie, Kansas, and which has members supplying one plant regulated under the Rio Grande order and other members supplying milk to the Neosho Valley and North Texas markets proposed that the percentage limit be 50 percent in the winter months and that no limitation apply in other months.

The proponent of the 50 percent diversion privilege with unlimited diversion in certain months asserted such diversions were needed to accommodate the varying quantities of milk bottled each day and the normal seasonal change in milk production. In spite of the daily variation in amount of milk bottled, however, the proponent cooperative delivers a "regular" order of milk to its purchaser in the Rio Grande Valley market. During the period this cooperative association has supplied the Rio Grande market, it has diverted only in amounts ranging from 11 percent of its deliveries in November 1962 to no diversions in March 1963.

The Dairy Farmers Association, a New Mexico cooperative, diverted or transferred in amounts equal to 19 percent of its member milk delivered to pool plants in July 1962 and in April and May 1963. The low months of diversion for this cooperative were September and October when diversions represented 2 percent of deliveries to pool plants.

This market experience indicates that the proposed limits of 10 percent and 20 percent of deliveries to pool plants may not allow the diversion of milk to the extent which may be necessary in some months. On the other hand, the proposed 50 percent with no limit in some months is clearly not needed to accommodate diversion of milk which has a bona fide association with the market.

A limit of 25 percent of member deliveries in the case of a cooperative, and nonmember deliveries in the case of other handlers, should permit all necessary diversion of milk during the months March, April, May, June, July, and December. A limit of 15 percent in other months should be provided.

The two cooperatives whose members supply only the Rio Grande Valley market have an agreement whereby they intend to share the cost of diverting milk of their members. If these cooperatives act jointly in diverting milk, they should be allowed to calculate their permissible diversion based on combined deliveries by the two cooperatives to pool plants. Accordingly, if each of the cooperatives files with the market administrator a request that the diversions be calculated jointly, the allowable diversions shall be so computed.

The limitation proposed with respect to diversions does not limit the quantity of surplus milk which may be physically received at pool plants and then transferred to manufacturing plants. However, the requirement that each pool distributing plant in each month must utilize in Class I at least 50 percent of its receipts of Grade A milk does tend to curb the quantity of surplus milk which can be unnecessarily associated with such a plant. Supply pool plants are required to ship 50 percent of their Grade A receipts to pool distributing plants during each of the months August through February. If supply plants qualify during August through February they may now retain pool status during the following March–July period regardless of shipments made.

Although there were no supply plants serving the market at the time of the hearing, it is possible that a supply pool plant may be qualified in the future. In that case, some curb should be established in the order to prevent the dumping of quantities of surplus milk on the Rio Grande market through supply plants during the months March through July. At the present time farmers whose milk was received at nonpool plants in previous months could be diverted to a pool supply plant in the March–July period and thus qualify as pool milk unlimited quantities of milk not regularly associated with the market. By extending the 50 percent shipping requirement to all months of the year, this practice can be curbed to that degree.

The order should be amended to price diverted milk at the price applicable to the zone location of the nonpool plant to which such milk is delivered. The Rio Grande Valley market receives its milk supply primarily from producers located in two distinct areas, those in New Mexico and those in Kansas. When milk of New Mexico producers must be diverted it is hauled to manufacturing plants distant from the market and usually such hauling costs are greater than the cost of hauling to pool plants. On the other hand milk of Kansas producers can be diverted to manufacturing plants in Kansas thereby saving the cost of hauling such milk 600 miles or more.

Under the present order milk delivered to a nonpool plant in Kansas to which a zone differential of 75 cents applies is priced at the Santa Fe price although it is not hauled to Santa Fe. The witness for the cooperative association which operates this plant testified that the pricing should be revised even though the change will result in a lower price for its member producers with respect to diverted milk. By pricing diverted milk at the location of the Kansas plant the producers delivering milk to that plant will receive a blend price 75 cents lower than the price at Santa Fe. This is about what it would cost to haul the milk to Santa Fe and thus makes the net farm price to Kansas farmers approximately the same whether their milk is delivered locally or to Santa Fe.

This method of pricing will reduce the incentive to associate milk diverted to nearby manufacturing plants with the Rio Grande pool merely for the purpose of obtaining a hauling allowance for milk which is not transported to the market. This incentive has been an important factor in encouraging unnatural diversions.

There was no objection to the proposal to price milk at the plant to which diverted made by any handler represented at the hearing or by the representatives of either of the two Kansas or of the two New Mexico cooperatives who were represented.

*Rulings on proposed findings and conclusions.* Briefs and proposed findings and conclusions were filed in behalf of certain interested parties. These briefs, proposed findings, and conclusions and the evidence in the record

were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

*General findings.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Rulings on exceptions.* In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

*Marketing agreement and order.* Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Rio Grande Valley Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Rio Grande Valley Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*It is hereby ordered,* That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

*Determination of representative period.* The month of March 1963 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Rio Grande Valley marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on July 29, 1963.

JOHN P. DUNCAN, Jr.,
*Assistant Secretary.*

*Order[1] Amending the Order Regulating the Handling of Milk in the Rio Grande Valley Marketing Area*

**§ 1138.0 Findings and determinations.**

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Rio Grande Valley marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Order relative to handling.* It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Rio Grande Valley marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Secretary, on July 17, 1963, and published in the FEDERAL REGISTER on July 20, 1963 (28 F.R. 7430; F.R. Doc. 63–7688), shall be and are the terms and provisions of this order, and are set forth in full herein:

1. Section 1138.7(b) is revised as follows:

**§ 1138.7 Producer.**

* * * * *

(a) * * *

(b) Diverted from a pool plant to a nonpool plant except a plant at which such milk is classified and priced under the provisions of another order issued pursuant to the Act, for the account of the diverting handler, subject to the following conditions:

(1) A cooperative association may divert for its account the milk of any member producer, whose milk is received at a distributing pool plant for at least three days during the month, without limit during the other days of such month. However, the total quantity of milk so diverted may not exceed 25 percent in the months of March, April, May, June, July, and December and 15 percent in other months of its member producer milk received at all pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers provided each association has filed such a request in writing with the market administrator.

(2) A handler in his capacity as the operator of a distributing pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to subparagraph (1) of this paragraph, whose milk is received at his pool plant for at least 3 days during the month, without limit during the other days of such month. However, the total quantity of milk so diverted may not exceed 25 percent in the months of March, April, May, June, July, and December and 15 percent in other months of the milk received at such pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to subparagraph (1) of this paragarph. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler shall specify the dairy

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

farmers whose milk is ineligible as producer milk;

(3) For purposes of the requirements of § 1138.10, milk diverted for the account of the operator of a pool plant shall be included in the receipts of the pool plant from which diverted; and

(4) For purposes of location adjustments pursuant to §§ 1138.52 and 1138.81, milk diverted to a nonpool plant shall be considered to have been received at the location of the nonpool plant to which diverted.

**§ 1138.10 [Amendment]**

2. Section 1138.10 is revised as follows: the proviso in §1138.10(b) is revoked and the colon next preceding the proviso is changed to a period.

[F.R. Doc. 63-8181; Filed, July 31, 1963; 8:58 a.m.]

# DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## [ 50 CFR Part 32 ]

## HUNTING

### Proposed Addition of Sacramento National Wildlife Refuge, California, to List of Open Areas for Upland Game

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), it is proposed to amend 50 CFR 32.21 by the addition of the Sacramento National Wildlife Refuge, California, to the list of wildlife refuge areas open to the hunting of upland game as legislatively permitted.

It has been determined that regulated hunting of pheasants may be permitted on the Sacramento National Wildlife Refuge without detriment to the objectives for which the area was established.

It is the policy of the Department of the Interior, whenever practicable to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to this proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C., within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

1. Section 32.21 is amended by the addition of the following area as one where upland game hunting is authorized:

**§ 32.21 List of open areas; upland game.**

* * * * *

CALIFORNIA

Sacramento National Wildlife Refuge.

FRANK P. BRIGGS,
*Assistant Secretary of the Interior.*

JULY 26, 1963.

[F.R. Doc. 63-8074; Filed, July 31, 1963; 8:47 a.m.]

## [ 50 CFR Part 32 ]

## HUNTING

### Proposed Addition of Chincoteague National Wildlife Refuge, Maryland and Virginia, to List of Open Areas for Big Game

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), it is proposed to amend 50 CFR 32.31 as set forth below.

The purpose of this amendment is to provide for public hunting of deer on the Chincoteague National Wildlife Refuge, Virginia and Maryland. Hunting of deer on this area is considered to be a necessary management measure in order to prevent damage to refuge habitat and crops planted for waterfowl use.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to this proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D.C., within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

1. Section 32.31 is amended by the addition of the following area as one where the hunting of big game is authorized:

**§ 32.31 List of open areas; big game.**

* * * * *

MARYLAND

Chincoteague National Wildlife Refuge.

VIRGINIA

Chincoteague National Wildlife Refuge.

FRANK P. BRIGGS,
*Assistant Secretary of the Interior.*

JULY 26, 1963.

[F.R. Doc. 63-8075; Filed, July 31, 1963; 8:47 a.m.]

# DEPARTMENT OF LABOR

## Wage and Hour Division

## [ 29 CFR Parts 516, 548 ]

## COMMISSION COMPENSATION; RECORDS AND PAY PROVISIONS FOR OVERTIME EMPLOYMENT OF RETAIL OR SERVICE ESTABLISHMENT EMPLOYEES AND OTHERS

### Notice of Proposed Rule Making

NOTE: For preamble statement relating to this notice of proposed rule making, see under Title 29, Chapter V, Rules and Regulations section, *supra*.

1. It is proposed to amend 29 CFR 548.3 by adding a new paragraph (f), as follows:

**§ 548.3 Authorized basic rates.**

* * * * *

(f) (1) A rate per hour for each workweek equal to the average hourly remuneration of the employee for employment during the annual period or the quarterly period immediately preceding the calendar or fiscal quarter year in which such workweek ends, provided (i) it is a fact, confirmed by proper records of the employer, that the terms, conditions, and circumstances of employment during such prior period, including weekly hours of work, work assignments and duties, and the basis of remuneration for employment, were not significantly different from the terms, conditions, and circumstances of employment which affect the employee's regular rates of pay during the current quarter year, and (ii) such average hourly remuneration during the prior period is computed by the method or methods authorized in the following subparagraphs.

(2) The average hourly remuneration on which the rate authorized in subparagraph (1) of this paragraph is based shall be computed (i) by totaling all remuneration for employment during the workweeks ending in the prior period (including all earnings at hourly or piece rates, bonuses, commission or other incentive payments, and other forms of remuneration paid to or on behalf of the employee) except overtime premiums and other payments excluded from the regular rate pursuant to provisions of section 7(d) of the Act, and (ii) by dividing the amount thus obtained by the number of hours worked in such prior period for which such compensation was paid.

(3) Where it is not practicable for an employer to compute the total remuneration of an employee for employment in the prior period in time to determine obligations under the Act for the current quarter year (as where computation of bonus, commission, or incentive payments cannot be made immediately at the end of the period), a one month grace period may be used. If this one month grace period is used, it will be deemed in compliance with subparagraph (1) of this paragraph to use the basic rate authorized therein for the quarter commencing one month after the next preceding four-quarter or quarter-year period (whichever length period is adopted as the base period for the rate determination). Once the grace period method of computation is adopted it must be used for each successive quarter.

(52 Stat. 1060, as amended; 29 U.S.C. 201)

2. It is proposed to establish a new 29 CFR 548.306 to read as follows:

**§ 548.306 Average earnings for year or quarter year preceding the current quarter.**

(a) Section 548.3(f)(1) authorizes as an established basic rate:

A rate per hour for each workweek equal to the average hourly remuneration of the employee for employment during the annual period or the quarterly period immediately preceding the calendar or fiscal quarter year in which such workweek ends, provided (i) it is a fact, confirmed by proper records of the employer, that the terms, conditions, and circumstances of employment during such prior period, including weekly hours of work, work assignments and duties, and the basis of remuneration for employment, were not significantly different from the terms, condi-

tions, and circumstances of employment which affect the employee's regular rates of pay during the current quarter year, and (ii) such average hourly remuneration during the prior period is computed by the method or methods authorized in the following subparagraphs.

(b) There may be circumstances in which it would be impossible or highly impracticable for an employer at the end of a pay period to compute, allocate, and pay to an employee certain kinds of remuneration for employment during that pay period. This may be true in the case of such types of compensation as commissions, recurring bonuses, and other incentive payments which are calculated on work performance over a substantial period of time. Since the total amount of straight-time remuneration is unknown at the time of payment the full regular rate cannot be ascertained and overtime compensation could not be paid immediately except for the provisions of § 548.3(f). In many such situations, the necessity for any subsequent computation and payment of the additional overtime compensation due on these types of remuneration can be avoided and all overtime premium pay due under the Act, including premium pay due on such a commission, bonus or incentive payment, can be paid at the end of the pay period rather than at some later date, if the parties to the employment agreement so desire. This is authorized by § 548.3(f)(1), which provides an alternate method of paying overtime premium pay by permitting an employer, under certain conditions, to use an estabilsed basic rate for computing overtime premium pay at the end of each pay period rather than waiting until some later date when the exact amounts of the commission, bonus, or other incentive payment can be ascertained. Such established rate may also be used in other appropriate situations where the parties desire to avoid the necessity of recomputing the regular rate from week to week.

(c) The rate authorized by § 548.3(f)(1) is an average hourly rate based on earnings and hours worked during the workweeks ending in a representative period consisting of either the four quarter-years or the last quarter-year immediately preceding the calendar or fiscal quarter-year in which the established rate is to be used. Such a rate may be used only if it is a fact, confirmed by proper records of the employer, that the terms, conditions, and circumstances of employment during this prior period were not significantly different from those affecting the employee's regular rates of pay during the current quarterly period. Significant differences in weekly hours of work, work assignments and duties, the basis of remuneration for employment, or other factors in the employment which could result in substantial differences in regular rates of pay as between the two periods will render the use of an established rate based on such a prior period inappropriate, and its use is not authorized under such circumstances.

(d) Establishment of the rate explained in paragraphs (b) and (c) of this section is authorized under the circumstances there stated, provided it is computed in accordance with § 548.3(f)(2), which prescribes the following method: First, all of the employee's remuneration for employment during the workweeks ending in the representative four-quarter or quarter-year period immediately preceding the current quarter, except overtime premiums and other payments excluded from the regular rate under section 7(d) of the Act, must be totaled. All straight-time earnings at hourly or piece rates or in the form of salary, commissions, bonus or other incentive payments, and board, lodging, or other facilities to the extent required under section 3(m) of the Act and Part 531 of this chapter, together with all other forms of remuneration paid to or on behalf of the employee must be included in the above total. Second, this total sum must be divided by the total number of hours worked during all the workweeks ending in the prior period for which such remuneration was paid. The average hourly rate obtained through this division may be used as the established rate for computing overtime compensation in any workweek, in which the employee works in excess of the applicable maximum standard number of hours, ending in the calendar or fiscal quarter-year period following the four-quarter or quarterly period used for determination of this rate. This is authorized irrespective of any fluctuations of average straight-time hourly earnings above or below such rate from workweek to workweek within the quarter.

(e) As a variant to the method of computation described in paragraph (d) of this section, it is provided in § 548.3(f)(3), with respect to situations where it is not practicable for an employer to compute the total remuneration of an employee for employment in the prior period in time to determine obligations under the Act for the current quarter year, a one month grace period may be used. This method is authorized, for example, in employment situations where the computation of bonuses, commissions, or other incentive payments cannot be made immediately at the end of the four-quarter or quarterly base period. If this one month grace period is used, it will be deemed in compliance with § 548.3(f)(1) to use the basic rate authorized therein for the quarter commencing one month after the next preceding four-quarter or quarter-year period. To illustrate, suppose an employer and employee agree that the employee will be paid for overtime work at one and one-half times a basic rate computed in accordance with § 548.3(f)(1), but on the pay day for the first workweek ending in the current quarter his records do not show all commissions earned by the employee in the preceding quarter. The employer and employee may therefore elect to use a one month grace period. This would mean that a basic rate for the quarter January 1–March 31, for example, which is derived from the prior four-quarter (January 1–December 31) or quarterly (October 1–December 31) period, as the case may be, would be applied during a quarterly period commencing one month later (February 1–April 30) than the period (January 1–March 31) in which it would otherwise be applicable. The same adjustment would be made in succeeding quarters. Once the grace method of computation is adopted it must be used for each successive quarter.

(f) The established basic rate must be designated and substantiated in the employer's records as required by Part 516 of this chapter, and other requirements of such part with respect to records must be met. An agreement or understanding between the parties to use such rate must be reached prior to the quarter-year period in which the work to which it is applied is performed. The agreement or understanding may be limited to a fixed period or may be a continuing one, but use of the established rate under such an agreement or understanding is not authorized for any period in which terms, conditions, and circumstances of employment become significantly different from those obtaining during the period from which the rate was derived. This method of computation cannot be used if there is any change in the employee's position, method of pay, or amount of salary or if the employee was not employed during the full period used to determine the rate.

(g) To function properly and to provide, over an extended period, overtime premium pay substantially equivalent to the pay the employee would receive if overtime were paid on the true regular rate, the plan must provide that overtime be computed on the established basic rate in every overtime week without regard to the fact that in some weeks the employee receives more premium pay than he would using the true regular rate and in some weeks less. Plans initiated pursuant to this section are based on averages and, if properly applied, will yield substantially the same overtime compensation in a representative period as the employee would have received if it were computed on the true regular rate.

(h) The following examples assume the employee is due overtime premium pay for hours worked over 40 in the workweek.

(1) *Example.* A sales employee whose applicable maximum hours standard is 40 hours enters into an agreement with his employer that he will be paid a salary plus a commission based on a certain percentage of sales. He agrees that this compensation will constitute his total straight-time earnings for all hours worked each week, provided such compensation equals or exceeds the applicable minimum wage.

The employee further agrees that he is to receive overtime premium pay for each workweek on the normal pay day for that week; based each quarter on one-half his established basic rate derived by taking the hourly average of the total straight-time remuneration he received during the workweeks ending in the four-quarter period immediately preceding the current quarter. For example, his established basic rate for each workweek ending in the first quarter of 1964 (January through March) is determined by computing his average hourly rate for employment during all workweeks ending in the four quarter periods of 1963.

Assume the employee worked the following number of hours and received the straight-time pay indicated:

| Line No. | Quarters | Pay | | Hours worked | |
|---|---|---|---|---|---|
| 1 | 1st—1963 | $1,074 | | 550 | |
| 2 | 2d—1963 | 980 | $980 | 489 | 489 |
| 3 | 3d—1963 | 1,069 | 1,069 | 542 | 542 |
| 4 | 4th—1963 | 1,365 | 1,365 | 619 | 619 |
| 5 | 1, 2, 3, 4—1963 | 4,488 | | 2,200 | |
| 6 | 1st—1964 | | 1,168 | | 531 |
| 7 | 2, 3, 4 (1963) 1 (1964) | | 4,582 | | 2,181 |

The employee's basic rate for the first quarter of 1964 (line 6) is determined by the hours worked and pay received in the four previous quarters (lines 1, 2, 3 and 4). Total pay received during that period ($4,488.00, line 5) is divided by the total hours worked (2,200 hours, line 5) to derive the established basic rate ($2.04 per hour). This is the hourly rate on which overtime is computed in each workweek ending in the first quarter of 1964 in which the employee worked in excess of the applicable maximum hours standard. For instance, if in the first week of that quarter the employee worked 47 hours he would be due his guaranteed salary, his commission (at a later date) plus $7.14 as overtime premium pay (7 hours × $2.04 × ½). It does not matter that the employee actually earned and ultimately received $90.71 in salary and commission as his total straight-time pay for that week and that his true hourly rate would be only $1.93 ($90.71 ÷ 47 hours). The established basic rate is an average rate and is designed to be used, and must be used, in every overtime week in the quarter for which it was computed, without regard to the employee's true hourly rate in the particular week.

The employee's basic rate for the second quarter of 1964 will be similarly computed at the end of the first quarter of that year by adding together the hours worked and pay received in the second, third, and fourth quarters of 1963 and the first quarter of 1964 (lines 2, 3, 4 and 6) so that the totals now reflect the figures in line 7. The regular rate is again computed by dividing pay received ($4,582.00) by hours worked (2,181) and the new basic rate would be $2.10.

(2) *Example.* Assume that an employee employed under a similar arrangement agrees to receive overtime premium pay for each workweek on the normal pay day, based each quarter on one-half his established basic rate determined by the *quarterly* method rather than by the *annual* method previously discussed. His established basic rate for the first quarter of 1964 would therefore be determined by computing his average hourly rate for the *last quarter* of 1963. To illustrate, if in the latter quarter the employee received $1,156.00 in straight time compensation and worked 561 hours, his basic rate for the first quarter of 1964 would therefore be $2.06 ($1,156.00 ÷ 561 hours). During the overtime weeks in this quarter there would be due him, in addition to his straight time compensation, premium pay of $1.03 ($2.06 × ½) for each hour he works in excess of the applicable maximum hours standard.

As in the previous example the established basic rate must be used in every overtime week in the quarter for which it was computed without regard to the employee's true hourly rate in the particular quarter.

(52 Stat. 1062, as amended; 29 U.S.C. 201)

3. It is proposed to revise 29 CFR 516.21 to read as follows:

**§ 516.21 Employees compensated for overtime hours at a "basic" rate which is substantially equivalent to the employee's average hourly earnings, in accordance with section 7(f)(3) of the act—items required.**

With respect to each and every employee compensated for overtime hours at a "basic" rate which is substantially equivalent to the employee's average hourly earnings, in accordance with section 7(f)(3) of the Act, employers shall maintain and preserve records containing all the information and data required by § 516.2 except paragraph (a)(6) thereof and, in addition thereto, the following:

(a)(1) The hourly rates, piece rates, or commission rates applicable to each type of work performed by the employee, (2) the computation establishing the basic rate at which the employee is compensated for overtime hours. If the employee is part of a work force or employed in or by an establishment all of whose workers have agreed to accept this method of compensation, a single entry of this computation will suffice, (3) the amount and nature of each payment which, pursuant to section 7(d) of the Act, is excluded from the "regular rate."

(b)(1) Identity of representative period for computing the basic rate, (2) the period during which the established basic rate is to be used for computing overtime compensation, (3) information which establishes that there is no significant difference between the pertinent terms, conditions and circumstances of employment in the period selected for the computation of the basic rate and those in the period for which the basic rate is used for computing overtime compensation, which could affect the representative character of the period from which the basic rate is derived,

(c) a copy of the written agreement or, if there is no such agreement, a memorandum summarizing the terms of the oral agreement or understanding to use this method of computation. If the employee is one of a group, all of whom have agreed to use this method of computation, a single memorandum will suffice.

(52 Stat. 1066, as amended; 29 U.S.C. 211)

4. It is proposed to establish a new 29 CFR 516.28 to read as follows:

**§ 516.28 Employees of a retail or service establishment exempt from overtime pay requirements pursuant to section 7(h) of the Act.**

With respect to employees of a retail or service establishment who are exempt from the overtime pay requirements pursuant to the provisions of section 7(h), employers shall maintain and preserve payroll and other records, with respect to each and every such employee, containing all the information and data required by § 516.2 except paragraphs (a)(6) through (a)(13), and in addition records which clearly indicate:

(a) (1) Identification of all employees paid pursuant to section 7(h), the work assignments and duties of each, together with notation of the time and nature of each change in such duties and assignments,

(2) A notation in the record showing the date when such employee has been notified that he is being paid pursuant to section 7(h) and of the identity of the representative period applicable to him,

(3) A designation of the period chosen as "representative" for each employee or group of employees similarly situated, or of a formula from which the period established for the particular workweek may be identified,

(4) Basis of compensation such as salary plus commission, quota bonus, straight commission without advances, straight commission with advances, guarantees, or draws, and amount of compensation: For example, "$50 weekly salary plus PMs and 1% commission computed quartely", "$60 weekly draw against 5% commission on all sales",

(b)(1) For each workweek:

(i) Total compensation paid to or on behalf of the employee for his employment,

(ii) The amount and nature of each payment which, pursuant to section 7(d) of the Act, is excluded from the "regular rate" (these records may be in the form of vouchers or other payment data),

(iii) Hours worked each workday and total hours worked each workweek,

(iv) Regular rate of pay,

(v) Total amounts paid as a salary, hourly rate, daily rate, etc., and date of payment,

(vi) Total amounts paid as a guarantee, advance, or draw against commissions, and date of payment,

(vii) Total amounts computed as commission or other incentive payments, and date of payment,

(2) For each pay period: Total additions to or deductions from wages. Every employer making additions or deductions from wages shall also maintain, in individual employee accounts, a record of the dates, amounts and nature of the items which make up the total additions or deductions,

(3) For each representative period:

(i) Total compensation paid to or on behalf of the employee for his employment,

(ii) Total compensation paid which represents commissions on goods or services (excluding commissions computed for weeks in which compensation is not actually measured by commissions as set forth in § 779.419 of this chapter.)

(52 Stat. 1066, as amended; 29 U.S.C. 211)

Interested persons may submit written statements of views and arguments regarding the proposed amendments to 29 CFR 516 and subpart A of 29 CFR Part 548 to the Administrator of the Wage and Hour and Public Contracts Division, United States Department of Labor, Washington 25, D.C., within 30 days after publication of this document in the FEDERAL REGISTER.

Signed at Washington, D.C., this 27th day of July 1963.

CLARENCE T. LUNDQUIST,
*Administrator.*

[F.R. Doc. 63–8110; Filed, July 31, 1963; 9:01 a.m.]

# FEDERAL AVIATION AGENCY

## [ 14 CFR Part 71 [New] ]

[Airspace Docket No. 63–CE–91]

## CONTROL ZONE

### Proposed Designation

Notice is hereby given that the Federal Aviation Agency (FAA) is considering an amendment to Part 71 [New] of the Federal Aviation Regulations, the substance of which is stated below.

The Federal Aviation Agency has under consideration the designation of a part-time control zone at Menominee, Mich. The proposed control zone would be designated from 0600 to 2100 hours local time, daily, within a 5-mile radius of the Menominee County Airport (latitude 45°07'25'' N., longitude 87°38'20'' W.) and within 2 miles either side of the Menominee VOR 351° True radial, extending from the 5-mile radius zone to 8 miles north of the VOR.

An identical proposal to establish a control zone at Menominee was previously proposed in Airspace Docket No. 62–CE–60 as a part of the notice of proposed rule making dated January 19, 1963 (28 F.R. 527). This proposal was subsequently withdrawn June 4, 1963 (28 F.R. 5456) for lack of a rapid means of providing the required weather information from the Menominee County Airport to the Minneapolis, Minn., Air Route Traffic Control Center.

It has now been determined by the FAA that an interphone circuit to provide the required dissemination of weather information between the North Central Airlines office at Menominee and the Minneapolis Air Route Traffic Control Center will be available September 19, 1963.

The proposed control zone would provide protection for aircraft executing prescribed Menominee County Airport instrument arrival and departure procedures. The time of designation would coincide with the hours of operation of the weather reporting service which is to be provided by North Central Airlines. Communications would be provided within the proposed control zone via remoted receiver and voice facilities controlled by the FAA's Green Bay, Wis., 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, Mo., 64110. All communications received within thirty 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, D.C., 20553. 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, D.C., 20553. 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 July 25, 1963.

H. B. HELSTROM,
*Acting Chief,*
*Airspace Utilization Division.*

[F.R. Doc. 63–8061; Filed, July 31, 1963; 8:45 a.m.]

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## [ 14 CFR Part 71 [New] ]

[Airspace Docket No. 63–SW–38]

## CONTROL ZONE AND TRANSITION AREA

### Proposed Alteration and Designation

Notice is hereby given that the Federal Aviation Agency (FAA) is considering amendments to Part 71 [New] of the Federal Aviation Regulations, the substance of which is stated below.

The following controlled airspace is designated in the Fayetteville, Ark., terminal area:

1. The Fayetteville control zone is designated as that airspace within a 5-mile radius of the Fayetteville Municipal Airport (Drake Field).

2. The Fort Smith, Ark., control area extension is designated as that airspace within a 25-mile radius of the Fort Smith VORTAC extending clockwise from the west boundary of V–13 south of Fort Smith to the north boundary of V–74 east of Fort Smith.

The FAA, having completed a comprehensive review of the terminal airspace structure requirements in the Fayetteville area, including studies attendant to the implementation of the provisions of CAR Amendments 60–21/60–29, has under consideration the following airspace actions:

1. Redesignate the Fayetteville control zone as that airspace within a 5-mile radius of the Fayetteville Municipal Airport-Drake Field (latitude 36°00'15'' N., longitude 94°10'05'' W.); within 2 miles each side of the Drake VOR 328° True radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR; and within 2 miles each side of the 359° True bearing from the Fayetteville radio beacon, extending from the 5-mile radius zone to 7 miles north of the radio beacon. The proposed alteration of the Fayetteville control zone would provide protection for aircraft executing prescribed VOR and ADF approach procedures north and northwest of Drake Field.

2. Designate the Fayetteville transition area as that airspace extending upward from 700 feet above the surface within the area bounded by a line beginning at latitude 35°54'30'' N., longitude 94°19'00'' W.; to latitude 36°14'00'' N., longitude 94°15'00'' W.; to latitude 36°14'00'' N., longitude 94°01'30'' W.; to latitude 36°00'00'' N., longitude 94°01'30'' W.; to latitude 35°53'30'' N., longitude 94°04'30'' W.; thence to point of beginning; within a 5-mile radius of Rogers Municipal Airport, Rogers, Ark. (latitude 36°22'10'' N., longitude 94°06'25'' W.); within 2 miles each side of the Fayetteville VOR 005° and 185° True radials, extending from the 5-mile radius area to latitude 36°14'00'' N.; and within 2 miles each side of 003° True bearing from the Rogers radio beacon, extending from the 5-mile radius area to 8 miles north of the radio beacon; and that airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at latitude 35°43'00'' N., longitude 94°20'00'' W.; to latitude 36°12'00'' N., longitude 94°28'00'' W., to latitude 36°38'00'' N., longitude 94°14'00'' W.; to latitude 36°37'30'' N., longitude 93°57'00'' W.; to latitude 35°58'00'' N., longitude 93°58'30'' W.; to latitude 35°42'00'' N., longitude 94°09'00'' W.; thence to point of beginning.

The proposed transition area would provide protection for aircraft executing prescribed instrument holding, approach and departure procedures at the Fayetteville Municipal Airport, Springdale, Ark., Municipal Airport and the Rogers, Ark., Municipal Airport. The rectangular portion of the proposed transition area with a floor of 700 feet would contain slightly more area than required by criteria to reduce the complexity of charting. The portion of the Fort Smith control area extension and the floors of the airways within the proposed transition area would automatically coincide with the floor of the transition area. Conversion of the Fort Smith control area extension to a transition area with appropriate controlled airspace floor assignments will be accomplished at a later date under the Fort Smith terminal area CAR Amendments 60–21/60–29 implementation program.

Certain minor revisions to prescribed instrument procedures would accompany the actions proposed herein, but operational complexities would not be increased nor would aircraft performance characteristics or established landing minimums be adversely affected.

Specific details of the changes to procedures and minimum instrument flight rules altitudes that would be required may be examined by contacting the Chief, Airspace Utilization Branch, Air Traffic Division, Southwest Region, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be

submitted in triplicate to the Assistant Administrator, Southwest Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. 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 July 24, 1963.

H. B. HELSTROM,
*Acting Chief,*
*Airspace Utilization Division.*

[F.R. Doc. 63–8062; Filed, July 31, 1963; 8:45 a.m.]

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## [ 14 CFR Part 71 [New] ]

[Airspace Docket No. 63–SO–34]

## TRANSITION AREA

### Proposed Alteration and Designation

Notice is hereby given that the Federal Aviation Agency is considering amendments to Part 71 [New] of the Federal Aviation Regulations, the substance of which is stated below.

The Hattiesburg, Miss., transition area is designated as that airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hattiesburg Municipal Airport; within 2 miles each side of the Hattiesburg VOR 154° True radial, extending from the 5-mile radius zone to the VOR; within 2 miles each side of the 315° True bearing from the Hattiesburg Municipal Airport, extending from the 5-mile radius zone to 12 miles northwest of the airport; and the airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Hattiesburg VOR, excluding the portion within Restricted Area R–4401.

The FAA, having completed a comprehensive review of the terminal airspace structure requirements in the Hattiesburg/Laurel, Miss., area, including studies attendant to the implementation of the provisions of CAR Amendments 60–21/60–29, has under consideration the following airspace actions:

1. Designate the Laurel transition area as that airspace extending upward from 700 feet above the surface within a 5-mile radius of the Laurel Municipal Airport (latitude 31°40′10″ N., longitude 89°10′20″ W.); within 8 miles southwest and 5 miles northeast of the 330° True radial of a VOR to be commissioned in September, 1963, near Laurel at latitude 31°40′15″ N., longitude 89°10′18″ W., extending from the VOR to 12 miles northwest.

2. Alter the Hattiesburg transition area by redesignating it as that airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hattiesburg Municipal Airport (latitude 31°16′00″ N., longitude 89°15′15″ W.); within 2 miles each side of the Hattiesburg VOR 154° True radial, extending from the 5-mile radius area to the VOR; within 2 miles each side of the 315° True bearing from the Hattiesburg Municipal Airport, extending from the 5-mile radius area to 12 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Hattiesburg VOR; within a 15-mile radius of the Laurel Municipal Airport; and within 5 miles either side of the proposed Laurel VOR 150° True radial, extending from the 15-mile and the 20-mile radius areas to 23 miles southeast of the VOR, excluding the portion within Restricted Area R–4401.

The actions proposed herein would provide protection for aircraft executing prescribed instrument holding, approach and departure procedures at the Laurel Municipal Airport. Communications service within the proposed transition area would be provided through remote communications facilities associated with the Meridian, Miss., FAA Flight Service Station and the New Orleans ARTC Center.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Southern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, P.O. Box 20636, Atlanta 20, Georgia. 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 July 24, 1963.

H. B. HELSTROM,
*Acting Chief,*
*Airspace Utilization Division.*

[F.R. Doc. 63–8063; Filed, July 31, 1963; 8:45 a.m.]

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# FEDERAL COMMUNICATIONS COMMISSION

## [ 47 CFR Parts 2, 11 ]

[Docket No. 15131; FCC 63–683]

## ALLOCATION AND ASSIGNMENT OF FREQUENCIES

### Notice of Proposed Rule Making

In the matter of amendment of Parts 2 and 11 of the Commission's rules, concerning the allocation and assignment of frequencies in the 72–73 and 75.4–76 Mc/s bands; Docket No. 15131, RM–331.

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. The Commission's proposal in this proceeding is basically as follows:

To provide American manufacturers with 30 narrow band (20 kc/s each) channels, for apparatus and equipment control, and safety, and other functions, employing mobile, low powered (1 watt input) transmitters. Of the 30 frequencies proposed to be made available, 25 are located in the 72–73 Mc/s band; and of these 25 channels, 5 would be allotted to the manufacturers on an exclusive basis, while the remaining 20 would be shared with users in the Fixed Service. The balance of five channels is located in the 75.4–76 Mc/s band, and would be allotted on an exclusive basis to the manufacturers. All transmitters operating on the subject frequencies would be required to be operated solely within plant, mill, yard, or other manufacturing areas, in order to obviate the possibility of interfering with television reception on channels 4 and 5. Tone, as well as voice, transmissions would be allowed; and multiple frequency systems would be authorized. Use of the frequencies by the manufacturers is subject to the condition that no harmful interference will be caused to reception of television channels 4 or 5, and, in turn, no protection from television interference will be afforded the manufacturers.

This proposal arises from a petition for rule making, and a Supplement thereto, filed by the National Association of Manufacturers Committee on Radio Use, on May 11, and June 21, 1962, respectively. For brevity's sake, we will refer to the petitioner as the NAM.

3. The relief requested by the NAM, in its petition, is premised on an alleged need for—

* * * an effective method of communication that will improve the level of personnel safety in certain hazardous (manufac-

turing) operations which are generally confined to a limited area. The operations are essentially hazardous because they usually involve the movement for a short distance of extremely heavy or hot materials and equipment, and the personnel involved are often out of sight and sound of each other.

We (the NAM) have demonstrated to our own satisfaction that the need can be met by the use of recently designed portable 'flea power' equipment, operating with plate power input of not more than one watt, which has an extremely limited range * * *

4. In order to satisfy the manufacturers alleged need for reliable short range communications, the NAM has calculated that 30 exclusive channels, of 20 kc/s bandwidth each, will be necessary. The channels desired were enumerated by the NAM: half are located in the 72–73 Mc/s band, and the other 15 are in the 75.4–76 Mc/s band. For reasons which are noted and explained elsewhere in this document, we have rejected the NAM's specific frequency requests. We have, however, proposed that certain other frequencies, from within the same frequency bands recommended by the NAM, be made available to the manufacturers. The frequencies that we propose to make available would have a bandwidth of 20 kc/s each, as requested.

5. The frequencies under consideration in this proceeding are located in the 72–73 and 75.4–76 Mc/s bands. Under our present rules, assignable channels in these two bands are separated by 40 kc/s. But as we noted in the preceding paragraph, the frequencies that we propose to make available would be separated by only 20 kc/s. Our proposal, therefore, is premised on the assumption that a reduction in channel spacings, from 40 kc/s to 20 kc/s, in the subject bands, has been or will be accomplished. As a matter of fact, 20 kc/s channeling in the bands under consideration has not been ordered. It is, however, the subject matter of a rule making proceeding that is presently in progress. A notice of proposed rule making, which looks toward "channel splitting" in the 72–76 Mc/s band, was adopted by the Commission on September 25, 1962 (Docket No. 14785), and published in the FEDERAL REGISTER on October 2, 1962, at Volume 27, page 9728. Inasmuch as the instant NAM Petition was filed prior to the institution of our proceeding in Docket No. 14785, and requested, in part, relief identical to that proposed therein, it was acknowledged in our notice in Docket No. 14785 at paragraps 12 and 13. Until such time as our proceeding in Docket No. 14785 has been concluded, no final action will be taken in the instant proceeding.

6. The NAM has requested that frequencies be made available to the Manufacturers Radio Service on an exclusive basis. We have considered this request in the context of recent reallocations within the entire 72–76 Mc/s band; and in contrast to the present and future needs of our Safety and Special, and Domestic Public Radio Services, whose licensees conduct Fixed operations in the subject bands. It will be recalled that half the channels in the 72–76 Mc/s band, that had been available to the Fixed Service for many years, were recently reallocated to the new Radio Astronomy Service. As a result, 40 channels, of 40 kc/s bandwidth each, or, in other words, 1.6 megacycles, are no longer available for original assignment to stations in the Fixed Service. While it is true that from a purely numerical standpoint, approximately the same number of channels that were reallocated to the Radio Astronomy Service will be regained if our "channel splitting" proposal in Docket No. 14785 is eventually translated into rules, we are, nonetheless, of the opinion, that an exclusive allocation of almost 40 percent of the "to be available" frequencies within the subject bands, to just one of our Radio Services, in this case, the Manufacturers Radio Service, would not be in keeping with fair and efficient frequency allocation and utilization principles. Consequently, we have reduced the NAM's request for 30 exclusive channels to 10 such channels. We believe, however, that in many areas, the 10 exclusive channels to be made available will fall short of satisfying actual need and demand. In view of this belief, we are proposing that, in addition to the 10 channels to be made available on an exclusive basis, the manufacturers be allowed to use a certain 20 frequencies in the 72–73 Mc/s band on a shared basis with the Fixed operations of other users in that band. It appears that this sharing will be feasible in view of the marked differences in the nature and general locations of Fixed operations and the proposed very low powered operations of the manufacturers.

7. The ten frequencies listed below are proposed to be made available to the Manufacturers Radio Service on an exclusive basis. All of these channels are new or "split" channels, that would result from our "channel splitting" proposal in Docket No. 14785 (noted above in paragraph 5):

| Mc/s | Mc/s | Mc/s | Mc/s |
|---|---|---|---|
| 72.44 | 72.56 | 75.48 | 75.60 |
| 72.48 | 72.60 | 75.52 | |
| 72.52 | 75.44 | 75.56 | |

The following 20 frequencies are proposed to be made available to the Manufacturers Radio Service on a shared basis with users in the Fixed Service. Protection from interference will not be afforded Manufacturers Radio Service licensees operating on any of these frequencies. Those channels that are marked with an asterisk (*), are "split" channels, which, like the ten exclusive channels noted above, would become available for assignment for the first time, following the conclusion of our Rule Making Proceeding in Docket No. 14785. The unmarked frequencies are so-called primary channels upon which licensees in the Fixed Service are presently operating:

| Mc/s | Mc/s | Mc/s | Mc/s |
|---|---|---|---|
| 1. 72.02 | 6. 72.12* | 11. 72.22 | 16. 72.32* |
| 2. 72.04* | 7. 72.14 | 12. 72.24* | 17. 72.34 |
| 3. 72.06 | 8. 72.16* | 13. 72.26 | 18. 72.36* |
| 4. 72.08* | 9. 72.18 | 14. 72.28* | 19. 72.38 |
| 5. 72.10 | 10. 72.20* | 15. 72.30 | 20. 72.40* |

8. The conditions upon which we would allow manufacturers to utilize the frequencies proposed, are as follows:

1. The maximum transmitter final amplifier plate input power that will be authorized is one (1) watt.

2. The gain of antennas employed may not exceed that of a half wave dipole; and horizontal polarization will not be allowed. Moreover, all antennas shall be immediately attached to, and integral parts of, transmitters. In other words, antennas may not be located or employed at points away from transmitters.

3. All operations or transmissions on the proposed frequencies would be required to be conducted within the boundaries or confines of plant, factory, shipyard, mill, or other manufacturing areas.

4. Harmful interference shall not be caused to the reception of television signals on channels 4 or 5. (This condition is discussed at length in paragraphs 11 through 15 below.)

9. In terms of that which we would allow, rather than restrict:

1. Tone or impulse signaling, as well as voice transmissions, would be authorized, and

2. Because duplex or two frequency simplex systems would appear to be essential to an effective realization of the safety and other types of communications that the NAM is seeking, and because in many manufacturing plants and mills multiple short range circuits on different frequencies will be required, applications that would specify or request multiple frequencies would be granted as a matter of course, or, in other words, without the special showing that is presently required under § 11.8(c) of our rules.

10. The manner in which the manufacturers would utilize the frequencies proposed to be made available in this proceeding, would, in many if not most, practical circumstances, be violative of the Service allocations for the two frequency bands within which the proposed frequencies lie. Stated in another way, the stations that the manufacturers would operate on the subject frequencies would be basically mobile, or portable, or, as the NAM has characterized them—"semi-stationary" stations, while under § 2.106 of our rules the 72–73 and 75.4–76 Mc/s bands have been allocated to the Fixed Service for use by Operational Fixed stations. Mobile stations are, of course, proscribed from operating in any of the Fixed Service bands unless a permissive notation has been added to the Service allocation of the band in question. Obviously, therefore, if the frequency proposals that we have enumerated in the preceding paragraphs are not to run counter to our own rules, we must, and do, propose an amendment to the Table of Frequency Allocations contained in § 2.106 of our rules.

11. The proposed amendment to the Table of Frequency Allocations would take the form of a new "NG" or non-government footnote to the two frequency bands involved. In proposing this amendment, we would point out that the frequency bands in question are located in a four megacycle gap, so to speak, between the two bands that have been allocated for VHF television channels 4 and 5 operations. Thus, all television channel 4 stations operate in the band 66–72 Mc/s; and all television

channel 5 stations operate in the band 76–82 Mc/s. Because of this proximity to the channels 4 and 5 bands, our frequency proposals in this proceeding have been carefully arranged to minimize the prospect of possible interference to television reception. It was, indeed, because of a greater likelihood that interference would be caused to television reception, that the NAM's specific frequency requests were rejected; and our own substituted in lieu thereof.

12. In its petition, the NAM had requested 30 specific channels. Fifteen of these channels were located at and between 72.70 and 72.98 Mc/s; and the balance of 15 was at and between 75.44 and 75.72 Mc/s. The frequencies in the 72.70 to 72.98 Mc/s range were rejected specifically because of a certain relationship that arises between some of the frequencies in this range and the video carrier frequency (77.25 Mc/s) of channel 5 television stations, when simultaneous transmissions are taking place. This relationship is easiest and perhaps best explained in terms of its effect, which is a 4.5 Mc/s undesired beat frequency, similar to the desired 4.5 Mc/s television receiver frequency resulting from the television sound and picture carriers. The presence of this beat frequency produces a propensity towards objectionable interference in the reception of the audio portions of channel 5 signals; and is most pronounced when transmissions are conducted on the 72.75 Mc/s frequency. Since 1954 when this objectionable effect was first articulated, all frequencies in the band 72.65–72.85 Mc/s have not been available for assignment in areas where television channel 5 allocations have been made. More than half of the frequencies enumerated by the NAM in the 72–73 Mc/s band were within the proscribed 72.65 to 72.85 Mc/s band, and they were, consequently, deemed unsuitable.

13. Insofar as the 75.4–76 Mc/s band is concerned, we have rejected 10 of the 15 frequencies specified by the NAM. The five that we propose to make available are the first, or lowest, five of the "split" channels from the total band of 15 frequencies requested. Our choice of frequencies in this band represents a compromise between allowing the manufacturers to operate on a duplex or two frequency simplex basis—which requires as much separation between channels as possible—and our desire to afford as much distance as possible betwen assignable frequencies in the subject band and the critical video carrier frequency (77.25 Mc/s) of television channel 5 stations. The five frequencies proposed, would be available only to the manufacturers; and because of the 3 Mc/s separation between these frequencies and those in the 72 Mc/s band, duplex operations will be possible.

14. Our essential purpose in instituting this proceeding is to consider a relatively new scheme or method of achieving a more efficient utilization of certain portions of an extremely valuable segment of the VHF spectrum. The uses proposed to be made of the frequencies involved in this proceeding seem to be both technologically and practically feasible. The measure of feasibility is determined in part by the fact that the technical quality and intensity of television signals being received by the public on channels 4 and 5 would not appear to be obstructed. That no obstruction or interference to television is expected to result, is premised largely on the precise restrictions that have been articulated in the proposed rules that would govern the manufacturers use of their low powered mobile systems; and certain characteristics of most manufacturing activities which provide, so to speak, inherent limitations. These inherent limitations and the rules restrictions complement one another. Thus, we propose to restrict the manufacturers use of the subject frequencies to transmitters that employ an input power not in excess of one watt; and to further confine the use of these transmitters, in a geographic sense, to licensee's manufacturing premises. In complement of these restrictions, we note that most manufacturing is conducted in essentially industrial areas, where the normal or average electrical noise levels are high, and where transmissions would be limited in range by the natural shielding effects of plant and mill structures.

15. On the basis of the technical data submitted by the NAM, it appears that a television receiver, properly tuned and receiving a reasonably strong signal, would have to be in extremely close proximity to one of the manufacturers low powered transmitters in order for interference to television reception to result. We recognize, however, that all of the restrictions and limitations that we have proposed, taken in conjunction with the inherent safeguards noted, may prove to be of little avail in some few places and circumstances. In view of this, we are proposing to impose a duty upon Manufacturers Radio Service licensees using the subject frequencies, to maintain a continuing evaluation of the potential for harmful interference to the reception of television signals on channels 4 or 5. And, indeed, should interference result, licensees will be required to take such measures as are necessary to eliminate it, including if necessary a complete cessation of operations. All licenses will be issued subject to this specific condition.

16. The proposed amendments, which are to be found below, are issued under authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

17. Pursuant to the applicable procedures set forth in § 1.213 of the Commission's rules, interested persons may file comments on or before October 1, 1963, and reply comments on or before November 1, 1963. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

18. In accordance with the provisions set forth in § 1.54 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: July 24, 1963.

Released: July 26, 1963.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
*Secretary.*

Parts 2 and 11 are amended as follows:

1. In § 2.106, a new footnote designator, NG —, is added in Column 7 for the frequency bands 72–73 and 75.4–76 Mc/s; and a new footnote is added to the table to read as follows:

**§ 2.106 Table of Frequency Allocations.**

* * * * *

NG — The frequencies 72.02, 72.04, 72.06, 72.08, 72.10, 72.12, 72.14, 72.16, 72.18, 72.20, 72.22, 72.24, 72.26, 72.28, 72.30, 72.32, 72.34, 72.36, 72.38, 72.40, 72.44, 72.48, 72.52, 72.56, 72.60, 75.44, 75.48, 75.52, 75.56 and 75.60 Mc/s may be authorized for low powered (one watt input) mobile operations in the Manufacturers Radio Service.

2. In § 11.729, the text of paragraph (d) is deleted and a new paragraph (d) is inserted in lieu thereof.

**§ 11.729 Station limitations.**

* * * * *

(d) Mobile stations proposed to be operated on frequencies from within the 72 and 75 Mc/s bands will be authorized subject to the following exemptions and conditions:

(1) Authorizations for multiple frequency operations will be granted notwithstanding the provisions of § 11.8(c).

(2) All communications must be conducted within the boundaries or confines of plant, factory, shipyard, mill or other manufacturing areas, which are occupied and controlled by the licensee.

(3) All operation on frequencies in the 72 and 75 Mc/s bands is subject to the condition that no interference is caused to the reception of television stations operating on Channels 4 or 5. Interference will be considered to occur whenever reception of a regularly used television signal is impaired by signals radiated by stations operating under these rules in the 72 and 75 Mc/s bands, regardless of the quality of such reception or the strength of the signal so used. In order to minimize the hazard of such interference, it shall be the duty of the licensee to determine whether interference is being caused to television reception, wherever television receivers other than those under the control of the licensee, are located within 100 feet of any point where the stations licensed under these rules may be operated. In any case, it shall be the responsibility of the licensee to correct at its own expense, any such interference and if the interference cannot be eliminated by the application of suitable techniques, the operation of the offending transmitter shall be suspended. If the complainant refuses to permit the licensee to apply remedial techniques which demonstrably will eliminate the interference without impairment of the

[1] Concurring statement by Commissioner Robert T. Bartley filed as part of original document.

original reception, the licensee is absolved of further responsibility.

3. The table in § 11.730( a) is amended by adding the following entries in numerical order:

§ 11.730 **Frequencies available.**

(a) * * *

| Frequency | Class of station(s) | Limitations |
|---|---|---|
| * * * | * * * | * * * |
| 72.02 | Mobile | 7, 8 |
| 72.04 | do | 7, 8 |
| 72.06 | do | 7, 8 |
| 72.08 | do | 7, 8 |
| 72.10 | do | 7, 8 |
| 72.12 | do | 7, 8 |
| 72.14 | do | 7, 8 |
| 72.16 | do | 7, 8 |
| 72.18 | do | 7, 8 |
| 72.20 | do | 7, 8 |
| 72.22 | do | 7, 8 |
| 72.24 | do | 7, 8 |
| 72.26 | do | 7, 8 |
| 72.28 | do | 7, 8 |
| 72.30 | do | 7, 8 |
| 72.32 | do | 7, 8 |
| 72.34 | do | 7, 8 |
| 72.36 | do | 7, 8 |
| 72.38 | do | 7, 8 |
| 72.40 | do | 7, 8 |
| 72.44 | do | 8 |
| 72.48 | do | 8 |
| 72.52 | do | 8 |
| 72.56 | do | 8 |
| 72.60 | do | 8 |
| 75.44 | do | 8 |
| 75.48 | do | 8 |
| 75.52 | do | 8 |
| 75.56 | do | 8 |
| 75.60 | do | 8 |

4. Section 11.730(b) is amended by revising subparagraph (1) and adding new subparagraphs (7) and (8).

§ 11.730 **Frequencies available.**

* * * * *

(b) * * *

(1) This frequency is shared with the Forest Products and Petroleum Radio Services. The plate power input to the final radio frequency stage of all transmitters operating on this frequency shall not exceed 180 watts.

* * * * *

(7) This frequency is shared with stations in the Fixed Service, and is subject to no protection from interference.

(8) The maximum transmitter final amplifier plate input power that will be authorized on this frequency is 1 watt. The antennas of all transmitters operating on this frequency must be directly mounted or installed upon the transmitting unit. Horizontal polarization will not be allowed; and the gain of antennas employed shall not exceed that of a half wave dipole. The maximum bandwidth that will be authorized is 20 kc/s This frequency is available for voice or tone control transmissions, and subject to the condition that harmful interference will not be caused to the reception of television channels 4 or 5. No protection from television interference will be afforded licensees operating on this frequency.

[F.R. Doc. 63-8053; Filed, July 31, 1963; 8:45 a.m.]

## [ 47 CFR Part 3 ]

[Docket No. 15138; FCC 63-725]

## TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS

### Staunton-Waynesboro, Va.; Notice of Proposed Rule Making

1. Notice is hereby given of proposed rule making in the above-captioned matter; RM-262.

2. The Commission has before it for consideration a petition filed on May 31, 1961, by Charlottesville Broadcasting Corporation, licensee of standard and FM radio broadcast stations at Charlottesville, Virginia (WINA and WINA-FM), requesting rule making on a proposal to assign Channel 11 to Staunton and Waynesboro, Virginia, on a hyphenated basis. In a subsequent pleading, filed July 13, 1961, in reply to oppositions to its rule making request, petitioner modified its proposal to request that Channel 11 plus rather than Channel 11 even be assigned to Staunton-Waynesboro and that the offset carrier designation of Channel 11 at Durham, North Carolina, be changed from Channel 11 plus to Channel 11 even. The modified proposal would require Station WTVD at Durham to operate on Channel 11 even instead of Channel 11 plus and would amend the television Table of Assignments as follows:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Staunton, Va | 36 | 36 |
| Waynesboro, Va | 42 | 42 |
| Staunton-Waynesboro, Va | | 11+ |
| Durham, N.C | 11+, *40-, 46+, 73- | 11, *40-, 46+, 73- |

*Parties filing responses to petition.* 3. A statement supporting petitioner's proposal was received from Virginia Broadcasting Company, licensee of Radio Station WELK (AM) at Charlottesville. Another statement, supporting the rule making request but taking no position on the proposal itself, was filed by Associated Universities, Inc., a non-profit corporation chartered by the New York State Board of Regents, which constructed and operates the National Radio Astronomy Observatory at Green Bank, West Virginia, under a contract with the National Science Foundation.

4. Oppositions to the proposal were received from The Hearst Corporation, licensee of Station WBAL-TV (Channel 11), Baltimore, Maryland; Shenandoah Valley Broadcasting, Inc., licensee of Station WSVA-TV (Channel 3), Harrisonburg, Virginia; and from the U.S. Navy Representative, Interdepartment Radio Advisory Committee, for the Department of the Navy which has a Naval Radio Research Observatory at Sugar Grove, West Virginia. Petitioner filed a reply to the Hearst and Shenandoah Valley oppositions. The Commission has also exchanged correspondence with the Navy Department on the subject proposal which has been placed in the public file on RM-262. On February 28, 1963, petitioner filed a letter requesting prompt action on its petition, and on March 28, 1963, a responsive letter thereto was received from Associated Universities which reaffirms its support for rule making on petitioner's proposal.

*Television situation in area involved.* 5. Staunton (1960 population 22,232) and Waynesboro (1960 population 15,694), some 15 miles to the southeast of Staunton, are located in the Shenandoah Valley of western Virginia in Augusta County (1960 population 37,363, exclusive of the independent cities of Staunton and Waynesboro). Neither city has a television outlet, and there are no applications pending for the lone UHF assignment of each city. The only operating television station in the area is Station WSVA-TV, which has been in operation on Channel 3 at Harrisonburg, Virginia (1960 population 11,916), since 1953.[1] Harrisonburg is approximately 25 miles northeast of Staunton and 30 miles north of Waynesboro. The nearest other VHF stations are at Richmond, over 90 miles from both Staunton and Waynesboro, and at Roanoke and Lynchburg, Virginia, roughly 75 and 55 miles, respectively, from Staunton and 80 and 50 miles, respectively, from Waynesboro.

6. There are no unused VHF channel assignments in this area, and there are no UHF stations in operation at this time. The nearest UHF stations to Staunton-Waynesboro are at Washington, D.C., some 120 miles away, and at Parkersburg, West Virginia, some 150 miles away. An application, filed January 29, 1963, by Virginia Broadcasting Corporation, is now pending, however, for a first local station on UHF Channel 64 at Charlottesville, Virginia (1960 population 29,427), which is approximately 25 miles to the east of Waynesboro and about 32 miles to the southeast of Staunton. In a pending petition for rule making (RM-328), filed March 8, 1963, Shenandoah Valley Broadcasting at Harrisonburg (WSVA-TV) requests the assignment of a second UHF channel (Channel 74) to Charlottesville for commercial use and states that, if assigned, it will apply for its use.

7. Several applications are also on file for VHF translator stations at Waynesboro, Staunton and Harrisonburg. Shenandoah Valley Broadcasting has ap-

[1] Community antenna systems have been operating in Staunton and Harrisonburg since 1952. The 1962-63 Edition of Television Factbook reports the Staunton system to have 1,150 subscribers, and the Harrisonburg system, 2,100 subscribers. The Staunton operation restransmits signals from Stations WRVA-TV, Richmond; WTTG and WTOP-TV, Washington, D.C.; WSVA-TV, Harrisonburg; and WXEX-TV, Petersburg, Virginia. The Harrisonburg system retransmits signals from Stations WSVA-TV, Harrisonburg; WTTG, WTOP-TV and WRC-TV, Washington, D.C. and WRVA-TV, Richmond.

plied for authority to operate translator stations on Channel 11 at Staunton and Waynesboro to improve Station WSVA–TV's service in this area. While both Staunton and Waynesboro are well within Station WSVA–TV's predicted Grade B contour, Shenandoah Valley states that its signal has coverage abnormalities in parts of these communities. Applications of Haven & Martin, Inc. (WTVR, Channel 6, Richmond) request use of Channel 11 also for translator stations at Staunton, Waynesboro, and Harrisonburg, to rebroadcast the signals of Station WTVR. Richmond Television Corporation (WRVA–TV, Channel 12, Richmond) has applied for authority to operate Channel 5 translator stations at Staunton, Waynesboro and Harrisonburg to rebroadcast the signals of Station WRVA–TV. UHF translator stations are operating on Channels 70 and 80 at Moorefield, West Virginia, approximately 60 miles north of Staunton and 40 miles to the northwest of Harrisonburg.

*Radio interference protection zone.* 8. Staunton, Waynesboro and Harrisonburg are within the radio interference protection zone for radio astronomy observations at the National Radio Astronomy Observatory (NRAO), Green Bank, West Virginia, and at the Naval Radio Research Observatory (NRRO), Sugar Grove, West Virginia, about 30 miles to the northeast of Green Bank. This protection zone, commonly called the "National Radio Quiet Zone", is within a geographically defined rectangle, approximately 125 by 100 miles, in western Virginia and eastern West Virginia and encloses the sites of NRRO at Sugar Grove and NRAO at Green Bank. Charlottesville is located just outside the southeastern side of the zoned rectangle. The Commission amended its rules in 1958 to provide for this protection zone upon deciding that it would be in the public interest to provide maximum practicable protection from interference to radio astronomy measurements at Green Bank and Sugar Grove without unduly disrupting existing radio services.[2] The rules adopted established an administrative procedure for close technical coordination and cooperation between applicants for new or modified radio transmitting facilities within the protection zone and the radio astronomy interests at Green Bank and Sugar Grove.[3] They do not, however, place any specific limitation on the assignment or use of any radio frequencies or on the signal strengths radiated by stations within the protection zone. When objections are received from NRAO for itself or on behalf of NRRO to an application, the Commission considers all public interest and other aspects of the problem and takes whatever action it finds to be appropriate.

*Arguments for rule making on proposal.* 9. Petitioner, Charlottesville Broadcasting Corporation, urges that the assignment of Channel 11 to Staunton-Waynesboro would enable these communities to have a first local outlet and that they can support a local station. Data on the retail trade, wholesale trade, and manufacturing in these communities and in Augusta County were submitted to buttress the latter contention. Petitioner states that, if Channel 11 is assigned to Staunton-Waynesboro, it will immediately apply for use of the channel. Virginia Broadcasting supports in principle the proposed assignment of a VHF channel to serve the Staunton-Waynesboro area and states that it too would give serious consideration to applying for Channel 11 if the assignment is made.

10. Petitioner avers that the assignment of Channel 11 to Staunton-Waynesboro conforms with all spacing and other technical requirements of the rules and would require no change in existing television channel assignments or affect existing stations except to require Station WTVD at Durham to change its offset operation from Channel 11 plus to Channel 11 even under its modified proposal. This change, it asserts, can be accomplished relatively easily for approximately $500.00, and it offers, if it become the successful applicant for Channel 11 at Staunton-Waynesboro, to pay this estimated cost of the offset change for Station WTVD.

11. The subject petition demonstrates that it would be technically feasible to operate a Channel 11 Staunton-Waynesboro station from a transmitter site on Little North Mountain in Augusta County, approximately 16 miles southwest of the center of Staunton and 26 miles west of the center of Waynesboro. This assumed Channel 11 site is calculated to meet the 170-mile co-channel separation requirement from co-channel stations, the nearest co-channel stations being 170.5 miles (WIIC, Pittsburgh, Pa.); 170.2 miles (WBAL–TV, Baltimore, Md.); and 169.6 miles[4] (Station WTVD at Durham) from the assumed site. It also meets the 60-mile adjacent channel separation requirement since the nearest adjacent channel station (WSLS–TV at Roanoke) is calculated to be 73.8 miles from the assumed Channel 11 site on Little North Mountain. In its February 27, 1963, letter, petitioner claims that a Channel 11 station at this assumed site, utilizing power of 316 kw and antenna height of 1,000 feet above average terrain, would contain a population of approximately 133,000 in an area of 3,140 square miles within its predicted Grade A contour which is not now within the Grade A contour of any other television station.

12. Associated Universities urges rule making on the subject proposal but states that before it is in position to comment on the proposal it needs to make measurements, utilizing a test transmitter at petitioner's assumed site for a Channel 11 Staunton-Waynesboro operation, to analyze the interference effect upon NRAO operations at Green Bank. If the proposal is put to rule making, it states that it will proceed to take such measurements within the time afforded for comments and file comments supported by the details of the measurements expressing its position on the proposal. In its March 28, 1963, letter, Associated Universities informs that its position on the subject petition remains the same and that the work of NRAO at Green Bank is being actively pursued and that its activities are expanding.

*Opposing arguments.* 13. The Hearst Corporation opposed the subject petition because the proposed use of Channel 11 at Staunton-Waynesboro would necessarily involve operation on a non-offset basis with one of the three co-channel stations operating with different offsets approximately 170 miles from petitioner's assumed Channel 11 site (Hearst's Baltimore station, WBAL–TV, operating on Channel 11 minus; Station WIIC, operating on Channel 11 even at Pittsburgh; or Station WTVD, operating on Channel 11 plus at Durham). Hearst states that the VHF minimum mileage separation rules were established upon the assumption that co-channel stations operating at or near the minimum separations would operate on an offset basis. It was to avoid this non-offset problem that petitioner modified its original proposal, proposing Channel 11 plus for Staunton-Waynesboro and Channel 11 even in lieu of Channel 11 plus for Station WTVD at Durham. Under this proposed offset plan, petitioner points out that the nearest co-channel non-offset operation to the proposed Channel 11 plus assignment at Staunton-Waynesboro would be Station WPIX at New York City, 341.5 miles away, and that Station WTVD, operating, as proposed, on Channel 11 even, would be 288.5 miles from the nearest co-channel non-offset operation of Station WTOC–TV at Savannah, Georgia.

14. Shenandoah Valley opposes the proposal in main because of its conviction that the Shenandoah Valley area cannot support two local television stations. It states that the decision to establish Station WSVA–TV at Harrisonburg was based in large part upon a belief that mileage separation requirements precluded additional local VHF stations in the comparatively sparsely populated Shenandoah Valley, and it asserts that the economic consequences of the proposed assignment of Channel 11 at Staunton-Waynesboro upon Station WSVA–TV's service cannot be disregarded. Shenandoah Valley claims that, although its Harrisonburg station is the only television station in the Harrisonburg - Staunton - Waynesboro-Charlottesville area, it does not enjoy a monopoly position inasmuch as it experiences substantial and meaningful competition in various parts of its service area from VHF stations at Washington, D.C., and at Richmond, Petersburg, and Roanoke, Virginia. It alleges that Station WSVA–TV's economic survival has been marginal despite the fact that it patterns its programming for the entire Shenandoah Valley area, including Waynesboro and Staunton, and draws needed advertising revenues from both towns. Shenandoah Valley is also of the view that only limited use could be made

[2] See report and order, released November 24, 1958, Docket No. 11745 (17 Pike and Fischer 1738).

[3] Section 3.623 of the rules contains the provisions applicable to the television broadcast service.

[4] Under § 3.611 of the rules, the distance between the two reference points may be rounded off to the nearest mile.

of Channel 11 in the Staunton-Waynesboro area if harmful interference to NRAO and NRRO astronomy work at Green Bank and Sugar Grove is to be avoided. It urges that the public interest demands denial of the subject petition and notes that this would pave the way for a grant of its pending VHF translator applications to improve Station WSVA–TV's service in parts of Staunton and Waynesboro.

15. The Department of the Navy advised by letter, dated July 1, 1961, that it objected to a Channel 11 station at the transmitter site assumed by petitioner or at any location within the "National Quiet Zone" (see paragraph 8), which would provide a signal at the NRRO Sugar Grove main site in excess of 0.1 microvolt per meter. It stated that the Naval Research Laboratory had determined from a preliminary engineering study that the Navy Sugar Grove site would receive approximately 1200 microvolts of signal from a Channel 11 station employing maximum power of 316 kw at petitioner's assumed site. Since then, however, the Navy's plans for construction of a 600-foot radio telescope at Sugar Grove have been cancelled, and it has advised that its plans and protection requirements were being reevaluated. We recently received a communication from the Department of Defense with respect to the subject proposal, dated April 12, 1963, forwarded by the Director of Telecommunications Management, Office of Emergency Planning, Executive Office of the President. The Department advised that it has no objection to rule making on the proposal to assign Channel 11 to Staunton-Waynesboro but objects to its adoption. The Director of Telecommunications Management also registered objection to the proposal's adoption. The Department's letter, however, was not explicit on NRRO interference protection requirements at Sugar Grove at this time. The letter stated, in pertinent part, as follows:

> The Navy, in its effort to meet highest priority national requirements, is undertaking research and development demanding the most advanced technology in the field of low level radio signal detection. The Naval Research Laboratory has developed and demonstrated the basic techniques involved and has produced specific plans for the instrumentation and facilities at Sugar Grove to accomplish this research. It is expected that coordination of details in this regard (engineering specifications and budgetary estimates) will be completed within the Department of Defense by July 1, 1963. * * *
>
> In addition to the Navy's requirements, the current and future national exploitation of space will require radio quiet areas. The Sugar Grove site could be used for many of these purposes as well as meet the Navy's requirements. In fact, other agencies such as NASA have already requested the Navy to conduct research which requires such a quiet area. These facts make it important to perpetuate the Sugar Grove Radio Quiet Zone as a national resource.
>
> The establishment of a Channel 11 TV Station for the Staunton-Waynesboro Area would introduce incompatible radio frequency interference at the Navy Sugar Grove site. This would reduce seriously the effectiveness of the quiet zone for both planned and future research purposes, and thus is not considered to be in the best interest of the Navy or the United States.

*Decision to put proposal to rule making.* 16. With only Station WSVA–TV at Harrisonburg now operating in the Staunton-Waynesboro area of the Shenandoah Valley, it is evident that the public in this area would benefit from additional outlets and services. Petitioner's proposal to assign Channel 11 plus to Staunton-Waynesboro appears technically feasible from the standpoint of television broadcast assignment requirements, but this is but one factor to be considered in deciding whether the adoption of the proposal would serve the public interest. It appears that a Channel 11 station in the Staunton-Waynesboro area might have an adverse impact upon radio astronomy plans in the radio interference protection zone. It also appears that the assignment of a second VHF channel to this area of the Shenandoah Valley might have a significant adverse impact upon UHF development in this area and preclude the establishment of a greater number of local outlets and services. While there was no evidence of any prospect of UHF development in this area at the time the subject petition was filed, there is now an application on file for Channel 64 at Charlottesville. We believe that it would be desirable in evaluating the subject Channel 11 proposal in light of these and other factors to give the radio astronomy interests and other interested parties an opportunity in a rule making proceeding to submit comments and data which will be helpful to us in reaching a final decision on the proposal which best reflects the public interest.

*Procedure for filing comments.* 17. Pursuant to the applicable procedures set out in § 1.213 of the rules, interested parties may file comments on or before September 16, 1963, and reply comments on or before October 1, 1963. All submissions by parties to this proceeding or by persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

18. Authority for the adoption of the amendments proposed herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

19. In accordance with the provisions of § 1.215 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Attention is directed to the provisions of paragraph (c) of § 1.215 which require that any person desiring to file identical documents in more than one docketed rule making proceeding shall furnish the Commission two additional copies of any such document for each additional docket unless the proceedings have been consolidated.

Adopted: July 25, 1963.

Released: July 29, 1963.

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

[F.R. Doc. 63–8117; Filed, July 31, 1963; 8:57 a.m.]

# FEDERAL POWER COMMISSION

## [ 18 CFR Parts 101, 201 ]

[Docket No. R–232]

## PUBLIC UTILITIES, LICENSEES AND NATURAL GAS COMPANIES

### Proposed Accounting Treatment of Investment Tax Credit; Postponement of Oral Argument

JULY 25, 1963.

It appears that the oral argument now scheduled for August 6, 1963, should be postponed so as to permit the full membership of the Commission to hear oral argument. It is expected that a new member will be appointed to the Commission by the President in the near future by and with the advice and consent of the Senate.

Notice is hereby given that the oral argument now scheduled for August 6, 1963, is hereby postponed to a date to be hereafter fixed by further notice.

By direction of the Commission.

GORDON M. GRANT,
*Acting Secretary.*

[F.R. Doc. 63–8070; Filed, July 31, 1963; 8:46 a.m.]

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[Docket No. R–242]

## [ 18 CFR Part 154 ]

## GAS PIPELINE TARIFFS

### Proposed Unauthorized Overrun Penalty Provisions; Extension of Time for Filing Comments

JULY 25, 1963.

Take notice that an extension of time is granted to and including September 19, 1963, within which any interested person may submit to the Federal Power Commission, Washington 25, D.C., data, views and comments concerning the amendments proposed in the above-designated matter by the notice of proposed rule making issued July 15, 1963.

GORDON M. GRANT,
*Acting Secretary.*

[F.R. Doc. 63–8071; Filed, July 31, 1963; 8:46 a.m.]

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## [ 18 CFR Parts 154, 157, 250 ]

[Docket No. R–244]

## RATE FILINGS AND CERTIFICATE APPLICATIONS BY INDEPENDENT PRODUCERS

### Notice of Extension of Time to Submit Comments

JULY 25, 1963.

Take notice that an extension of time is granted to and including September 19, 1963, within which any interested person may submit to the Federal Power Commission, Washington 25, D.C., data, views and comments concerning the amendments proposed in the above-designated

matter by the notice of proposed rule making issued July 15, 1963.

GORDON M. GRANT,
*Acting Secretary.*

[F.R. Doc. 63-8073; Filed, July 31, 1963; 8:47 a.m.]

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## [ 18 CFR Parts 155, 260 ]

[Docket No. R-243]

## NATURAL GAS COMPANIES; MAIN LINE DIRECT INDUSTRIAL SALES

### Proposed Annual Report Form; Extension of Time for Filing Comments

JULY 25, 1963.

Take notice that an extension of time is granted to and including September 19, 1963, within which any interested person may submit to the Federal Power Commission, Washington 25, D.C., data, views and comments concerning the amendments proposed in the above-designated matter by the notice of proposed rule making issued July 15, 1963.

GORDON M. GRANT,
*Acting Secretary.*

[F.R. Doc. 63-8072; Filed, July 31, 1963; 8:47 a.m.]

# INTERSTATE COMMERCE COMMISSION

## [ 49 CFR Parts 142, 183 ]

[Ex Parte Nos. 73, MC-1]

## EXTENSION OF CREDIT TO SHIPPERS

### Rates and Charges; Notice of Proposed Rule Making

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 15th day of July A.D., 1963.

It appearing, that the Interstate Commerce Commission has, on occasion, prescribed rules and regulations, including modifications thereof, pertaining to the extension of credit to shippers by railroads and motor common carriers of property operating in interstate or foreign commerce. See Regulations for Payment of Rates and Charges, 57 I.C.C. 591, 59 I.C.C. 456, 63 I.C.C. 375, 69 I.C.C. 351, 171 I.C.C. 268, 273 I.C.C. 681, 310 I.C.C. 391, 313 I.C.C. 97, and Payment of Rates and Charges of Motor Carriers, 2 M.C.C. 365.

It further appearing, that alleged abuses of said rules and regulations have been called to our attention, such as a petition filed May 24, 1962, by the National Association of Freight Forwarders, Inc., requesting modification of § 142.8 of the Code of Federal Regulations, 49 CFR Part 142, Extension of Credit to Shippers; that under present rules and regulations carriers are able to extend very liberal credit to shippers with little or no protective provisions to assure payment; that modification of said rules and regulations may be necessary; and that interested parties should be afforded an opportunity to present evidence relative to such modification or change:

*It is ordered,* That (1) the above-entitled proceedings be, and they are hereby, reopened and that a proceeding be, and it is hereby, instituted under the authority of Parts I and II of the Interstate Commerce Act (section 3(2) as to railroads and section 223 as to motor common carriers of property) and section 4 of the Administrative Procedure Act for the purpose of determining whether and to what extent the currently effective rules and regulations pertaining to the extension of credit to shippers by railroads and motor common carriers of property operating in interstate or foreign commerce should be modified or changed, and (2) the petition of the National Association of Freight Forwarders, Inc., be, and it is hereby, consolidated for further hearing with the instant proceedings.

Issues to be considered and determined in these proceedings, among others are:

I. Should § 142.8 of the Code of Federal Regulations be modified so as to require that sufficient information to render a freight bill be made available to the railroad within a reasonable period of time after delivery or after the shipment leaves the origin?

II. Should the credit regulations distinguish between prepaid and collect shipments?

III. Should similar provisions be made applicable to motor common carriers of property?

IV. Should carriers parties to these proceedings be required to obtain a surety bond from shippers before extending credit?

Matters to be considered in these proceedings bearing upon the above-described issues shall include but not be limited to:

I. All practices involved in the extension of credit to shippers, and, in particular, the supplying of billing information by shippers;

II. Re-examination of existing Commission precedents and pronouncements governing the extension of credit by railroads and motor common carriers of property;

III. The need for additional rules and regulations, if any, to control, in the public interest, the extension of credit;

IV. The existence of unjust discrimination or undue preference or prejudice in the extension of credit; and

V. All related matters inherent in or pertaining to the basic purposes of this investigation.

*It is further ordered,* That the Bureau of Inquiry and Compliance of this Commission be, and it is hereby, authorized and directed to participate in these proceedings for the purpose of developing the evidence and the issues.

*It is further ordered,* That all railroads and motor common carriers of property operating in interstate or foreign commerce, subject to the Interstate Commerce Act, be, and they are hereby, made respondents in the instituted rule-making proceeding.

*It is further ordered,* That all respondents herein or any other interested parties, including shippers or carriers of any other mode, whether or not subject to the Interstate Commerce Act, be, and they are hereby, invited to submit to this Commission, on or before October 7, 1963, preliminary representations[1] consisting of an original and 20 copies, setting forth facts relating to the extension of credit by railroads and motor common carriers of property and the practices connected therewith. Two additional copies of said representations must be served on each of the Field Offices listed in the appendix hereto where they will be made available for public inspection.

*It is further ordered,* That, in accordance with § 1.68 of the Commission's general rules of practice, the proceedings be, and they are hereby, assigned for a prehearing conference on December 9, 1963, at 9:30, U.S. standard time, at the offices of the Interstate Commerce Commission, Washington, D.C., for the purposes specified in the said rule, including, but not limited, to:

I. Agreeing upon special procedures to expedite and control the handling of these proceedings and the production and submission of evidence on the issues presented;

II. Agreeing as to the time and place or places of any hearing or hearings which may be required;

III. Determining the practicability and desirability of all parties exchanging exhibits covering the above-noted issues and evidence in advance of hearing;

IV. Ascertaining the need, if any, of the entry of a supplemental order changing the scope of the proceedings; and

V. Determining any other matters by which the processing of the proceedings can be expedited, simplified, or the Commission's handling thereof aided.

*And it is further ordered,* That a copy of this order be served on the Public Utility Commissions or Boards, or similar regulatory bodies, of each State having jurisdiction over the transportation here involved; that a copy be posted in the Office of the Secretary of the Interstate Commerce Commission for public inspection; and that a copy be delivered to the Director, Division of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

By the Commission.

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

APPENDIX

FIELD OFFICES WHERE CERTAIN MATERIAL RELATIVE TO THIS PROCEEDING WILL BE AVAILABLE FOR PUBLIC INSPECTION

*Boston 8, Mass.*

14-17 Court Square, 11th Floor,
Bureau of Motor Carriers,
Interstate Commerce Commission,
Martin E. Foley, District Director.

*New York 13, N.Y.*

Room 1111, 346 Broadway,
Bureau of Motor Carriers,
Interstate Commerce Commission,
Thomas L. McClelland, District Director.

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[1] In lieu of verification under oath, any statement of facts contained in the representations may be made subject to the following declaration: "I solemnly declare that I have examined the foregoing document and that to the best of my knowledge and belief the representations of fact contained therein are true." (Signature.)

*Philadelphia 6, Pa.*

800 U.S. Custom House Building,
Second and Chestnut Streets,
Bureau of Motor Carriers,
Interstate Commerce Commission,
James B. Weber, District Director.

*Columbus 15, Ohio*

236 New Post Office Building,
85 Marconi Boulevard,
Bureau of Motor Carriers,
Interstate Commerce Commission,
Roy M. Snetzer, District Director.

*Atlanta 8, Ga.*

680 West Peachtree Street NW.,
Bureau of Motor Carriers,
Interstate Commerce Commission,
William Addams, District Director.

*Nashville 3, Tenn.*

Room 706, U.S. Courthouse,
801 Broadway,
Bureau of Motor Carriers,
Interstate Commerce Commission,
Edward A. Moynihan, District Director.

*Chicago 7, Ill.*

852 U.S. Customshouse Building,
610 South Canal Street,
Bureau of Motor Carriers,
Interstate Commerce Commission,
James J. Werner, District Director.

*Minneapolis 1, Minn.*

448 Federal Building and Courthouse,
110 South Fourth Street,
Bureau of Motor Carriers,
Interstate Commerce Commission,
Charles W. Haas, District Director.

*Kansas City 6, Mo.*

1100 Federal Office Building,
911 Walnut Street,
Bureau of Motor Carriers,
Interstate Commerce Commission,
H. Joseph Simmons, District Director.

*Fort Worth 2, Texas*

816 T.&P. Building,
Bureau of Motor Carriers,
Interstate Commerce Commission,
Bernard H. English, District Director.

*Denver 2, Colorado*

502 Denham Building,
Bureau of Motor Carriers,
Interstate Commerce Commission,
Bert L. Penn, District Director.

*Portland 5, Oregon*

538 Pittock Block,
Bureau of Motor Carriers,
Interstate Commerce Commission,
Norman T. Harris, District Director.

*San Francisco 5, Calif.*

602 Sheldon Building,
9 First Street,
Bureau of Motor Carriers,
Interstate Commerce Commission,
Marvin W. Van Cleave, District Director.

*Anchorage, Alaska*

P.O. Box 1532,
Room 51–52 Federal Building,
Bureau of Motor Carriers,
Interstate Commerce Commission,
Hugh H. Chaffee, District Director.

[F.R. Doc. 63–8094; Filed, July 31, 1963; 8:52 a.m.]

# Notices

## DEPARTMENT OF THE TREASURY

### Bureau of Customs

[T.D. 55953]

### COTTON TEXTILES PRODUCED OR MANUFACTURED IN KOREA

### Restriction on Entry

JULY 26, 1963.

There is published below a letter of July 19, 1963, from the Chairman, President's Cabinet Textile Advisory Committee, which directs that as soon as possible and through August 24, 1963, not more than 100,000 square yards of cotton textiles in Category 22, manufactured or produced in Korea, which were exported from Korea to the United States on or after June 26, 1963, be allowed entry for consumption or withdrawal from warehouse for consumption in the United States (including the Commonwealth of Puerto Rico). This restriction became effective July 22, 1963.

Collectors of customs and appraisers of merchandise have been advised of the procedures to be followed in carrying out this directive and have been instructed to bring such procedures to the attention of all interested parties.

[SEAL] PHILIP NICHOLS, JR.,
*Commissioner of Customs.*

THE SECRETARY OF COMMERCE,
*Washington 25, D.C.,*
*July 19, 1963.*

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,*
*Washington, D.C.*

DEAR MR. COMMISSIONER: The United States Government on June 26, 1963, in furtherance of the objectives of, and under the terms of, the Long Term Arrangement Regarding International Trade done at Geneva on February 9, 1962, requested the Government of Korea to restrain the export of cotton textiles and cotton textile products in Category 22 to the United States during the twelve-month period beginning June 26, 1963. The Long Term Arrangement is an agreement contemplated by Section 204 of the Agricultural Act of 1956, as amended.

Because of critical circumstances where an undue concentration of cotton textiles and cotton textile products, which are the subject matter of the request to the Government of Korea, are threatening to cause disruption of the domestic markets of the United States and damage difficult to repair, you are directed, under the terms of the Long Term Arrangement, including Article 6 relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, to prohibit, effective as soon as possible, and for the period extending through August 24, 1963, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Category 22 produced or manufactured in Korea, in excess of the levels of restraint provided:

| Category: | *Level of restraint* |
|---|---|
| 22 | 100,000 square yards. |

These levels have not been corrected to reflect entries, if any made from June 26, 1963 to date.

In carrying out this directive, you shall allow entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Category 22, produced or manufactured in Korea, when the cotton textiles and cotton textile products sought to be entered have been exported to the United States from Korea prior to the initial date of the twelve-month period of restraint, regardless of whether the restraint level has been filled. Goods in Category 22, from Korea, shipped prior to the initial date of the twelve-month period of restraint, are not to be counted against the restraint level even if not filled at the time of entry.

A detailed description of the listed category in terms of Schedule A numbers and U.S.I.D.A. numbers is attached.

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Korea and with respect to imports of cotton textiles and cotton textile products from Korea have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of section 4 of the Administrative Procedure Act. You are requested to publish this letter in the FEDERAL REGISTER.

Sincerely yours,

LUTHER H. HODGES,
*Secretary of Commerce, and Chairman, President's Cabinet Textile Advisory Committee.*

Enclosure:

SCHEDULE A AND U.S.I.D.A. COMPONENTS OF SELECTED INTERNATIONAL COTTON TEXTILE ARRANGEMENT CATEGORIES

| Category | Description | Schedule A number | U.S.I.D.A. number |
|---|---|---|---|
| 22 | Twill and sateen, carded | 3048 764 | 0904–0905 144* 444* 744* |
| | | 3048 768 | 0904–0905 172* 472* 772* |
| | | 3058 764 | 0904–0905 244* 544* 844* |
| | | 3058 768 | 0904–0905 272* 572* 872* |
| | | 3068 760 | 0904–0905 304* 604* 904* |
| | | 3068 764 | 0904–0905 344* 644* 944* |
| | | 3068 768 | 0904–0905 372* 672* 972* |

*The last digit represents average yarn number groups (e.g., 0 represents average yarn numbers 10 or lower; 3 represents average yarn numbers 21 through 25; 9 represents average yarn numbers over 60, etc.).

[F.R. Doc. 63-8106; Filed, July 31, 1963; 8:55 a.m.]

[T.D. 55954]

### COTTON TEXTILES PRODUCED OR MANUFACTURED IN POLAND

### Restrictions on Entry

JULY 26, 1963.

There is published below a letter of July 17, 1963, from the Chairman, President's Cabinet Textile Advisory Committee, which directs that as soon as possible and through September 13, 1963, not more than 100,000 square yards each of cotton textiles in Categories 5 and 6 manufactured or produced in Poland, which were exported from Poland to the United States on or after July 15, 1963, be allowed entry for consumption or withdrawal from warehouse for consumption in the United States (including the Commonwealth of Puerto Rico). This directive became effective on July 18.

Collectors of customs and appraisers of merchandise have been advised of the procedures to be followed in carrying out this directive and have been instructed to bring such procedures to the attention of all brokers, importers, and others concerned.

[SEAL] PHILIP NICHOLS, JR.,
*Commissioner of Customs.*

THE SECRETARY OF COMMERCE,
*Washington 25, D.C.,*
*July 17, 1963.*

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,*
*Washington, D.C.*

DEAR MR. COMMISSIONER: The United States Government on July 15, 1963, in furtherance of the objectives of, and under the terms of, the Long Term Arrangement Regarding International Trade done at Geneva on February 9, 1962, requested the Government of Poland to restrain the export of cotton textile and cotton textiles products in Categories 5 and 6 to the United States during the twelve-month period beginning July 15, 1963. The Long Term Arrangement is an agreement contemplated

by Section 204 of the Agricultural Act of 1956, as amended.

Because of critical circumstances where an undue concentration of cotton textiles and cotton textile products, which are the subject matter of the request to the Government of Poland, are threatening to cause disruption of the domestic markets of the United States and damage difficult to repair, you are directed, under the terms of the Long Term Arrangement, including Article 6 relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, to prohibit, effective as soon as possible, and for the period extending through September 13, 1963, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile and cotton textile products in Categories 5 and 6 produced or manufactured in Poland, in excess of the levels of restraint provided:

| Category: | *Level of restraint* |
|---|---|
| 5 | 100,000 square yards. |
| 6 | 100,000 square yards. |

These levels have not been corrected to reflect entries, if any, made from July 15, 1963 to date.

In carrying out this directive, you shall allow entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 5 and 6, produced or manufactured in Poland, when the cotton textiles and cotton textile products sought to be entered have been exported to the United States from Poland prior to the initial date of the twelve-month period of restraint, regardless of whether the restraint level has been filled. Goods in Categories 5 and 6, from Poland, shipped prior to the initial date of the twelve-month period of restraint, are not to be counted against the restraint level even if not filled at the time of entry.

A detailed description of the listed category in terms of Schedule A numbers and U.S.I.D.A. numbers is attached.

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Poland and with respect to imports of cotton textiles and cotton textile products from Poland have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of section 4 of the Administrative Procedure Act. You are requested to publish this letter in the FEDERAL REGISTER.

Sincerely yours,

LUTHER H. HODGES,
*Secretary of Commerce, and Chairman, President's Cabinet Textile Advisory Committee.*

Enclosure:

SCHEDULE A AND U.S.I.D.A. COMPONENTS OF SELECTED INTERNATIONAL COTTON TEXTILE ARRANGEMENT CATEGORIES

| Category | Description | Schedule A number | U.S.I.D.A. number |
|---|---|---|---|
| 5 | Gingham, carded | 3068 100 | 0904-0905 318*<br>618*<br>918* |
| 6 | Gingham, combed | 3068 150 | 0904-0905 319*<br>619*<br>919* |

*The last digit represents average yarn number groups (e.g., 0 represents average yarn numbers 10 or lower; 3 represents average yarn numbers 21 through 25; 9 represents average yarn numbers over 60, etc.).

[F.R. Doc. 63-8107; Filed, July 31, 1963; 8:55 a.m.]

## Office of the Secretary

[Dept. Circular Public Debt Series—No. 13-63]

## 3¾ PERCENT TREASURY NOTES OF SERIES F-1964

### Offering of Notes

JULY 25, 1963.

I. *Offering of notes.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions, at par, from the people of the United States for notes of the United States, designated 3¾ percent Treasury Notes of Series F-1964, in exchange for the following securities maturing August 15, 1963, singly or in combinations aggregating $1,000 or multiples thereof:

3½ percent Treasury Certificates of Indebtedness of Series C-1963; or 2½ percent Treasury Bonds of 1963.

The amount of the offering under this circular will be limited to the amount of eligible securities tendered in exchange and accepted. The books will be open only on July 29 throuh July 31, 1963, for the receipt of subscriptions for this issue.

II. *Description of notes.* 1. The notes will be dated August 15, 1963, and will bear interest from that date at the rate of 3¾ percent per annum, payable on a semiannual basis on November 15, 1963, and on May 15 and November 15, 1964. They will mature November 15, 1964, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, $1,000,000, $100,000,000, and $500,000,000. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States notes.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the office of the Treasurer of the United States, Washington, D.C. 20220. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. All subscribers requesting registered notes will be required to furnish appropriate identifying numbers as required on tax returns and other documents submitted to the Internal Revenue Service, i.e., an individual's social security number or an employer identification number.

3. The Secretary of the Treasury reserves the right to reject or reduce any subscription, and to allot less than the amount of notes applied for; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment for the face amount of notes allotted hereunder must be made on or before August 15, 1963, or on later allotment, and may be made only in securities of the two issues enumerated in paragraph 1 of section I hereof, which will be accepted at par, and should accompany the subscription. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number, as required by paragraph 2 of section III hereof, has not been furnished: *Provided, however,* If a subscriber has applied for but is unable to furnish the identifying number by the payment date only because it has not been issued, he may elect to receive, pending the furnishing of the identifying number, interim receipts and in this case payment will be deemed to have been completed. Coupons dated August 15, 1963, should be detached from the certificates and bonds in bearer form and cashed when due. In the case of registered bonds, the final interest due on August 15, 1963, will be paid by check drawn in accordance with the assignments on the bonds surrendered, or by credit in any account maintained by a banking institution with the Federal Reserve Bank of its District.

V. *Assignment of registered bonds.* 1. Treasury Bonds of 1963 in registered form tendered in payment for notes offered hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, in one of the forms hereafter set forth, and thereafter should be surrendered with the subscription to a Fed-

eral Reserve Bank or Branch or to the Office of the Treasurer of the United States, Washington, D.C., 20220. The maturing bonds must be delivered at the expense and risk of the holder. If the notes are desired registered in the same name as the bonds surrendered, the assignment should be to "The Secretary of the Treasury for exchange for 3¾ percent Treasury Notes of Series F–1964"; if the notes are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for 3¾ percent Treasury Notes of Series F–1964 in the name of _____"; if notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for 3¾ percent Treasury Notes of Series F–1964 in coupon form to be delivered to _____".

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for notes allotted, to make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] DOUGLAS DILLON,
*Secretary of the Treasury.*

[F.R. Doc. 63–8109; Filed, July 31, 1963; 8:55 a.m.]

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[Dept. Circ. 570, 1963 Rev. Supp. No. 2]

## EMMCO INSURANCE CO.

### Surety Company Acceptable on Federal Bonds

JULY 26, 1963.

A Certificate of Authority has been issued by the Secretary of the Treasury to the following company under the Act of Congress approved July 30, 1947, 6 U.S.C., secs. 6–13, as an acceptable surety on Federal bonds.

An underwriting limitation of $1,451,000.00 has been established for the company. Further details as to the extent and localities with respect to which the company is acceptable as surety on Federal bonds will appear in the next revision of Department Circular 570, to be issued as of June 1, 1964. Copies of the circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Surety Bonds Branch, Washington 25, D.C.

*State in Which Incorporated, Name of Company, and Location of Principal Executive Office*

Indiana, EMMCO Insurance Company, South Bend, Indiana.

[SEAL] JOHN K. CARLOCK,
*Fiscal Assistant Secretary.*

[F.R. Doc. 63–8108; Filed, July 31, 1963; 8:55 a.m.]

# DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## NEVADA

### Notice of Proposed Withdrawal and Reservation of Lands; Amendment

JULY 23, 1963.

The Bureau of Sport Fisheries and Wildlife has further amended their application Nevada 051097, published as F.R. Doc. 59–4056 on page 3892 of the issue for May 14, 1959, and amended and published as F.R. Doc. 63–5229 on page 4922 of the issue for May 16, 1963, to include the following additional lands:

MOUNT DIABLO MERIDIAN, NEVADA

T. 9 S., R. 62 E.,
Sec. 4, N½SW¼;
Sec. 5, S½N½, NE¼SW¼, N½SE¼.

The above area contains approximately 360 acres.

DONALD I. BAILEY,
*Acting Chief, Division of Lands and Minerals Management.*

[F.R. Doc. 63–8078; Filed, July 31, 1963; 8:47 a.m.]

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[Anchorage 058690]

## ALASKA

### Small Tract Classification Opening Order and Public Sale Number 21 ALD

JULY 26, 1963.

1. Pursuant to the authority redelegated to me from Bureau Order No. 684, dated August 28, 1961 (26 F.R. 6215) as amended, by the Alaska State Director in section 3, Delegation of Authority, dated January 9, 1963 (28 F.R. 294), I hereby open the lands listed below which are a part of the lands previously classified by Small Tract Classification Order 118 (F.R. Doc. 62–10394) and offer them for public sale (Public Sale No. 21 ALD) under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended.

2. The tracts involved are located on the eastern, northeastern, and southwestern shores of Lake Louise. This is the southernmost of a three lake chain consisting of Lakes Louise, Susitna, and Tyone. A short channel connects Louise with Susitna, Tyone, and the Tyone River, making travel by small boat possible over a distance of thirty to forty miles. Lake Louise is about 20 miles north of the Glenn Highway at a point approximately 156 miles northeasterly of Anchorage and 40 miles westerly of Glennallen, Alaska. The Glenn Highway is a paved road and the 20 mile access road has a graded and gravelled surface. The access road terminates on the southern shore of the lake at a public campground that has boat launching, docking, and car parking facilities. None of the tracts being offered has road access at this time. All but three of the tracts have frontage on the lake and are, therefore, accessible by boat or float plane. Easements are provided across the lake-shore lots lying in front so that the three tracts not having lake frontage have right of access to and from the lake.

Lake Louise is primarily a summer recreation area with boating, fishing, and hunting being the primary attractions. Approximately 100 cottages are located around the lake. There are six commercial enterprises that provide food, lodging, boats, motors, or gasoline. No electrical power, communication facilities, or other utilities are available at this time. Sites for summer cabins are the primary use to which the tracts being offered for sale are best suited.

3. The following applicants, having filed applications prior to October 11, 1962, are accorded a preference right as provided for by 43 CFR 257.5:

*Name, Serial No., and Land Applied for*

Klatt, Lester A.; A–057962; Lot 8, U.S. Survey 3486.
Rowley, Arlis R.; A–057821; Lot 9, U.S. Survey 3493.

These are identified on the following list by a double asterisk. Any of the above tracts for which the priority right is not exercised will, upon expiration of the priority period, be offered for sale to the public at the next sale session.

4. The tracts listed below will be offered for sale at a public auction to be held in the Anchorage Land Office on the third floor of the Cordova Building at 555 Cordova Street, Anchorage, Alaska, beginning at 11:00 a.m. on Friday, August 30, 1963. If all of the tracts are not sold on that day, the sale will be adjourned until 11:00 a.m. on Friday, September 6, 1963, when and thereafter it will be resumed in the Anchorage Land Office for another one hour period or until adjourned for resumption at 11:00 a.m. on succeeding Fridays for additional one hour periods until all tracts are sold or until the sale is otherwise terminated.

Bids may be made personally by an individual or his agent at the sale or by mail. Bids sent by mail will be considered at a sale session only if received at the Anchorage Land Office prior to 3:00 p.m. of the day preceding the particular sale session. At each sale session, those tracts will be offered for which timely filed sealed bids have been received or for which nominations are made by oral bidders present at the sale. Late filed sealed bids will be held for consideration at succeeding scheduled sessions if the lands for which the bid was submitted remain unsold.

Sealed bids will be opened in the presence of the public during the progress of the sale. No sealed bid will be accepted if it is less than the appraised price listed for the tract. No oral bid will be accepted unless it is at least $10 greater than the highest sealed bid, or if there be none, if it is less than the appraised price listed for the tract. Sealed bids must be in units of $10 unless otherwise specified at the sale.

5. Persons who have previously acquired a tract under the Small Tract Act are not qualified to purchase a tract at the sale unless they can make a showing satisfactory to the Bureau of Land Management that the acquisition of another tract is warranted under the circumstances.

In the event that the showing is not acceptable, the tract will again be offered for sale to the public at the next

sale session after such determination is final.

6. Each bid sent by mail must clearly show (a) the name and post office address of the bidder, (b) Small Tract Public Sale No. 21 ALD, and (c) the legal description of the land for which the bid is made, described in accordance with the list below. Each bid must be accompanied by the full amount of the bid in the form of a certified or cashier's check, post office money order(s), or bank draft made payable to the Bureau of Land Management. Each bid must be enclosed in a separte envelope, but payment need accompany only the highest bid, providing all other bids designate the envelope containing the payment. Each envelope must carry on its reverse side the following information and nothing else: (a) "Small Tract Public Sale No. 21–ALD," (b) the legal description of the tract for which the bid is made, in accordance with the list below.

7. Each tract will be awarded to the highest qualified bidder. If the highest bid is oral, the bidder will be required to make payment for the tract at the close of bidding. A personal check will be acceptable for that purpose.

8. The individual tracts vary in size as shown below. Right-of-way easements for roads and public utilities will be reserved as shown below. All minerals in the lands will be reserved to the United States. Desirability of these tracts varies greatly with some being excellent throughout, while others contain wet, steep, inaccessible, or other undesirable characteristics. Tracts not having lake frontage are indicated on the list below by a single asterisk. Prospective bidders are cautioned to carefully inspect the tract, if possible, or to fully acquaint themselves with its charactertistics by inspection of maps or other sources of information before offering to buy. All sales are final.

9. Notice is hereby given to the right of the undersigned or his delegate to re-appraise the tracts or to adjourn, postpone, or vacate this sale or continuances thereof in whole or in part at any time prior to, during or after completion of any sale session where such action appears to be necessary to protect the government's interest in the land.

10. A qualified purchaser of each tract in this sale will, upon tendering full payment thereof, receive a receipt as evidence of the sale. Patent will be issued to the purchaser at a later date without any further compliance or action upon the purchaser's part. There are no building requirements upon these tracts.

11. Inquiries concerning these lands should be addressed to the Manager, Anchorage Land Office, Cordova Building, 555 Cordova Street, Anchorage, Alaska. Copies of the U.S. Survey plats involved as well as a composite map of the entire lakeshore are available for sale.

The following tracts are offered for sale at public auction as noted above:

| Legal description | Easement | Acreage | Appraised price |
|---|---|---|---|
| U.S. Survey 3486: | | | |
| Lot 1 | 25′ on E., 50′ on W. | 3.43 | $850 |
| Lot 3 | 50′ on N. and S. | 4.40 | 900 |
| Lot 8 [2] | 25′ on N. | 4.96 | 1,060 |
| Lot 9 | 25′ on S. | 4.60 | 700 |
| Lot 11 [1] | 25′ on N. and S. | 5.00 | 300 |
| U.S. Survey 3487: | | | |
| Lot 1 | 50′ on E. and W. | 4.16 | 950 |
| Lot 6 | 50′ on S., 25′ on N. | 4.11 | 790 |
| Lot 7 | 25′ on N. and S. | 3.63 | 710 |
| Lot 8 | 25′ on N. and S. | 4.32 | 870 |
| Lot 9 | 25′ on N. and S. | 4.41 | 790 |
| Lot 10 | 25′ on N. and S. | 4.26 | 830 |
| Lot 11 | 25′ on N. and S. | 4.12 | 750 |
| Lot 12 | 25′ on N. and S. | 4.05 | 790 |
| U.S. Survey 3489: | | | |
| Lot 1 | 25′ on N. and S. | 3.50 | 660 |
| Lot 2 | 25′ on N. and S. | 4.28 | 730 |
| Lot 3 | 25′ on N. and S. | 4.16 | 630 |
| Lot 4 | 25′ on N. and S. | 4.53 | 660 |
| Lot 5 | 25′ on N. and S. | 4.52 | 630 |
| Lot 6 | 25′ on N. and S. | 4.99 | 660 |
| Lot 7 | 50′ on N., 25′ on S. | 4.98 | 630 |
| U.S. Survey 3490: | | | |
| Lot 4 | 50′ on N. and S. | 4.50 | 660 |
| Lot 15 | 50′ on N. and S. | 4.51 | 570 |
| Lot 17 | None | 4.19 | 750 |
| U.S. Survey 3493: | | | |
| Lot 9 [2] | None | 2.98 | 1,100 |
| Lot 12 | 25′ on N. and S. | 4.75 | 790 |
| Lot 13 | 25′ on N. and S. | 4.77 | 680 |
| Lot 26 | None | 4.76 | 810 |
| Lot 27 | 50′ on S., and 50′ on W. from corner No. 1 of lot 28 to shoreline. | 4.19 | 810 |
| Lot 28 [1] | 50′ on W. | 4.66 | 250 |
| Lot 31 [1] | None | 4.26 | 190 |
| U.S. Survey 3495: | | | |
| Lot 1 | 50′ on E., 25′ on W. | 4.43 | 600 |
| Lot 2 | 25′ on E. and W. | 4.30 | 600 |
| Lot 3 | 25′ on E. and W. | 4.36 | 630 |
| Lot 4 | 25′ on E. and W. | 4.44 | 600 |
| Lot 5 | 25′ on E. and W. | 4.46 | 600 |
| Lot 6 | 25′ on E. and W. | 4.58 | 600 |
| Lot 7 | 25′ on E. and W. | 4.23 | 540 |
| Lot 8 | 25′ on E., 50′ on W. | 4.83 | 840 |
| 38 tracts | Totals | 165.61 | 26,510 |

[1] Tracts not having lake frontage.
[2] Subject to valid prior application.

GEORGE R. SCHMIDT,
*Chief, Branch of Lands and Minerals Operations.*

[F.R. Doc. 63–8105; Filed, July 31, 1963; 8:55 a.m.]

[Group 369]

## ARIZONA

### Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

JULY 25, 1963.

1. Plat of survey of the lands described below will be officially filed in the Land Office, Phoenix, Arizona, effective at 10 a.m. on August 30, 1963:

GILA AND SALT RIVER MERIDIAN

T. 3 S., R. 22 E.,
Sec. 1: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 2: Lots 1, 2, 3, 4;
Sec. 11: Lots 1, 2, 3, 4;
Sec. 12;
Sec. 13;
Sec. 14: Lots 1, 2, 3, 4;
Sec. 23: Lots 1, 2, 3, 4;
Sec. 24;
Sec. 25;
Sec. 26: Lots 1, 2, 3, 4;
Sec. 35: Lots 1, 2, 3, 4.

The area described aggregates 4,076.83 acres of public lands.

2. The lands in the southern part of this fractional township are rolling, becoming rough and broken in the northern portion. The soil varies from gravelly clay in the south to rocky clay loam in the north.

3. The above described lands are opened to petition, application and selection, as outlined in paragraph 4 below. No application for these lands will be allowed under the nonmineral public land laws, unless the lands have already been classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

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 petition, application and selection in accordance with the following:

a. Applications and selections under the nonmineral public land laws, and offers under the mineral leasing 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 August 30, 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 pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

ROY T. HELMANDOLLAR,
*Manager.*

[F.R. Doc. 63–8096; Filed, July 31, 1963; 8:52 a.m.]

[Order No. C6–2]

## CALIFORNIA

### Small Tract Classification

1. Pursuant to authority delegated to me by the California State Director,

Bureau of Land Management, under Part 1, Redelegation of Authority, dated March 27, 1962 (27 F.R. 3297), I hereby classify the following described land, totaling 15 acres in Riverside County, California, as suitable for sale under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C. 682a), as amended:

SAN BERNARDINO MERIDIAN

T. 4 S., R. 4 W.,
Sec. 32: (1) W½NW¼NE¼NW¼; (2) W½SE¼SE¼SW¼; (3) NE¼NE¼NE¼SW¼ and NW¼NW¼NW¼SE¼.

Each tract involving 5 acres, not covered by Small Tract applications.

2. Classification of the above described lands by this order segregates them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws.

3. The tracts are located in Riverside County, California, 7 miles west of Perris and 10 miles north of Elsinore. The lands are characterized by rough, broken topography and are accessible by secondary roads.

4. The lands classified by this order shall not become subject to sale under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C. 682a), as amended, until it is so provided by an order to be issued by an authorized officer, opening the lands to bid under public auction procedures, Small Tract offering. The subject tracts will be offered for sale under the above conditions, and after a supplemental plat of survey has been prepared, and after the lands have been appraised at their market value.

5. Myrtle M. Koehn and Betty Moe claim equity in a house and improvements on tract No. 1, and W. S. Bray claims equity in a house and improvements on tract No. 2. In the event the previously mentioned parties are not successful purchasers of the respective tracts, they will be allowed a reasonable period of time within which to negotiate with the successful bidder for the tract as to the disposition of the improvements thereon. The equitants have the right to remove any improvements that can be removed without substantial damage to the land or to sell them to the successful bidder.

The successful bidder will be required to pay the equitants a price mutually agreed upon with them for any improvements they decide to leave on the land and which are of value to the successful bidder. Proof of such agreement and payment must be filed within a reasonable time with the Manager, Land Office, 1414 Eighth Street, P.O. Box 723, Riverside, California.

Upon a showing of inability to agree, the Bureau of Land Management will determine the fair and reasonable value of the improvements left upon the land for which compensation must be paid. Failure of the successful bidder within a reasonable time to file proof of full compensation, as herein provided, will lead to vacation of the sale.

6. Persons who have previously acquired a tract under the Small Tract Act are not qualified to secure an additional tract unless they can make a showing satisfactory to the Bureau of Land Management that the acquisition of another tract is warranted in the circumstances.

7. All inquiries concerning these lands shall be addressed to the Manager, Land Office, 1414 Eighth Street, P.O. Box 723, Riverside, California, 92502.

VIRGIL L. BOTTINI,
*District Manager, Riverside District Office, Riverside, California.*

[F.R. Doc. 63-8076; Filed, July 31, 1963; 8:47 a.m.]

## COLORADO

### Notice of Amendment to Proposed Withdrawal and Reservation of Lands; From Juniper Reservoir, Colorado River Storage Project

JULY 25, 1963.

The Bureau of Reclamation of the Department of the Interior has filed an amended application to Serial Number Colorado 019069 for the withdrawal from public entry, under the public land laws, including the mining laws but not the mineral leasing laws, subject to existing valid claims, under the Act of June 25, 1910 (36 Stat. 847), as amended by the Act of August 24, 1912 (37 Stat. 497), certain public lands in the sections and townships described below.

The applicant desires the additional land for reclamation purposes in connection with the Juniper Reservoir, Colorado River Storage Project.

For a period of thirty 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 Land Office Manager of the Bureau of Land Management, Department of the Interior, Colorado Land Office, Gas and Electric Building, 910 15th Street, Denver, Colorado.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands affected are:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 5 N., R. 92 W.,
Sec. 19: Lot 9.
T. 6 N., R. 93 W.,
Sec. 36: NE¼SE¼, S½SE¼.

Lands proposed to be withdrawn aggregate approximately 158 acres.

W. F. MEEK,
*Land Office Manager.*

[F.R. Doc. 63-8077; Filed, July 31, 1963; 8:47 a.m.]

[W-0175620]

## WYOMING

### Notice of Termination of Proposed Withdrawal and Reservation of Lands

JULY 26, 1963.

Notice of an application, serial number Wyoming 0175620, for withdrawal and reservation of lands, was published as F.R. Doc. 62-8355 on page 8324 of the issue for August 21, 1962. A notice of termination of proposed withdrawal and reservation of lands as it pertained to 480 acres was published as F.R. Doc. 63-5404 on page 5095 of the issue of May 22, 1963.

The applicant for the withdrawal, the Bureau of Reclamation, United States Department of the Interior, has further withdrawn its application as it pertains to the following described lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 112 W.,
Sec. 2: Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, S½;
Sec. 3: Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, S½;
Sec. 4: Lots 5, 6, 11, 12, 13, 14, SE¼.
T. 24 N., R. 112 W.,
Sec. 27: S½N½, S½;
Sec. 28: E½;
Sec. 33: E½;
Sec. 34: All;
Sec. 35: All.

Containing approximately 4,224.89 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 295, the above-described lands will be, at 10 a.m. on August 26, 1963, relieved of the segregative effect of the above mentioned application.

The lands remaining in the application for the proposed withdrawal are as follows:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 22 N., R. 111 W.,
Sec. 4: Lot 5, SE¼NE¼.
T. 23 N., R. 111 W.,
Sec. 33: E½.
T. 24 N., R. 112 W.,
Sec. 10: S½SW¼, SE¼;
Sec. 11: SW¼, SW¼SE¼;
Sec. 27: N½N½.

Containing approximately 1,000.25 acres.

ED PIERSON,
*State Director.*

[F.R. Doc. 63-8079; Filed, July 31, 1963; 8:48 a.m.]

# DEPARTMENT OF AGRICULTURE

## Agricultural Research Service

### IDENTIFICATION OF CARCASSES OF CERTAIN HUMANELY SLAUGHTERED LIVESTOCK

### Change in List of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 181.1, the list (28 F.R. 7103, July 11, 1963) of establishments which are operated under Federal inspection pursuant to the Meat Inspection Act (21 U.S.C. 71 et seq.) and which use humane methods of slaughter and incidental handling of livestock is hereby amended as follows:

The reference to swine with respect to the Ohio Packing Company, establishment 736, is deleted.

Done at Washington, D.C., this 26th day of July 1963.

C. H. PALS,
*Director, Meat Inspection Division, Agricultural Research Service.*

[F.R. Doc. 63-8123; Filed, July 31, 1963; 8:59 a.m.]

## Office of the Secretary

### ARKANSAS

### Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in Perry County, Arkansas, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named county after June 30, 1964, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 29th day of July 1963.

CHARLES S. MURPHY,
*Acting Secretary.*

[F.R. Doc. 63-8128; Filed, July 31, 1963; 9:01 a.m.]

### MISSISSIPPI

### Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Mississippi natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

MISSISSIPPI

| | |
|---|---|
| Hancock. | Leake. |
| Holmes. | |

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1964, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 29th day of July 1963.

CHARLES S. MURPHY,
*Acting Secretary.*

[F.R. Doc. 63-8129; Filed, July 31, 1963; 9:01 a.m.]

### NEBRASKA

### Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Nebraska natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NEBRASKA

| | |
|---|---|
| Banner. | Keith. |
| Box Butte. | Kimball. |
| Chase. | Morrill. |
| Cheyenne. | Perkins. |
| Dawes. | Scotts Bluff. |
| Deuel. | Sheridan. |
| Garden. | Sioux. |

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1964, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 29th day of July 1963.

CHARLES S. MURPHY,
*Acting Secretary.*

[F.R. Doc. 63-8130; Filed, July 31, 1963; 9:01 a.m.]

### SOUTH CAROLINA AND TEXAS

### Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of South Carolina and Texas natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

SOUTH CAROLINA

| | |
|---|---|
| Beaufort. | Charleston. |

TEXAS

Wilson.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1964, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 29th day of July 1963.

CHARLES S. MURPHY,
*Acting Secretary.*

[F.R. Doc. 63-8131; Filed, July 31, 1963; 9:01 a.m.]

# DEPARTMENT OF COMMERCE

## Office of the Secretary

[Docket No. FC-62]

### HANS HANGARTNER

### Appeals Board Decision

In the matter of Hans Hangartner, Neuhausstrass 45, Uitikan, Switzerland, Appeals Board Docket No. FC-62, BIC Case No. 300.

Hans Hangartner has appealed from the Order of March 12, 1962, issued by the Acting Director, Office of Export Control, Bureau of International Programs (now Bureau of International Commerce) which denied to him all United States export privileges for the duration of export controls.

The Denial Order was entered consequent to an administrative compliance proceeding instituted against respondent Hangartner, among others, under Part 382 of the Export Regulations. Although the respondent received due notice of the specific allegations and charges that he had acted in violation of the Export Regulations, he failed to answer or contest the charging letter and was therefore deemed to be in default. The Denial Order was entered on the basis of evidence substantiating the charges.

Subsequent to issuance of the Default Order, Hangartner applied to the Director, Office of Export Control, for reconsideration of the action taken against him, submitting therewith evidence indicating circumstances in mitigation and extenuation of his admitted violations of the Export Regulations. The respondent's applications and supporting documents were duly considered by the Bureau's Compliance Commissioner and by the Director, who agreed with the Commissioner's recommendation, and denied said applications. Respondent then appealed to this Board.

The Board has reviewed the original record upon which the Default Order was entered as well as the supplemental documents furnished by the respondent.

We have found that respondent Hangartner did violate the U.S. Export Regulations in connection with the unauthorized transshipment of U.S. steam generators from Switzerland to Hungary, and that an Order denying respondent's U.S. export privileges was justified.

However, from our review of all of the materials, we believe that the extenuating and mitigating factors should be afforded some weight considering the circumstances of the transaction, that respondent Hangartner should be given the opportunity to prove his trustworthiness to deal once again in U.S. exports, and that a salutary effect would be sufficiently accomplished by the denial of U.S. export privileges to him for a specific period of time.

Accordingly, it is the Board's decision that the Order of March 12, 1962 be modified by reducing to two years the period of his denial of export privileges, conditioned upon his compliance in all respects with the terms of the Denial Order until March 12, 1964, and thereafter, with the requirements of the Export Control Act of 1949, as amended, extended or hereafter revised, and all regulations, licenses and orders promulgated thereunder, for the duration of United States export controls.

*Now, therefore, it is ordered:*

1. Said Order of March 12, 1962, so far as it is applicable to respondent Hangartner, is modified and amended to provide that the denial to him of all U.S. export privileges set forth in Paragraph III thereof is to remain in effect for two years from the date of said Order, i.e., until March 12, 1964.

2. As of March 12, 1964, respondent Hangartner shall be placed on probation for so long as export controls shall be in effect. The conditions of this probation shall be that until March 12, 1964, respondent Hangartner shall comply in all respects with the terms of said Denial Order of March 12, 1962, and from March 12, 1964, respondent Hangartner shall comply in all respects with the requirements of the Export Control Act of 1949, as amended, and all regulations, licenses, and orders issued thereunder. If, however, at any time it is found by the Director of the Office of Export Control, or such other officer as may at that time be exercising the functions now exercised by him, that respondent Hangartner has knowingly failed to comply with said Order or with the Export Control Law, the Director may summarily, without notice to respondent, revoke said probation and issue a supplemental Order against the respondent denying to him all export privileges for up to and including the duration of the time export controls remain in effect.

Washington 25, D.C., July 11, 1963.

JOHN F. LUKENS,
*Chairman, Appeals Board.*

[F.R. Doc. 63-8056; Filed, July 31, 1963; 8:45 a.m.]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

### FIRESTONE SYNTHETIC RUBBER AND LATEX CO.

### Notice of Filing of Petition Regarding Food Additive *n*-Butyllithium

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 1161) has been filed by Firestone Synthetic Rubber and Latex Company, Division of Firestone Tire and Rubber Company, 381 W. Wilbeth Road, Akron 1, Ohio, proposing that § 121.2562 *Rubber articles intended for repeated or continuous use* be amended by inserting alphabetically in paragraph (c)(4)(ix) the following new item: *n*-Butyllithium for use only as polymerization catalyst for polybutadiene.

Dated: July 27, 1963.

J. K. KIRK,
*Assistant Commissioner of Food and Drugs.*

[F.R. Doc. 63-8097; Filed, July 31, 1963; 8:53 a.m.]

# ATOMIC ENERGY COMMISSION

[Docket No. 50-1]

### ARMOUR RESEARCH FOUNDATION OF ILLINOIS INSTITUTE OF TECHNOLOGY

### 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-3, as amended. The amendment authorizes Armour Research Foundation of Illinois Institute of Technology to insert various forms of source and fissionable materials into the experimental ports of the Armour Research Reactor, a homogeneous solution type nuclear facility located in Chicago, Illinois. The amendment also authorizes the possession and use of a one curie Plutonium-Beryllium neutron source as a startup source for the reactor.

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 the amendment does not involve consideration of safety factors significantly different from those previously evaluated.

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 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 & Power Reactor Safety Branch of the Division of Licensing and Regulation and (2) the licensee's application for license amendment dated March 15, 1963, and supplementary letter dated April 18, 1963, 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 Bethesda, Md., this 24th day of July 1963.

For the Atomic Energy Commission.

SAUL LEVINE,
*Chief, Test and Power Reactor Safety Branch, Division of Licensing and Regulation.*

[License No. R-3, as amended; Amendment No. 5]

1. Paragraph 2b of License No. R-3, as amended, is amended to read as follows:

b. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material," to receive, possess and use, (1) 1.800 kilograms of contained uranium 235 in uranyl sulphate solution as fuel for operation of the facility; (2) 3.5 grams of contained uranium 235 in neutron measuring instruments incorporated in the facility; and (3) 16 grams of plutonium encapsulated in a one curie Pu-Be neutron source for startup of the reactor.

2. Paragraph 4h is added to the License No. R-3, as amended, as follows:

h. The one curie Pu-Be neutron source used for startup of the reactor shall be leak tested on the schedule described in the application for amendment of license dated March 15, 1963.

3. License No. R-3, as amended, is further amended to authorize Armour Research Foundation to:

a. Insert up to 300 grams of U-235 in solid form into any experimental port except the core area of the central exposure port;

b. Insert up to 10 grams of U–235 or Pu–239 into any experimental port; and

c. Insert source material into any experimental port. Such use of experimental ports shall be in accordance with the procedures and limitations described in the application for amendment of license dated March 15, 1963, and supplementary letter dated April 8, 1963. The maximum reactivity change due to any fissionable material introduced into the experimental ports shall be limited to 0.5 percent delta k/k excess.

This amendment is effective as of the date of issuance.

Date of issuance: July 24, 1963.

For the Atomic Energy Commission.

SAUL LEVINE,
*Chief, Test and Power Reactor Safety Branch, Division of Licensing and Regulation.*

[F.R. Doc. 63–8104; Filed, July 31, 1963; 8:54 a.m.]

# CIVIL AERONAUTICS BOARD

[Docket 13777; Order No. E–19860]

## TRAFFIC CONFERENCE 1 OF INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Agreements Relating to Cargo Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 26th day of July 1963.

There have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, agreements between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA), and assigned the above-designated C.A.B. Agreement numbers 17157, 17158.

The agreements, adopted pursuant to unprotested notices to the carriers and embodied in IATA Memorandums TC1/Rates 1504 and TC1/Rates 1505 (Ref: TC1/Rates 1488), provide for constructed general cargo rates between points in the United States and Caracas, Venezuela, Montego Bay, Jamaica, and St. Martin, Netherlands Antilles, in accordance with the construction principles contained in Resolution 014b.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the subject agreements to be adverse to the public interest or in violation of the Act.

*Accordingly, it is ordered,* That Agreements C.A.B. 17157 and C.A.B. 17158 be approved.

Any air carrier party to the agreements, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action herein. An original and nineteen copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCORT,
*Acting Secretary.*

[F.R. Doc. 63–8100; Filed, July 31, 1963; 8:53 a.m.]

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[Docket 14676; Order No. E–19862]

## UNITED STATES OVERSEAS AIRLINES, INC.

### Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of July 1963.

In the matter of reduced free-baggage allowance proposed by United States Overseas Airlines, Inc.

By tariff revision[1] marked to become effective July 31, 1963, United States Overseas Airlines, Inc. (USOA) proposes to reduce the free-baggage allowance from 44 pounds to 30 pounds on transportation between the State of Hawaii and the continental United States.

The Board, upon consideration of the proposed tariff revision, finds that the proposed reduction may be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated.

The price paid by the passenger for air transportation traditionally has included the transportation of a reasonable amount of baggage without an additional charge. The prevailing baggage limitations have been in effect for a number of years,[2] and it should take clear and convincing evidence to change them to the detriment of the passenger. Generally, all the carriers operating between the State of Hawaii and the continental United States allow at least 44 pounds free baggage for coach or economy service. This allowance appears to be the acceptable standard in this market, and the current proposal to reduce this standard to 30 pounds raises substantial questions of reasonableness. We cannot permit such a restriction to go into effect without an adequate showing that it is necessary because of conditions peculiar to the air transportation involved.

USOA has not explained the theory or basis of the decrease in free baggage proposed by it, nor has the Board been furnished any economic data or information in support of the reasonableness of the lower baggage allowance which would be effected under this propsal.[3] Under these circumstances, the Board has concluded that the instant tariff amendment should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, particularly sections 204(a), 403, 404, and 1002 thereof:

*It is ordered,* That:

1. An investigation be instituted to determine whether the provision reading "and (N) USOA will allow free-baggage weight of 30 lbs." of Exception 2 in Rule 4.1(d) on 9th Revised Page 6 of Agent John J. Klak's tariff C.A.B. No. 11 is, or will be, unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful provisions;

2. Pending investigation, hearing, and decision by the Board, the provision reading "and (N) USOA will allow free baggage weight of 30 lbs." of Exception 2 in Rule 4.1(d) on 9th Revised Page 6 of Agent John J. Klak's tariff C.A.B. No. 11 be suspended and its use deferred to and including October 28, 1963, unless otherwise ordered by the Board, and that no change be made therein during the period of suspension except by order or special permission of the Board;

3. The investigation be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

4. A copy of this order be filed with the aforesaid tariff and be served upon United States Overseas Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] MABLE MCCART,
*Acting Secretary.*

[F.R. Doc. 63–8101; Filed, July 31, 1963; 8:53 a.m.]

[1] Revisions to Agent Klak's C.A.B. No. 11, filed July 1, 1963.

[2] See, e.g., Free Baggage Allowance and Excess-Baggage Charges, 28 C.A.B. 517, 527–529 (1959).

[3] In this respect USOA has failed to meet the requirements of § 221.165 (14 CFR Part 221) as amended, which became effective on June 28, 1963.

# FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15130; FCC 63–682]

## MICROWAVE RADIO RELAY COMMUNICATIONS SYSTEMS

### Notice of Inquiry

In the matter of reliability and related design parameters of microwave radio relay communication systems and resultant impact upon spectrum utilization, Docket No. 15130.

1. For reasons outlined herein, the Commission has determined to inquire into the matter of reliability of microwave radio relay communications and the resulting impact upon usage of the radio frequency spectrum. As may be indicated by information developed during this inquiry, the Commission may establish certain policies or standards with respect to the reliability of microwave communications, particularly with relation to frequency diversity operation on microwave relay routes.

2. Over the past fifteen years, microwave radio has replaced open-wire facilities as the major means of meeting the demand for long-distance and high-capacity communications. Microwave radio also is providing a rapidly growing proportion of short-route circuits. In many instances, it has been found to provide a more satisfactory service than wire lines. However, ways and means

are constantly being sought to improve the reliability of microwave relay facilities. This push for perfection, this attempt to constantly improve the quality and dependability of communications, is to be encouraged.

3. As a result of the growing emphasis on reliability, the Commission is faced with an increasing number of requests for additional or multiple radio frequency channels which would be used, not for handling increased volumes of traffic, but for boosting the reliability of a regular microwave circuit. Increasingly, applicants attempt to justify requests for additional radio frequency space in the microwave region by claiming a need to furnish services of greater reliability than that which could be economically obtained from a single radio frequency channel. Such claims are documented by little or no factual data. The Commission, while sympathetic to the need for reliability, finds it difficult to substantiate the need or to evaluate the meager information available. Because of the increased drain on the available microwave spectrum which this portends, the Commission must now examine the matter of reliability, its relationship to microwave frequency usage, the economic and engineering parameters which determine it, how it may be specified and how it may be applied in practical circumstances.

4. It is recognized that the reliability of a communications system depends upon the frequency and duration of (a) signal (i.e., propagation) failures, or (b) equipment failures. The first category may be considered to determine the "propagation reliability", or the reliability of the propagation path between transmitting and receiving antennas. The second category is related to "equipment reliability". Circuit outages required for servicing or maintenance must also be considered in this latter category. Ordinarily, applicants claiming a need for extraordinary reliability have not made a distinction between these two classes of failure mechanisms.

5. One of the most common measures employed to boost systems reliability—and the measure which generates much of the concern of this Inquiry—is that which involves the use of frequency diversity.[1] This may take any of several forms. One variation involves the provision of additional radio frequency channels which may be used alternately with the regular channel. These are sometimes referred to as "stand-by", "back-up", or "protection" channels. Present Commission policy in the common carrier services permits the use of an additional microwave radio channel when the applicant claims the additional channel is needed to maintain reliability. Such use normally is predicated upon a module concept in which an additional microwave radio protection channel is permitted for from one to five working channels depending upon the portion of the spectrum under consideration and the degree of reliability required.

6. In addition to frequency diversity, other methods have been used to increase the reliability of microwave radio relay systems. Polarization diversity and space diversity, to varying degrees, have been found effective in reducing failures due to fading. The practice of "hot stand-by", in which two parallel systems—one operational and the other on stand-by—are energized at all times, has been used effectively against equipment outages. However, since both systems operate on the same radio frequency, "hot stand-by" is not effective against propogation failures. Also, the time delay in switching to the stand-by equipment may be intolerable for certain types of communications requiring high information rates of transmission. In this connection, consideration should be given to the feasibility of reducing the transmission rate of certain types of intelligence (i.e., data) to achieve a greater degree of reliability, particularly in cases where real time or high speed transmission are not essential.

7. In an effort to obtain factual information on the relationship between diversity techniques and reliability and how these may affect spectrum management, the Commission, in December 1959, requested the Joint Technical Advisory Committee (JTAC) to make a study of the use of diversity techniques in microwave communications systems. In reporting on their study, JTAC recommended, on October 28, 1960, that the Commission adopt a policy permitting the use of frequency diversity in all cases unless local interference is likely to result. Furthermore, it was recommended that a frequency separation of at least 5 to 10 percent (of the carrier frequency) should be maintained if the full benefits of frequency diversity operation are to be obtained. Because of the width of the presently allocated non-Government microwave bands, this recommended frequency separation can be obtained in relatively few cases. Although JTAC in its report provided the Commission with a pertinent analysis and commentary on the relative merits of diversity techniques, there still is available insufficient data to permit a considered judgment by the Commission on this method of achieving reliability at the cost of spectrum space.

8. It is recognized that certain types of communications may require a greater degree of reliability, or, conversely, that certain types may encounter frequent interruptions or interference without impairment of the essential utility of the service. However, the Commission has insufficient information available upon which to establish a firm general policy of need for reliability, and to determine how such need should affect frequency utilization. Consequently, the Commission is desirous of obtaining information and factual data with respect to the degree of reliability improvement which can be expected from the various methods of microwave system design.

9. In this proceeding, we are considering the reliability of microwave radio relay systems, as distinguished from the exchange, plant, distribution or wire terminal facilities which may be involved in the system, but which are not essentially part of the radio relay. We are not considering the over-all reliability of message transfer between communicators, but are attempting to examine only the reliability of that portion of the communications path formed by microwave radio.

10. We are inviting all interested parties to supply information which will help the Commission to establish for each type of microwave system a practical specification of reliability and proper methods for achieving that reliability. In this connection it should be made clear that changes in present policy concerning frequency diversity are not contemplated for any services presently established under the Commission's Rules pending the outcome of this proceeding. Nor will this proceeding be used as justification for developmental requests. Comments filed in response to this notice may be in the form of technical analyses, data obtained from operating microwave systems, or pertinent responses to the issues outlined in this paragraph or to the specific questions set forth in paragraph 11. Information is desired which shows the economic costs of microwave systems and corresponding system demands upon spectrum space, together with indications of the extent to which such systems have achieved the reliability desired. Information is desired showing the degree of improvement achieved through the use of "hot stand-by", or by any of the diversity means referred to above. A specific accounting is requested showing, for existing systems, outage time due to maintenance and/or equipment failure, as distinguished from outage attributed to propagation effects.

11. Additionally, we are interested in answers to the following questions:

(a) In what terms should "reliability" be specified? In terms of total operable time per year? Per worst month? Per 24-hour day? In terms of probable circuit continuity? Of error rate? Of message circuit deterioration? In what way are these or other dimensions of reliability related?

(b) In a microwave link involving an rf channel, which comprises a multiplicity of individual message circuits, should a specification of reliability apply to the composite rf channel or to an individual message circuit? What data are available indicating the reliability of either?

(c) In a multi-hop route, what is the reliability of a single hop? How is this single hop reliability related to the reliability of such routes?

[1] A completely satisfactory definition of "frequency diversity" is difficult to formulate. JTAC, in its report of October 28, 1960, describes frequency diversity in the following manner: "In frequency diversity systems, two separate transmitters working on different radio frequencies but carrying the same modulation are used with a single antenna system. At the receiving site, two separate receivers, each tuned to a different radio frequency, are connected to a single antenna and extract the same modulation. Again, the outputs of the two receivers are combined, or the better one selected. It is essential that a single antenna system be used both at the receiving and at the transmitting site in order to derive the full benefits * * * from this system".

(d) Of the various techniques for improving reliability, what order of improvement can be obtained from each?

(e) How is the reliability of a microwave circuit related to the frequency band on which it operates? What natural characteristics may diminish the reliability on one microwave band relative to that obtainable on another?

(f) What kinds of data, what engineering information, and what systems design parameters should be supplied the Commission by applicants requesting additional frequency assignments to permit them to achieve higher reliability?

(g) Define the reliability criteria upon which the need for frequency diversity should be determined.

12. In view of the increasing demands for microwave radio relay routes, the Commission deems this Inquiry most appropriate. This action is taken pursuant to section 403 of the Communications Act of 1934, as amended. Interested parties responding to this Inquiry shall furnish initial reports with respect to the issues contained herein on or before March 1, 1964. An original and fourteen copies of each response must be filed as required by § 1.215(b) of the Commission's rules and regulations. Further reports may be filed upon dates to be specified by subsequent Order of the Commission.

Adopted: July 24, 1963.

Released: July 29, 1963.

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

[F.R. Doc. 63-8115; Filed, July 31, 1963; 8:57 a.m.]

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[Docket Nos. 15139-15141; FCC 63-726]

## STANDARD BROADCAST STATION WKYN ET AL.

### Order To Show Cause

In the matter of revocation of license of Quality Broadcasting Corporation, for Standard Broadcast Station WKYN, San Juan, Puerto Rico, Docket No. 15139; revocation of license of Supreme Broadcasting Company, Inc., of Puerto Rico, for FM Broadcasting Station WFQM, San Juan, Puerto Rico, Docket No. 15140; revocation of license of Radio Americas Corporation, for FM Broadcast Station WORA-FM, Mayaguez, Puerto Rico, Docket No. 15141.

The Commission having under consideration (1) the outstanding licenses issued to Quality Broadcasting Corporation to operate Standard Broadcast Station WKYN on the frequency of 630 kc at San Juan, Puerto Rico; to Supreme Broadcasting Company, Inc., of Puerto Rico to operate FM Broadcast Station WFQM on the frequency of 99.9 Mc at San Juan, Puerto Rico and to Radio Americas Corporation to operate FM Broadcast Station WORA-FM on the frequency of 97.5 Mc at Mayaguez, Puerto Rico, and (2) information which has come to the Commission's attention with respect to the operation of Stations WKYN, WFQM and WORA-FM; and

It appearing, that the three stations, WKYN, WFQM and WORA-FM, are commonly owned and operated in that Quality Broadcasting Corporation, licensee of WKYN, and Supreme Broadcasting Company, Inc., of Puerto Rico, licensee of WFQM (FM), are controlled by Radio Americas Corporation, licensee of WORA-FM, which latter corporation is, in turn, controlled by Alfredo R. de Arellano, Jr., who is the president of all three corporations; and

It further appearing, that on or about August 11, 14, 27 and 28, 1962; September 6, 1962, and October 9, 10 and 11, 1962, as well as on divers other occasions between September 1961 and October 1962, Station WKYN caused to be intercepted shortwave news programs of another broadcasting station, namely, Armed Forces Radio Service, New York (AFRS), and rebroadcast or caused to be rebroadcast said programs on a network consisting of Stations, WKYN, WFQM and WORA-FM, on a delayed basis, without the express authority of the originating station, in violation of section 325(a) of the Communication's Act of 1934, as amended; and

It further appearing, that prior to August, 1962, A. R. de Arellano, Jr., had requested authority of the originating station, to wit, the Department of Defense, to rebroadcast said AFRS programs, which authority had been refused; and

It further appearing, that although the news programs in question were mechanically reproduced by WKYN and simultaneously rebroadcast by WFQM and WORA-FM and the element of time was of special significance, the broadcasts were made after delays of one to four hours without an appropriate announcement at the beginning or end of the reproductions in violation of § 3.118 of the Commission's rules with respect to WKYN and of § 3.288 of the rules with respect to WFQM and WORA-FM; and

It further appearing, that the licensees by their actions with respect to the news programs in question operated their stations in such a fashion as to create an impression that the programs were coming directly and simultaneously from the Mutual Broadcasting System, when, in actual fact, such programs were not furnished by the Mutual Broadcasting System but rather were delayed broadcasts of AFRS; and

It further appearing, that in response to specific inquiry of the Commission, dated October 23, 1962, requesting Quality Broadcasting Corporation, licensee of Station WKYN, to advise the Commission whether WKYN had "on any occasion rebroadcast the shortwave transmissions of the Armed Forces Radio Service * * *", Quality Broadcasting Corporation on November 7, 1962, made written representations, which according to information available to the Commission were evasive, lacking in candor and deceptive in content in that licensee stated (1) that it was not familiar with Armed Forces Radio Service transmissions by shortwave, but rather in the regular broadcast band, and (2) that the programs WKYN had rebroadcast from time to time were programs of the Voice of America and had been limited to speeches and news conferences of the President of the United States; and

It further appearing, that in response to official Commission inquiry dated March 6, 1963, as to whether WKYN had rebroadcast AFRS news programs by intercepting the transmissions from New York during the months of August, September or October 1962, licensees on April 12, 1963, made written representations which according to information available to the Commission were likewise evasive, lacking in candor and deceptive in content in that the licensees, while now acknowledging that news programs transmitted by AFRS might have been rebroadcast by licensees, claimed that such rebroadcasts were infrequent and made in the belief that the programs rebroadcast were regularly scheduled Mutual Network news programs; and

It further appearing, that after an opportunity to hear tapes of certain of the programs in question, the licensees submitted a written statement to the Commission on June 21, 1963, which, according to information available to the Commission, was in part evasive, lacking in candor and constituted misrepresentations made with the intention of deceiving the Commission, in that the licensees, while acknowledging interception and rebroadcast of AFRS news programs which were not originated by the Mutual Network, claimed that such interception and rebroadcast had been done without the licensees' knowledge or authorization and that the licensees, in their previous statements to the Commission, had not intended "at any time to conceal facts from the Commission or to mislead [it]"; and

It further appearing, that the above-described violations of section 325(a) of the Act and §§ 3.118 and 3.288 of the Commission's rules were willful and repeated and that the licensees' misrepresentations to the Commission, as well as their attempt to mislead the public with respect to the source and timeliness of the programs in question, raise serious questions as to their character qualifications and whether they have, in fact, operated their stations in the public interest.

*It is ordered,* This 25th day of July 1963, that pursuant to the provisions of section 312(a)(1), 312(a)(2), 312(a)(4) and 312(c) of the Communications Act of 1934, as amended, that Quality Broadcasting Corporation, Supreme Broadcasting Company, Inc., of Puerto Rico and Radio Americas Corporation are directed to show cause why an order revoking their respective licenses for Stations WKYN and WFQM(FM), San Juan, Puerto Rico, and Station WORA-FM, Mayaguez, Puerto Rico, should not be issued and to appear and give evidence with respect thereto at a hearing [1] to be

[1] Section 1.77(c) of the Commission's rules provides that a licensee in order to avail itself of the opportunity to be heard shall, in person or by its attorney file with the Commission within thirty days of the receipt of the Order to Show Cause, a written statement stating that it will appear at the hearing and present evidence on the matter specified in the Order. In the event it would not be possible for respondent to appear for hearing

held at San Juan, Puerto Rico, at a time and place to be specified by subsequent order, said time in no event to be less than 30 days after receipt of the Order; and

*It is further ordered,* That upon the basis of the hearing record, the Hearing Examiner and the Commission will consider whether the public interest would be better served by issuance of an Order of Forfeiture to each of the three licensees, pursuant to section 503(b) of the Communications Act of 1934, as amended, in the individual amounts of $10,000, or some lesser amounts, in lieu of an order for revocation of licenses, and that for said purpose this Order is is to be considered as a Notice of Apparent Liability pursuant to section 503 (b) (2) of the Communications Act:

*And it is further ordered,* That the Secretary of the Commission send copies of this order by Certified Mail—Return Receipt Requested to the Quality Broadcasting Corporation, the Supreme Broadcasting Company, Inc., of Puerto Rico and the Radio Americas Corporation.

Released: July 29, 1963.

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

[F.R. Doc. 63-8116; Filed, July 31, 1963; 8:57 a.m.

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[Docket Nos. 15074, 15075; FCC 63M-866]

## AUTOMATED ELECTRONICS, INC., AND CAPITAL BROADCASTINC CO.

### Order Continuing Prehearing Conference

In re applications of Automated Electronics, Inc., Arlington, Virginia, Docket No. 15074, File No. BPCT-3064; Capital Broadcasting Company, Washington, D.C., Docket No. 15075, File No. BPCT-3122; for construction permits for New Television Broadcast Stations.

The Examiner has before him a petition to continue prehearing conference filed by Capital on July 25, 1963; and

It appearing, that the above entitled applicants are now seeking approval of the Review Board to an agreement which contemplates dismissal of one application and grant of the other, a step which, if successfully negotiated, would obviate the need for hearing here; and

It further appearing, that all parties to the proceeding have consented to both early consideration and grant of the subject petition.

*It is ordered,* This 26th day of July 1963, that the Capital petition is granted and the pre-hearing conference now scheduled for July 30, 1963, is continued to September 20, 1963.

Released: July 26, 1963.

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

[F.R. Doc. 63-8111; Filed, July 31, 1963; 8:56 a.m.]

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[Docket No. 15133; FCC 63-707]

## COASTAL CITIES BROADCASTING CO., INC.

### Order Designating Application for Hearing on Stated Issues

In re application of Coastal Cities Broadcasting Company, Inc., Moss Point, Mississippi, Docket No. 15133, File No. BP-15515; requests: 1460 kc, 1 kw, DA, Day, for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 24th day of July 1963;

The Commission having under consideration the above-captioned and described application;

It appearing, that, except as indicated by the issues specified below, the applicant is legally, technically, financially, and otherwise qualified to construct and operate as proposed; and

It further appearing, that, according to the applicant's data, the proposal would cause slight objectionable interference to the existing operations of Stations WNPS and WAIL, New Orleans and Baton Rouge, Louisiana, respectively; that the antenna parameters do not accurately depict the applicant's proposed radiation pattern; and

It further appearing, that, the Orleans Parish School Board, licensee of Station WNPS, on April 29, 1963 filed a petition requesting designation of the application for hearing on grounds that it would cause objectionable interference to their existing operation; 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 application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below:

*It is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, 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 proposal of Coastal Cities Broadcasting Company, Inc., and the availability of other primary service to such areas and populations.

2. To determine whether the proposed directional antenna parameters will produce the radiation pattern proposed in the instant application.

3. To determine whether the proposal of Coastal Cities Broadcasting Company, Inc. would cause objectionable interference to Stations WNPS and WAIL, New Orleans and Baton Rouge, Louisiana, respectively, 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.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

*It is further ordered,* That the "Petition to Designate Application for Hearing" filed by the Orleans Parish School Board is granted insofar as it requests a hearing.

*It is further ordered,* That the Orleans Parish School Board and Merchants Broadcasters, Inc., licensees of Stations WNPS and WAIL, respectively, are made parties to the proceeding.

*It is further ordered,* That, in the event of a grant of the instant application, the construction permit shall contain the following conditions:

Permittee shall assume the responsibility for installation of filter circuits or any other equipment necessary to prevent adverse effects of cross-modulation or reradiation with WPMP, Pascagoula-Moss Point, Mississippi, 1580 kc, 1 kw, Day, or any other station.

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 applicant 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 applicant 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, 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.

Released: July 29, 1963.

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

[F.R. Doc. 63-8112; Filed, July 31, 1963; 8:57 a.m.]

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in the proceeding scheduled to be held in San Juan, Puerto Rico, it should advise the Commission of the reasons for such inability within five days of the receipt of this Order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. See § 1.78(a) of the Commission's rules as amended December 12, 1960. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the Order to Show Cause. See § 1.78(b) of the Commission's rules as amended December 12, 1960. In the event the right to a hearing is waived, the Chief Hearing Examiner will terminate the hearing proceeding and certify the case to the Commission. Thereupon the matter will be determined by the Commission in the regular course of business and an appropriate order will be entered. See § 1.78 (c), (d) and (e) of the Commission's rules as amended December 12, 1960.

[Docket Nos. 15111, 15112; FCC 63M-865]

## HOLSTON BROADCASTING CORP. AND C. M. TAYLOR

### Statement and Order Governing Hearing

In re applications of Holston Broadcasting Corporation, Elizabethton, Tennessee, Docket No. 15111, File No. BP-15012; C. M. Taylor, Blountville, Tennessee, Docket No. 15112, File No. BP-15115; for construction permits.

Pursuant to an Order of the Chief Hearing Examiner, a prehearing conference was held on July 23, 1963 at 9 a.m. Procedures were discussed and a schedule for the hearing was agreed upon.

The applicants have consented to make their direct cases in writing with the understanding that oral testimony can be used to cure defects in exhibits which may be excluded on the ground of incompetence. Witnesses may also be requested for cross-examination. While none of the parties at the present time contemplates the taking of measurements, it was stipulated that any party desiring to do so will notify the others of such intention no later than August 15, 1963. Such notice shall include information as to the time and place of making the measurements.

The hearing is currently set to commence on September 13, but it has been agreed to convert this into the date for the initial exchange of all exhibits. The hearing order contains a standard comparative issue which is contingent upon a conclusion by the Hearing Examiner that the case cannot be decided on the section 307(b) issue. In the interest of expedience, exhibits on the contingent comparative issue will be exchanged with other exhibits in the direct case on September 13.

On September 20 requests for additional information will be submitted and a final exchange of exhibits will take place on September 27. The hearing will commence on October 2, at which time all parties will make notification of witnesses for cross-examination for attendance at a subsequent date.

*It is ordered,* This 26th day of July 1963, that the hearing will be governed in accordance with the foregoing stipulations and that the date for commencement of hearing is changed from September 13 to October 2, 1963.

Released: July 26, 1963.

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

[F.R. Doc. 63-8113; Filed, July 31, 1963; 8:57 a.m.]

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[Docket No. 15134; FCC 63-710]

## WENDELL-ZEBULON RADIO CO. (WETC)

### Order Designating Application for Hearing on Stated Issues

In re application of Wendell-Zebulon Radio Company (WETC), Wendell-Zebulon, North Carolina, has: 540 kc, 250 w, Day, Class II, requests: 540 kc, 5 kw, DA-Day, Class II, Docket No. 15134, File No. BP-15344; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 24th day of July 1963;

The Commission having under consideration the above-captioned and described application;

It appearing, that, except as indicated by the issues specified below, the applicant is legally, technically, financially, and otherwise qualified to construct and operate as proposed; and

It further appearing, that the following matters are to be considered in connection with the aforementioned issues specified below:

1. The antenna plat submitted by the applicant indicates that the ground system radials around two of the proposed antenna towers would be severely curtailed by the site property boundaries. No evidence of property easements was submitted to indicate that the ground radials could be extended. The applicant indicates that the proposed directional antenna system would have an RMS field of 173 mv/m/kw based on an assumed loss of 0.9 ohm per tower; but Commission study indicates that, even assuming that no losses would occur, the efficiency of the array would be only 173.2 mv/m/kw. In view of the foregoing, a question obtains as to whether the proposed directional antenna system would comply with the provisions of § 3.189 of the Commission rules, regarding minimum efficiency.

2. The proposed directional antenna system is so oriented that a portion of each of the cities sought to be served is located in a direction of maximum suppression from the proposed radiation pattern. The practice of providing coverage to the city or cities of designation with radiation along azimuths through the minima of directional antenna radiation patterns is not normally considered good engineering practice inasmuch as possible signal distortion may result in serious degradation of the quality of transmission with respect to that which obtains at azimuths of maximum radiation. The Commission recognizes that the practicalities of antenna adjustment may in some instance (in which allowance must be made for the possibility of unanticipated pattern distortion) require additional signal suppression towards the designated city or cities in order to accommodate radiation in other directions without exceeding the specified maximum expected operating values of radiation. However, such instances are quite unusual and an operation of the type described is marginal and therefore will not normally be approved in the absence of a persuasive showing of exceptional circumstances justifying it. In view of the foregoing considerations, a question exists as to whether such exceptional circumstances may be found in this case.

3. The proposal, as amended, involves mutual co-channel interference with Station WYNN, Florence, South Carolina, causing a loss to that station of certain areas and populations, within its normally protected contour, which now receive primary service from WYNN.

It further appearing, that, in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below:

*It is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be designated in a subsequent Order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station WETC and the availability of other primary service to such areas and populations.

2. To determine what circumstances exist, if any, which would justify the applicant's selection of site and antenna design which, contrary to good engineering practice, would produce signals over the cities sought to be served from the minimas of the proposed radiation pattern.

3. To determine whether the proposed directional antenna system will comply with § 3.189 of the Commission's rules, regarding minimum efficiency.

4. To determine whether the proposed operation will provide service to the cities sought to be served in accordance with the provisions of § 3.188(b)(1) of the Commission's rules and, if not, whether circumstances exist which would warrant a waiver of said section.

5. To determine whether the proposal of the applicant will cause objectionable interference to Station WYNN, Florence, South Carolina, 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, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

*It is further ordered,* That WYNN, Inc., licensee of Station WYNN, Florence, South Carolina, is made a party to the proceeding.

*It is further ordered,* That, in the event of a grant, the construction permit shall specify the following:

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.

Permittee shall install an approved type frequency monitor before equipment tests are authorized.

*It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicant and party 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 applicant herein shall, pursuant to § 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, 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.

Released: July 29, 1963.

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

[F.R. Doc. 63-8114; Filed, July 31, 1963; 8:57 a.m.]

# FEDERAL POWER COMMISSION

[Docket Nos. CP63-306, CP63-307]

## CITY OF PARIS, AND CITY OF MADISON, MISSOURI

### Notice of Applications

JULY 25, 1963.

Take notice that on May 15, 1963, the Cities of Paris and Madison, Missouri (Applicants), filed in Docket Nos. CP63-306 and CP63-307, respectively, applications pursuant to section 7(a) of the Natural Gas Act for orders of the Commission directing Panhandle Eastern Pipe Line Company (Respondent) to establish physical connection of its facilities with those which Applicants propose to construct and operate, and to sell and deliver natural gas to Applicants for resale and distribution in the Cities of Paris and Madison, Missouri, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Applicants propose to construct and operate jointly a 20.8-mile lateral line from Respondent's transmission line in Audrain County, Missouri, to the city gate of Paris. Madison will bear 25 percent of the cost, and Paris will bear the remaining 75 percent. The City of Madison will construct and operate an 11-mile transmission line from the Paris city gate to the proposed distribution system in Madison. Both cities propose to construct and operate individual municipally-owned natural gas distribution systems.

The estimated cost of the facilities proposed to be constructed by the City of Paris is $375,000, and the estimated cost of the facilities proposed to be constructed by the City of Madison is $247,000. The proposed projects will be financed with 30-year gas revenue bonds.

The estimated annual and peak day natural gas requirements in Mcf at 14.73 psia for the first three years of operation of the proposed distribution systems are as follows:

| | First year | Second year | Third year |
|---|---|---|---|
| City of Paris: | | | |
| Annual | 77,564 | 88,034 | 100,596 |
| Peak day | 969.8 | 1,106.2 | 1,270.3 |
| City of Madison: | | | |
| Annual | 29,784 | 36,947 | 43,435 |
| Peak day | 365.5 | 460.0 | 524.8 |

On June 21, 1963, Respondent filed an answer to the applications and stated that it does not object to rendering the requested service upon the execution of appropriate sales contracts by Applicants.

Protests, requests for hearing, 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 August 23, 1963.

GORDON M. GRANT,
*Acting Secretary.*

[F.R. Doc. 63-8068; Filed, July 31, 1963; 8:46 a.m.]

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[Docket No. G-6067 etc.]

## SUPERIOR OIL CO.

### Findings and Order Amending Orders Issuing Certificates of Public Convenience and Necessity and Substituting Respondent in Rate Proceedings

JULY 25, 1963.

The Superior Oil Company; Docket Nos. G-6067, G-6149, G-6150, G-6151, G-6152, G-6153, G-6155, G-6156, G-6157, G-6158, G-6159, G-6160, G-6161, G-6162, G-6163, G-6164, G-6165, G-6166, G-6167, G-6168, G-6169, G-6170, G-6173, G-6174, G-6175, G-6176, G-6177, G-6178, G-6180, G-6181, G-6182, G-6183, G-6184, G-6185, G-6186, G-6187, G-6188, G-8812, G-8723, G-8906, G-9802, G-9803, G-9873, G-10078, G-10079, G-10080, G-10081, G-10082, G-10108, G-11074, G-11131, G-11559, G-11588, G-12121, G-12761, G-12968, G-13072, G-13632, G-14674, G-15431, G-16147, G-16261, G-16878, G-17572, G-19600, CI60-675, CI61-87, CI61-807, CI61-1608,[1] G-10501, G-11845, G-12949, G-12950, G-14003, G-14024, G-14106, G-14263, G-15358, G-16731, G-17294, G-17323, G-17706, G-17707, G-17875, G-17989, G-18168, G-18694, G-18771, G-19610, G-19823, G-19934, G-20075, G-20347, G-20435, G-20577, RI60-265, RI61-67, RI61-83, RI61-97, RI61-218, RI61-515, RI62-17, RI62-27 RI62-278, RI62-445, RI62-497, RI62-524, RI62-525, RI63-37, RI63-49, AR61-1, AR61-2.[2]

On March 25, 1963, Supnev, Inc. (Petitioner), a Nevada corporation, filed in the aforementioned certificate dockets a petition to amend the order issuing certificates in said dockets to The Superior Oil Company (Sup.-Cal.), a California corporation, to substitute The Superior Oil Company (Sup.-Nev.), a Nevada corporation, in lieu of Sup.-Cal. as certificate holder therein, all as more fully set forth in the petition.

Subject to the approval of the shareholders of each company and the final approval of the directors of Supnev, Inc., Sup.-Cal. will be merged by Supnev, Inc.; and simultaneously with the effectiveness of said merger Supnev, Inc., will change its corporate name to The Superior Oil Company. Under the terms of the merger agreement, Supnev, Inc., under its new name of The Superior Oil Company will be vested with all of the ownership, assets, properties, rights, privileges, and franchises of whatsoever kind theretofore held or vested in Sup.-Cal., and Sup.-Nev. will assume all duties, obligations, responsibilities, and liabilities of Sup.-Cal. concerning or related to said ownership, assets, rights, privileges, and franchises and properties, and all contracts relating to or concerning same.

Sup.-Cal. has joined and concurred in the subject petition by filing a verification attached thereto.

On May 10, 1963, a temporary certificate was issued to Sup.-Nev. to continue the services heretofore authorized to be rendered by Sup.-Cal.

Sup.-Cal. is respondent in several rate proceedings. Sup.-Nev. will be substituted as respondent therein.

Notice of the petition to amend was issued on June 13, 1963, and published in the FEDERAL REGISTER on June 19, 1963 (28 F.R. 6309). No protest, request for hearing, or petition to intervene has been received.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity to The Superior Oil Company, a California corporation, in the aforementioned dockets should be amended to substitute The Superior Oil Company, a Nevada corporation, in lieu of The Superior Oil Company, a California corporation, as certificate holder therein.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that The Superior Oil Company, a Nevada corporation, should be substituted in lieu of The Superior Oil Company, a California corporation, as respondent in the aforementioned rate proceedings.

The Commission orders:

(A) The orders issuing certificates of public convenience and necessity to The Superior Oil Company, a California corporation, in the aforementioned dockets be and the same are hereby amended to substitute The Superior Oil Company, a Nevada corporation, in lieu of The Superior Oil Company, a California corporation, as certificate holder therein.

(B) The Superior Oil Company, a Nevada corporation, be and the same is hereby substituted in lieu of The Superior Oil Company, a California corporation, as respondent in the aforementioned rate proceedings.

[1] Certificate dockets.
[2] Rate dockets.

(C) In all other respects the orders issuing certificates and instituting rate proceedings in the aforementioned dockets shall remain in full force and effect.

By the Commission.

[SEAL] GORDON M. GRANT, *Acting Secretary.*

[F.R. Doc. 63-8069; Filed, July 31, 1963; 8:46 a.m.]

# FEDERAL RESERVE SYSTEM

## BANKERS TRUST CO.

### Order Approving Acquisition of Bank's Assets

In the matter of the application of Bankers Trust Company for approval of acquisition of assets of The First National Bank of Farmingdale.

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 Bankers Trust Company, New York, New York, a member bank of the Federal Reserve System, for the Board's prior approval of its acquisition of the assets and assumption of the deposit liabilities of The First National Bank of Farmingdale, Farmingdale, New York, and, as an incident thereto, Bankers Trust Company has applied, under section 9 of the Federal Reserve Act, for the Board's prior approval of the establishment by that bank of a branch at the present location of The First National Bank of Farmingdale. 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 in the light of the factors set forth in said Act, including those reports on competitive factors furnished under the provisions of the Bank Merger Act of 1960.

*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 after the date of this order, or (b) later than three months after said date.

Dated at Washington, D.C., this 26th day of July 1963.

By order of the Board of Governors.[2]

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 63-8081; Filed, July 31, 1963; 8:48 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. Dissenting Statement of Governor Robertson also filed as part of the original document and available upon request.

[2] Voting for this action: Chairman Martin, and Governors Balderston, Mills, and Shepardson. Voting against this action: Governor Robertson. Absent and not voting: Governors King and Mitchell.

# SECURITIES AND EXCHANGE COMMISSION

[File No. 811-1164]

## AMERICAN CAPITAL INVESTMENT, INC.

### Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

JULY 26, 1963.

Notice is hereby given that American Capital Investment, Inc. ("applicant"), an Ohio corporation and a management 1704 Carew Tower, Southwest Corner 5th and Vine Streets, Cincinnati 2, Ohio, open-end non-diversified investment company registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 8(f) of the Act for an order declaring that applicant has ceased to be an investment company as defined in the Act.

All persons are referred to the application on file with the Commission for a complete statement of the facts which are summarized below.

Applicant represents that the corporation was dissolved on November 1, 1962, pursuant to stockholders' approval which was given on July 28, 1962. Prior to the dissolution of the corporation, the U.S. Treasury Notes owned by applicant were sold and the cash distributed to the stockholders. No assets remain undistributed. All security holders have surrendered their holdings and received their distributive share of the assets. There are no securities of the corporation outstanding. Applicant further represents that the corporation is not now engaged and does not presently propose to engage in any business as an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 13, 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, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. 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 at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule O-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.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 63-8082; Filed, July 31, 1963; 8:48 a.m.]

[File No. 24D-2573]

## ASSOCIATE UNDERWRITERS, INC.

### Notice and Order for Hearing

JULY 26, 1963.

I. Associate Underwriters, Inc. (issuer), a Nebraska corporation, with offices at 827 Stuart Building, Lincoln, Nebraska, filed with the Commission on March 29, 1962, a notification on Form 1-A and an offering circular relating to a proposed offering, as amended, of 254,850 shares of common stock at $1.00 per share for an aggregate of $254,850 for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder.

II. The Commission on June 24, 1963, issued an order pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, temporarily suspending the issuer's exemption under Regulation A, and affording to any person having an interest therein an opportunity to request a hearing. A written request for a hearing has been received by the Commission.

The Commission deems it necessary and appropriate that a hearing be held for the purpose of determining whether it should vacate the temporary suspension order or enter an order of permanent suspension in this matter.

*It is hereby ordered,* Pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, that a hearing be held at 10:00 a.m., m.s.t., on September 9, 1963, at the Denver Regional Office of the Commission, 802 Midland Savings Building, 444 17th Street, Denver 2, Colorado, with respect to the following matters and questions, without prejudice, however, to the specification of additional issues which may be presented in these proceedings:

A. Whether the terms and conditions of Regulation A have not been complied with in that:

1. Offers of the securities of the issuer were made without giving to the offerees, concurrently or previously, an offering circular containing the information specified in Schedule I of Form 1-A as required by Rule 256(a)(1).

2. Securities of the issuer were sold without giving the offering circular spec-

ified in Rule 256(a)(1) to the persons to whom sold, with or prior to the confirmation of the sale or payment of all or part of the purchase price in violation of Rule 256(a)(2).

3. The issuer failed to amend its notification and offering circular to set forth certain changes in the terms of the offering prior to offering the securities on the revised terms.

4. The issuer, in violation of the prohibition contained in Rule 259, transmitted to investors a written communication in connection with the offering of its securities in which it was represented that the Commission had approved the securities being offered.

B. Whether the notification and offering circular filed pursuant to Rules 255 and 256 of Regulation A contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, particularly with respect to:

1. The failure to indicate the affiliation between the issuer and General Manufacturing Corp.

2. The failure to set forth correctly the proposed use of proceeds of the public offering.

3. The failure to disclose that the company was not licensed to sell any securities other than its own in Nebraska or any other state.

4. The inclusion of financial statements which were not in agreement with the issuer's records.

C. Whether the 2–A report filed March 11, 1963, for the six-month period ended January 27, 1963, is false and misleading in that it:

1. Fails to indicate that advances had been made to General Manufacturing Corp. out of the proceeds of the public offering.

2. Fails to set forth correctly salaries paid to the officers and directors of the company out of the proceeds of the public offering.

3. Reports sales made prior to the period covered by the report as having been made during the period covered by the report.

D. Whether the offering has been made in violation of section 17 of the Securities Act of 1933.

III. *It is further ordered,* That the designated hearing examiner, or any officer or officers of the Commission designated by it for that purpose, shall preside at the hearing; that any officer or officers so designated to preside at any such hearing are hereby authorized to exercise all the powers granted to the Commission under sections 19(b), 21 and 22(c) of the Securities Act of 1933, as amended, and to hearing officers under the Commission's rules of practice.

*It is further ordered,* That the Secretary of the Commission shall serve a copy of this order by registered mail on Associate Underwriters, Inc., that notice of the entering of this order shall be given to all other persons by a general release of the Commission and by publication in the FEDERAL REGISTER. Any person who desires to be heard, or otherwise wishes to participate in the hearing, shall file with the Secretary of the Commission on or before September 6, 1963, a written request relative thereto as provided in Rule 9(c) of the Commission's rules of practice.

*It is further ordered,* That Associate Underwriters, Inc., pursuant to Rule 7 of the rules of practice of the Commission (17 CFR 201.7), shall file an answer to the allegations set forth in section II hereinabove. Such answer shall be filed in the manner, form and within the time prescribed by 17 CFR 201.7 and shall specifically admit or deny or state that Associate Underwriters, Inc. does not have, and is unable to obtain, sufficient information to admit or deny each of the allegations set forth in section II hereinabove.

Notice is hereby given that if Associate Underwriters, Inc. fails to file an answer pursuant to 17 CFR 201.7 within fifteen days after service upon it of this notice and order for hearing, the proceedings may be determined against Associate Underwriters, Inc. by the Commission upon consideration of this notice and order for hearing and said allegations in section II above may be deemed to be true.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
*Secretary.*

[F.R. Doc. 63–8083; Filed, July 31, 1963; 8:49 a.m.]

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[File No. 812–1597]

## MERIDIAN FUND, INC.

### Notice of Filing of Application Permitting Certain Reinvestments of Dividend Distributions at Net Asset Value

JULY 26, 1963.

Notice is hereby given that Meridian Fund, Inc. ("Meridian"), 714 Boston Building, Denver, Colorado, a Maryland Corporation and a registered open-end management investment company has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 22(d) of the Act the offering of certain shares of Meridian at net asset value where such shares represent investments of dividends paid under the company's proposed Systematic Withdrawal Account described below.

The application states that the Fund has 18 shareholders and has a net worth in excess of $100,000. Meridian, whose Registration Statement under the Securities Act of 1933 has not yet become effective, intends to have a dividend reinvestment plan under which holders of shares of Meridian may reinvest distributions representing capital gains in additional shares at net asset value and reinvest other dividends in additional shares at the public offering price.

Meridian proposes to establish a Systematic Withdrawal Account under which any holder of $10,000 or more of its shares at the public offering price may request Meridian to make monthly or quarterly withdrawal payments to him of even amounts out of his account. Under such plan all distributions, whether from capital gains or income, will be automatically reinvested in additional shares at net asset value and credited to the account. It is contemplated that the amount of periodic withdrawals under such plan will be in excess of dividends from income.

Among other things, section 22(d) of the Act, with certain exceptions not applicable here, prohibits a registered investment company or a principal underwriter of a registered investment company from selling redeemable securities of such registered investment company except at a current public offering price described in the prospectus. Since the proposal set forth above may involve the offering of shares of Meridian below the normal public offering price thereof described in the prospectus in contravention of the provisions of section 22(d) of the Act, Meridian seeks an order pursuant to section 6(c) of the Act exempting such transactions from the provisions of section 22(d) of the Act.

Section 6(c) of the Act authorizes the Commission, by order upon application, to exempt conditionally or unconditionally, any transaction from any provisions of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds 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 August 13, 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 should 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 at the address set forth above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule O–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.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
*Secretary.*

[F.R. Doc. 63–8084; Filed, July 31, 1963; 8:49 a.m.]

[File No. 70-4147]

## PENNSYLVANIA ELECTRIC CO.

### Notice of Proposed Issuance and Sale of Notes to Banks

JULY 26, 1963.

Notice is hereby given that Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania, an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed an application and an amendment thereto with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) thereof as applicable to the proposed transactions. All interested persons are referred to the amended application, on file at the office of the Commission, for a statement of the transactions therein proposed which are summarized below.

Penelec proposes to issue and sell to a group of banks up to but not in excess of an aggregate of $34,900,000 face amount of its unsecured promissory notes to be outstanding at any one time. The notes are to be dated in each case as of the date of issuance but not later than June 30, 1964, and are to mature not more than nine months from the date of issue. They are to bear interest at such rate as will not exceed the prime rate per annum in effect at the time and place of their respective issuance and are to be prepayable at any time without premium.

The proposed notes would aggregate approximately 10 percent of the principal amount and par value of Penelec's other securities presently outstanding, and any amount in excess of 5 percent may be exempted only pursuant to an order under section 6(b) of the Act. The filing requests the Commission's approval for the issuance of such excess amount.

Although no commitments or agreements for the proposed borrowings have been made, Penelec expects that, as and to the extent that its construction program requires the issuance and sale of its unsecured notes, borrowings will be effected from among the following banks, the maximum to be outstanding at any one time from each such bank being as follows:

| | |
|---|---|
| Mellon National Bank & Trust Company Pittsburgh, Pa | $10,700,000 |
| Bankers Trust Company, New York, N.Y | 4,000,000 |
| Chemical Bank New York Trust Company, New York, N.Y | 4,000,000 |
| Manufacturers Hanover Trust Company, New York, N.Y | 4,000,000 |
| Morgan Guaranty Trust Company of New York, New York, N.Y | 4,000,000 |
| The Chase Manhattan Bank, New York, N.Y | 3,000,000 |
| The First Pennsylvania Banking and Trust Company, Philadelphia, Pa | 2,000,000 |
| The Marine Midland Trust Company, New York, N.Y | 1,000,000 |
| The First National Bank of Erie, Erie, Pa | 300,000 |
| First Seneca Bank & Trust Company, Oil City, Pa | 300,000 |
| Northwest Pennsylvania Bank & Trust Company, Oil City, Pa | 200,000 |
| Titusville Trust Company, Titusville, Pa | 200,000 |
| United States National Bank in Johnstown, Johnstown, Pa | 200,000 |
| Altoona Central Bank and Trust Company, Altoona, Pa | 200,000 |
| Union Bank & Trust Company, Erie, Pa | 100,000 |
| Bradford National Bank, Bradford, Pa | 100,000 |
| The Marine National Bank of Erie, Erie, Pa | 100,000 |
| Warren National Bank, Warren, Pa | 100,000 |
| Johnstown Bank and Trust Company, Johnstown, Pa | 100,000 |
| DuBois, Deposit National Bank, DuBois, Pa | 100,000 |
| The Savings & Trust Company of Indiana, Indiana, Pa | 100,000 |
| The First National Bank of Altoona, Altoona, Pa | 100,000 |
| Total | 34,900,000 |

The proceeds of the proposed issuance and sale of notes are to be used by Penelec to pay short term bank borrowings, for construction purposes, and to reimburse its treasury for expenditures made for construction.

The expense to be incurred in connection with the proposed transactions is estimated at $3,000.

It is represented that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than August 15, 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, D.C., 20549. 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 amended application as filed, or as it may 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.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 63-8085; Filed, July 31, 1963; 8:49 a.m.]

# DEPARTMENT OF LABOR

## Wage and Hour Division

## CERTIFICATES AUTHORIZING EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS IN RETAIL OR SERVICE ESTABLISHMENTS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of full-time students (29 CFR Part 519), and Administrative Order No. 561 (27 F.R. 4001), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, type of establishment and total number of employees of the establishment are as indicated below. Pursuant to § 519.6(b) of the regulation, the minimum certificate rates are not less than 85 percent of the minimum applicable under section 6 of the Fair Labor Standards Act.

The following certificates were issued pursuant to paragraphs (c) and (g) of § 519.6 of 29 CFR Part 519, providing for an allowance not to exceed the proportion of the total number of hours worked by full-time students at rates below $1.00 an hour to the total number of hours worked by all employees in the establishment during the base period, or 10 percent, whichever is lesser, in occupations of the same general classes in which the establishment employed full-time students at wages below $1.00 an hour in the base period.

REGION I

Centers Department Store, Railroad Street, St. Johnsbury, Vermont; effective 6-10-63 to 3-31-64 (department store; 26 employees).

M. H. Fishman Co., 41 Main Street, Newport, Vt.; effective 6-10-63 to 3-31-64 (variety store; 10 employees).

W. T. Grant Co. No. 400, 77-85 Congress Street, Rumford, Maine; effective 6-10-63 to 3-31-64 (variety store; 28 employees).

W. T. Grant Co., 66 Water Street, Skowhegan, Maine; effective 6-10-63 to 3-31-64 (variety store; 27 employees).

W. T. Grant Co., 48-54 Main Street, Newport, Vt.; effective 6-10-63 to 3-31-64 (variety store; 24 employees).

S. S. Kresge Co., 1025 Main Street, Bridgeport 3, Conn.; effective 6-10-63 to 3-31-64 (variety store; 55 employees).

S. S. Kresge Co., Hamden Mart Shopping Center, 2300 Dixwell Avenue, Hamden, Conn.; effective 6-10-63 to 3-31-64 (variety store; 34 employees).

S. S. Kresge Co. No. 149, 10 Colony Street, Meriden, Conn.; effective 6-10-63 to 3-31-64 (variety store; 39 employees).

S. S. Kresge Co., 4527 Jupiter, 440 Main Street, Middletown, Conn.; effective 6-10-63 to 3-31-64 (variety store; 9 employees).

S. S. Kresge Co., New London Shopping Center, 318 U.S. Route No. 1, New London,

Conn.; effective 6–10–63 to 3–31–64 (variety store; 42 employees).

S. S. Kresge Co., Enfield Shopping Center, 610 Enfield Street, Thompsonville, Conn.; effective 6–10–63 to 3–31–64 (variety store; 20 employees).

S. S. Kresge Co. No. 262, Waterbury Plaza, 226 Chase Avenue, Waterbury, Conn.; effective 6–10–63 to 3–31–64 (variety store; 26 employees).

S. S. Kresge Co., 25–33 South Main Street, Waterbury 22, Conn.; effective 6–10–63 to 3–31–64 (variety store; 60 employees).

S. S. Kresge Co., Elmwood Shopping Center, 1128 New Britain Avenue, West Hartford, Conn.; effective 6–10–63 to 3–31–64 (variety store; 20 employees).

S. S. Kresge Co. No. 60, 60 Lisbon Street, Lewiston, Maine; effective 6–10–63 to 3–31–64 (variety store; 52 employees).

S. S. Kresge Co. No. 165, 477 Washington Street, Boston 11, Mass.; effective 6–10–63 to 3–31–64 (variety store; 159 employees).

S. S. Kresge Co., 780 Dudley Street, Boston 25 (Dorchester), Mass.; effective 6–10–63 to 3–31–64 (variety store; 41 employees).

S. S. Kresge Co. No. 532, 24 Corinth Street, Boston 31 (Roslindale), Mass.; effective 6–10–63 to 3–31–64 (variety store; 31 employees).

S. S. Kresge Co. No. 653, Porter Square Shopping Center, 35 White Street, Cambridge 40, Mass.; effective 6–10–63 to 3–31–64 (variety store; 50 employees).

S. S. Kresge Co. No. 110, 35 Merrimack Street, Lowell, Mass.; effective 6–10–63 to 3–31–64 (variety store; 56 employees).

S. S. Kresge Co., 3 Pleasant Street, Newburyport, Mass.; effective 6–10–63 to 3–31–64 (variety store; 18 employees).

S. S. Kresge Co. No. 470, North Shore Shopping Center, Andover Street, Peabody, Mass.; effective 6–10–63 to 3–31–64 (variety store; 59 employees).

S. S. Kresge Co. No. 45, 191 Westminster Street, Providence 3, R.I.; effective 6–10–63 to 3–31–64 (variety store; 40 employees).

S. S. Kresge Co., 47 Church Street, Burlington, Vt.; effective 6–10–63 to 3–31–64 (variety store; 25 employees).

McCrory McLellan Green Stores, 1138 Main Street, Bridgeport, Conn.; effective 6–10–63 to 3–31–64 (variety store; 67 employees).

McLellans, 94–98 Main Street, Waterville, Maine; effective 6–10–63 to 3–31–64 (variety store; 28 employees).

McLellan Stores Co., 855 Main Street, Westbrook, Maine; effective 6–10–63 to 3–31–64 (variety store; 23 employees).

Newberry Pine State Inc., Main Street, Ellsworth, Maine; effective 6–10–63 to 3–31–64 (variety store; 23 employees).

J. J. Newberry Co., 67–69 Main Street, Houlton, Maine; effective 6–10–63 to 3–31–64 (variety store; 16 employees).

Newberry Madawaska Corp., Main Street and 11th Avenue, Madawaska, Maine; effective 6–10–63 to 3–31–64 (variety store; 19 employees).

Newberry Millinocket Corp., 216 Penobscot Avenue, Millinocket, Maine; effective 6–10–63 to 3–31–64 (variety store; 20 employees).

Newberry Pine State Inc., 191–195 Main Street, Norway, Maine; effective 6–10–63 to 3–31–64 (variety store; 17 employees).

J. J. Newberry Co., 788 Chapel Street, New Haven, Conn.; effective 6–10–63 to 3–31–64 (variety store; 22 employees).

J. J. Newberry Co. No. 4, 65 Congress Street, Rumford, Maine; effective 6–10–63 to 3–31–64 (variety store; 15 employees).

J. J. Newberry Co., 107 South Main Street, Fall River, Mass.; effective 6–10–63 to 3–31–64 (variety store; 32 employees).

J. J. Newberry Co., 42–44 Parker Street, Gardner, Mass.; effective 6–10–63 to 3–31–64 (variety store; 15 employees).

J. J. Newberry Co., 108 Merrimack Street, Haverhill, Mass.; effective 6–10–63 to 3–31–64 (variety store; 24 employees).

J. J. Newberry Co. No. 73, 237 High Street, Holyoke, Mass.; effective 6–10–63 to 3–31–64 (variety store; 59 employees).

J. J. Newberry Co., 175 Main Street, Northampton, Mass.; effective 6–10–63 to 3–31–64 (variety store; 61 employees).

J. J. Newberry Co., 395 Main Street, Wakefield, Mass.; effective 6–10–63 to 3–31–64 (variety store; 18 employees).

Newberry-Franklin Corp., 384–388 Central Street, Franklin, N.H.; effective 6–10–63 to 3–31–64 (variety store; 41 employees).

J. J. Newberry Co., 66 Main Street, Keene, N.H.; effective 6–10–63 to 3–31–64 (variety store; 14 employees).

Newberry Laconia Corp., 601 Main Street, Laconia, N.H.; effective 6–10–63 to 3–31–64 (variety store; 28 employees).

J. J. Newberry Co., 112 Main Street, Nashua, N.H.; effective 6–10–63 to 3–31–64 (variety store; 19 employees).

J. J. Newberry Co., 144 Thames Street, Newport, R.I.; effective 6–10–63 to 3–31–64 (variety store; 23 employees).

J. J. Newberry Co., 201–209 Westminster Street, Providence, R.I.; effective 6–10–63 to 3–31–64 (variety store; 196 employees).

J. J. Newberry Co., 37–41 Washington Street, West Warwick, R.I.; effective 6–10–63 to 3–31–64 (variety store; 57 employees).

J. J. Newberry Co., Main Street, Barre, Vt.; effective 6–10–63 to 3–31–64 (variety store; 28 employees).

J. J. Newberry Co., 20 Rockingham Street, Bellows Falls, Vt.; effective 6–10–63 to 3–31–64 (variety store; 14 employees).

J. J. Newberry Co., 46 Main Street, Newport, Vt.; effective 6–10–63 to 3–31–64 (variety store; 29 employees).

J. J. Newberry Co., South Main Street; White River Junction, Vt.; effective 6–10–63 to 3–31–64 (variety store; 20 employees).

REGION II

McCrory-McLellan-Green, No. 1032, 632 Cookman Avenue, Asbury Park, N.J.; effective 6–10–63 to 3–31–64 (variety store; 44 employees).

McCrory-McLellan-Green Stores No. 1075, 151 Newark Avenue, Jersey City, N.J.; effective 6–10–63 to 3–31–64 (variety store; 40 employees).

J. J. Newberry Co., No. 104, 614–620 Cookman Avenue, Asbury Park, N.J.; effective 6–10–63 to 3–31–64 (variety store; 91 employees).

REGION III

G. C. Murphy Co., No. 149, 100–4 Main Street, Annapolis, Md.; effective 6–10–63 to 3–31–64 (variety store; 46 employees).

G. C. Murphy Co., No. 134, 1200–02–04 West Baltimore Street, Baltimore, Md.; effective 6–10–63 to 3–31–64 (variety store; 60 employees).

G. C. Murphy Co., No. 138, 18–20–22 West North Avenue, Baltimore, Md.; effective 6–10–63 to 3–31–64 (variety store; 59 employees).

G. C. Murphy Co., No. 147, 7737 Eastern Boulevard, Baltimore, Md.; effective 6–10–63 to 3–31–64 (variety store; 117 employees).

G. C. Murphy Co., No. 148, 411–13 South Broadway, Baltimore, Md.; effective 6–10–63 to 3–31–64 (variety store; 34 employees).

G. C. Murphy Co., No. 151, 1024–26–30 Light Street, Baltimore, Md.; effective 6–10–63 to 3–31–64 (variety store; 17 employees).

G. C. Murphy Co., No. 152, 6863–65 Loch Raven Boulevard, Baltimore, Md.; effective 6–10–63 to 3–31–64 (variety store; 51 employees).

G. C. Murphy Co., No. 153, 901 West 36th Street, Baltimore, Md.; effective 6–10–63 to 3–31–64 (variety store; 21 employees).

G. C. Murphy Co., No. 174, 5406–08–10 Harford Road, Baltimore, Md.; effective 6–10–63 to 3–31–64 (variety store; 30 employees).

G. C. Murphy Co., No. 200, 3421–25 Belair Road, Baltimore, Md.; effective 6–10–63 to 3–31–64 (variety store; 23 employees).

G. C. Murphy Co., No. 224, 3411 Dundalk Avenue, Baltimore, Md.; effective 6–10–63 to 3–31–64 (variety store; 40 employees).

G. C. Murphy Co., No. 238, 2027 Mondawin Mall, Baltimore, Md.; effective 6–10–63 to 3–31–64 (variety store; 98 employees).

G. C. Murphy Co., No. 267, 5732 Baltimore National Pike, Baltimore, Md.; effective 6–10–63 to 3–31–64 (variety store; 119 employees).

G. C. Murphy Co., 179, 140–44 Baltimore Street, Cumberland, Md.; effective 6–10–63 to 3–31–64 (variety store; 88 employees).

G. C. Murphy Co., No. 55, 201–05 Wood Street, California, Pa.; effective 6–10–63 to 3–31–64 (variety store; 18 employees).

G. C. Murphy Co., No. 54, 23–29 East Main Street, Carnegie, Pa.; effective 6–10–63 to 3–31–64 (variety store; 16 employees).

G. C. Murphy Co., No. 11, 512–22 Fallowfield Avenue, Charleroi, Pa.; effective 6–10–63 to 3–31–64 (variety store; 68 employees).

G. C. Murphy Co., No. 88, 559–65 Miller Avenue, Clairton, Pa.; effective 6–10–63 to 3–31–64 (variety store; 26 employees).

G. C. Murphy Co., No. 66, 516 Main Street, Clarion, Pa.; effective 6–10–63 to 3–31–64 (variety store; 32 employees).

G. C. Murphy Co., No. 158, 243–45 Market Street, Clearfield, Pa.; effective 6–10–63 to 3–31–64 (variety store; 38 employees).

G. C. Murphy Co., No. 201, 109 West Crawford Avenue, Connellsville, Pa.; effective 6–10–63 to 3–31–64 (variety store; 76 employees).

G. C. Murphy Co., No. 169, 45–54 North Center Street, Corry, Pa.; effective 6–10–63 to 3–31–64 (variety store; 21 employees).

G. C. Murphy Co., No. 175, 914–22 State Street, Erie, Pa.; effective 6–10–63 to 3–31–64 (variety store; 40 employees).

G. C. Murphy Co., No. 225, 934 West Erie Plaza, Erie, Pa.; effective 6–10–63 to 3–31–64 (variety store; 41 employees).

G. C. Murphy Co., No. 46, 108–10 Second Street, Elizabeth, Pa.; effective 6–10–63 to 3–31–64 (variety store; 18 employees).

G. C. Murphy Co., No. 56, 352–54 Butler Street, Etna, Pa.; effective 6–10–63 to 3–31–64 (variety store; 19 employees).

G. C. Murphy Co., No. 124, 114–16 East Main Street, Everett, Pa.; effective 6–10–63 to 3–31–64 (variety store; 21 employees).

G. C. Murphy Co., No. 58, 600–2 Idaho Street, Farrell, Pa.; effective 6–10–63 to 3–31–64 (variety store; 18 employees).

G. C. Murphy Co., No. 44, 402–06 Ford Street, Ford City, Pa.; effective 6–10–63 to 3–31–64 (variety store; 20 employees).

G. C. Murphy Co., No. 184, 1261–63 Liberty Street, Franklin, Pa.; effective 6–10–63 to 3–31–64 (variety store; 30 employees).

G. C. Murphy Co., No. 129, 15–31 Baltimore Street, Gettysburg, Pa.; effective 6–10–63 to 3–31–64 (variety store; 34 employees).

G. C. Murphy Co., No. 3, 133–45 South Main Street, Greensburg, Pa.; effective 6–10–63 to 3–31–64 (variety store; 73 employees).

G. C. Murphy Co., No. 43, 205–09 Main Street, Greenville, Pa.; effective 6–10–63 to 3–31–64 (variety store; 16 employees).

G. C. Murphy Co., No. 13, 149–53 South Broad Street, Grove City, Pa.; effective 6–10–63 to 3–31–64 (variety store; 28 employees).

G. C. Murphy Co., No. 28, 30–32 Broadway, Hanover, Pa.; effective 6–10–63 to 3–31–64 (variety store; 51 employees).

G. C. Murphy Co., No. 165, 215–17 Market Street, Harrisburg, Pa.; effective 6–10–63 to 3–31–64 (variety store; 75 employees).

G. C. Murphy Co., No. 228, West Chester Pike and Eagle Road, Havertown, Pa.; effective 6–10–63 to 3–31–64 (variety store; 52 employees).

G. C. Murphy Co., No. 211, 305–308 Allegheny Street, Hollidaysburg, Pa.; effective 6–10–63 to 3–31–64 (variety store; 30 employees).

G. C. Murphy Co., No. 143, 528 Washington Street, Huntingdon, Pa.; effective 6–10–63 to 3–31–64 (variety store; 20 employees).

G. C. Murphy Co., No. 126, 665–67 Philadelphia Street, Indiana, Pa.; effective 6–10–63 to 3–31–64 (variety store; 62 employees).

G. C. Murphy Co., No. 23, 328–34 Main Street, Irwin, Pa.; effective 6–10–63 to 3–31–64 (variety store; 41 employees).

G. C. Murphy Co., No. 45, 314–16 Clay Avenue, Jeannette, Pa.; effective 6–10–63 to 3–31–64 (variety store; 41 employees).

G. C. Murphy Co., No. 9, 212–220 Market Street, Kittanning, Pa.; effective 6–10–63 to 3–31–64 (variety store; 78 employees).

G. C. Murphy Co., 810–12 Ligonier Street, Latrobe, Pa.; effective 6–10–63 to 3–31–64 (variety store; 51 employees).

G. C. Murphy Co., No. 79, 101–05 North First Street, Lehighton, Pa.; effective 6–10–63 to 3–31–64 (variety store; 41 employees).

G. C. Murphy Co., No. 232, 1200 Market Street, Box 266, Lemoyne, Pa.; effective 6–10–63 to 3–31–64 (variety store; 54 employees).

G. C. Murphy Co., No. 59, 2 East Market Street, Lewistown, Pa.; effective 6–10–63 to 3–31–64 (variety store; 51 employees).

G. C. Murphy Co., No. 116, 105–11 South Diamond, Ligonier, Pa.; effective 6–10–63 to 3–31–64 (variety store; 20 employees).

G. C. Murphy Co., No. 1, 315–21 Fifth Avenue, McKeesport, Pa.; effective 6–10–63 to 3–31–64 (variety store; 121 employees).

G. C. Murphy Co., No. 84, 630–32 Midland Avenue, Midland, Pa.; effective 6–10–63 to 3–31–64 (variety store; 22 employees).

G. C. Murphy Co., No. 202, 106 Lincoln Avenue, McDonald, Pa.; effective 6–10–63 to 3–31–64 (variety store; 22 employees).

G. C. Murphy Co., No. 16, 226–28 Chestnut Street, Meadville, Pa.; effective 6–10–63 to 3–31–64 (variety store; 55 employees).

G. C. Murphy Co., No. 31, 518–22–24–26 Bonner Avenue, Monessen, Pa.; effective 6–10–63 to 3–31–64 (variety store; 21 employees).

G. C. Murphy Co., No. 146, 31 West Shirley Street, Mt. Union, Pa.; effective 6–10–63 to 3–31–64 (variety store; 27 employees).

G. C. Murphy Co., No. 186, 205 Center Street, Meyersdale, Pa.; effective 6–10–63 to 3–31–64 (variety store; 17 employees).

G. C. Murphy Co., No. 233, Heights Plaza, Broadway Boulevard, Natrona Heights, Pa.; effective 6–10–63 to 3–31–64 (variety store; 67 employees).

G. C. Murphy Co., No. 193, 23–25 Belvidere Street, Nazareth, Pa.; effective 6–10–63 to 3–31–64 (variety store; 17 employees).

G. C. Murphy Co., No. 48, 312 Broad Street, New Bethlehem, Pa.; effective 6–10–63 to 3–31–64 (variety store; 21 employees).

G. C. Murphy Co., No. 106, 119–25 East Washington Street, New Castle, Pa.; effective 6–10–63 to 3–31–64 (variety store; 60 employees).

G. C. Murphy Co., 3–5 Main Street, North East, Pa.; effective 6–10–63 to 3–31–64 (variety store; 23 employees).

G. C. Murphy Co., No. 4, 889 Fifth Avenue, New Kensington, Pa.; effective 6–10–63 to 3–31–64 (variety store; 75 employees).

G. C. Murphy Co., No. 229, 2001 Oregon Avenue, Philadelphia, Pa.; effective 6–10–63 to 3–31–64 (variety store; 55 employees).

G. C. Murphy Co., No. 246, 62d and Woodland, Philadelphia, Pa.; effective 6–10–63 to 3–31–64 (variety store; 55 employees).

G. C. Murphy Co., No. 12, 228–32 Fifth Avenue, Pittsburgh, Pa.; effective 6–10–63 to 3–31–64 (variety store; 312 employees).

G. C. Murphy Co., No. 29, 701–05 Homewood Avenue, Pittsburgh, Pa.; effective 6–10–63 to 3–31–64 (variety store; 44 employees).

G. C. Murphy Co., No. 57, 4327 Butler Street, Pittsburgh, Pa.; effective 6–10–63 to 3–31–64 (variety store; 37 employees).

G. C. Murphy Co., No. 61, 4847–49 Second Street, Pittsburgh, Pa.; effective 6–10–63 to 3–31–64 (variety store; 21 employees).

G. C. Murphy Co., No. 83, 1413–1415 Potomac Avenue, Pittsburgh, Pa.; effective 6–10–63 to 3–31–64 (variety store; 29 employees).

G. C. Murphy Co., No. 87, 680–82 Washington Road, Pittsburgh, Pa.; effective 6–10–63 to 3–31–64 (variety store; 18 employees).

G. C. Murphy Co., No. 163, 719–23 East Ohio Street, North Side Pittsburgh, Pa.; effective 6–10–63 to 3–31–64 (variety store; 42 employees).

G. C. Murphy Co., No. 170, 221–23 Brownsville Road, Pittsburgh, Pa.; effective 6–10–63 to 3–31–64 (variety store; 50 employees).

G. C. Murphy Co., No. 196, 6019–23 Penn Avenue, Pittsburgh, Pa.; effective 6–10–63 to 3–31–64 (variety store; 74 employees).

G. C. Murphy Co., No. 221, 4110 Brownsville Road, Pittsburgh, Pa.; effective 6–10–63 to 3–31–64 (variety store; 70 employees).

G. C. Murphy Co., No. 237, 300 Mt. Lebanon Boulevard, Pittsburgh, Pa.; effective 6–10–63 to 3–31–64 (variety store; 36 employees).

G. C. Murphy Co., No. 258, East Hills Center, Robinson Boulevard and Frankstown Road, Pittsburgh, Pa.; effective 6–10–63 to 3–31–64 (variety store; 83 employees).

G. C. Murphy Co., No. 183 101 West Mahoning Avenue, Punxsutawney, Pa.; effective 6–10–63 to 3–31–64 (variety store; 47 employees).

G. C. Murphy Co., No. 127, 17 North Main Street, Red Lion, Pa.; effective 6–10–63 to 3–31–64 (variety store; 15 employees).

G. C. Murphy Co., No. 247, 249 Main Street, Ridgway, Pa.; effective 6–10–63 to 3–31–64 (variety store; 27 employees).

G. C. Murphy Co., No. 7, 188–92 Brighton Avenue, Rochester, Pa.; effective 6–10–63 to 3–31–64 (variety store; 26 employees).

G. C. Murphy Co., No. 80, 411–413 Beaver Street, Sewickley, Pa.; effective 6–10–63 to 3–31–64 (variety store; 22 employees).

G. C. Murphy Co., No. 128, 47–51 East State Street, Sharon, Pa.; effective 6–10–63 to 3–31–64 (variety store; 42 employees).

G. C. Murphy Co., No. 85, 31–37 Erie Avenue, St. Marys, Pa.; effective 6–10–63 to 3–31–64 (variety store; 33 employees).

G. C. Murphy Co., No. 118, 1–3–5 East King Street, Shippensburg, Pa.; effective 6–10–63 to 3–31–64 (variety store; 29 employees).

G. C. Murphy Co., No. 145, 127–131 South Allen Street, State College, Pa.; effective 6–10–63 to 3–31–64 (variety store; 41 employees).

G. C. Murphy Co., No. 64, 414–416 Corbet Street, Tarentum, Pa.; effective 6–10–63 to 3–31–64 (variety store; 42 employees).

G. C. Murphy Co., No. 73, 116 West Spring Street, Titusville, Pa.; effective 6–10–63 to 3–31–64 (variety store; 24 employees).

G. C. Murphy Co., No. 5, 538–40 Penn Avenue, Turtle Creek, Pa.; effective 6–10–63 to 3–31–64 (variety store; 14 employees).

G. C. Murphy Co., No. 164, 13–7 East Main Street, Uniontown, Pa.; effective 6–10–63 to 3–31–64 (variety store; 136 employees).

G. C. Murphy Co., No. 159, 120–24 Grant Avenue, Vandergrift, Pa.; effective 6–10–63 to 3–31–64 (variety store; 37 employees).

G. C. Murphy Co., No. 60, 306–308 Second Street, Warren, Pa.; effective 6–10–63 to 3–31–64 (variety store; 28 employees).

G. C. Murphy Co., No. 155, 43–7 North Main Street, Washington, Pa.; effective 6–10–63 to 3–31–64 (variety store; 134 employees).

G. C. Murphy Co., No. 177, 22–26 West High Street, Waynesburg, Pa.; effective 6–10–63 to 3–31–64 (variety store; 45 employees).

G. C. Murphy Co., No. 47, 129–31 Main Street, West Newton, Pa.; effective 6–10–63 to 3–31–64 (variety store; 17 employees).

G. C. Murphy Co., No. 227, 48 North Easton Road, Willow Grove, Pa.; effective 6–10–63 to 3–31–64 (variety store; 73 employees).

G. C. Murphy Co., No. 205, 1–3–5 East Market Street, York, Pa.; effective 6–10–63 to 3–31–64 (variety store; 26 employees).

G. C. Murphy Co., No. 39, 708–12 Penn Avenue, Wilkinsburg, Pittsburgh, Pa.; effective 6–10–63 to 3–31–64 (variety store; 31 employees).

F. W. Woolworth Co., No. 2214, Nylon Capital Shopping Center, Stein Highway and Atlanta Road, Seaford, Del.; effective 6–10–63 to 3–31–64 (variety store; 29 employees).

F. W. Woolworth Co., No. 1302, 116–22 Allen Street, State College, Pa.; effective 6–10–63 to 3–31–64 (variety store; 24 employees).

F. W. Woolworth Co., No. 43, 839 Market Street, Wilmington, Del.; effective 6–10–63 to 3–31–64 (variety store; 60 employees).

F. W. Woolworth Co., No. 75, 504–508 Market Street, Wilmington, Del.; effective 6–10–63 to 3–31–64 (variety store; 58 employees).

F. W. Woolworth Co., 132 East Lancaster Avenue, Wayne, Pa.; effective 6–10–63 to 3–31–64 (variety store; 34 employees).

REGION IV

M. Burnstein Department, Inc., 533 Iberville Street, New Orleans, La.; effective 6–12–63 to 3–31–64 (shoe store; 4 employees).

McCrory Stores Corp., No. 298, 538–540 Jefferson Street, Lafayette, La.; effective 6–24–63 to 3–31–64 (variety store; 32 employees).

Morgan and Lindsey, Inc., 7441 St. Claude, Arabi, La.; effective 6–27–63 to 3–31–64 (variety store; 12 employees).

Morgan and Lindsey, Inc., No. 3065, 3382 Government Street, Baton Rouge, La.; effective 6–27–63 to 3–31–64 (variety store; 15 employees).

Morgan and Lindsey, Inc., No. 3074, 2934 W. Beach, Biloxi, Miss.; effective 6–27–63 to 3–31–64 (variety store; 12 employees).

Morgan and Lindsey, Inc., No. 3076, 776 Highway 1 South, Greenville, Miss.; effective 6–27–63 to 3–31–64 (variety store; 12 employees).

Morgan and Lindsey, Inc., No. 3085, 2415 25th Avenue, Gulfport, Miss.; effective 6–27–63 to 3–31–64 (variety store; 13 employees).

Morgan and Lindsey, Inc., No. 3051, 1702 Terry Road, Jackson, Miss.; effective 6–27–63 to 3–31–64 (variety store; 13 employees).

Morgan and Lindsey, Inc., No. 3082, Gardiner Center, Laurel, Miss.; effective 6–27–63 to 3–31–64 (variety store; 10 employees).

Morgan and Lindsey, Inc., No. 3022, 239 DeSiard, Monroe, La.; effective 6–27–63 to 3–31–64 (variety store; 17 employees).

Moragn and Lindsey, Inc., No. 3083, 906 Seventh Street, Morgan City, La.; effective 6–27–63 to 3–31–64 (variety store; 11 employees).

Morgan and Lindsey, Inc., No. 3084, Broadway Mart, Hattiesburg, Miss.; effective 6–27–63 to 3–31–64 (variety store; 11 employees).

Morgan and Lindsey, Inc., No. 3057, 3606 South Carrollton, New Orleans, La.; effective 6–27–63 to 3–31–64 (variety store; 21 employees).

Morgan and Lindsey, Inc., No. 3068, 4718 Paris Avenue, New Orleans, La.; effective 6–27–63 to 3–31–64 (variety store; 18 employees).

Morgan and Lindsey, Inc., No. 3019, 109–11 North Trenton, Ruston, La.; effective 6–27–63 to 3–31–64 (variety store; 16 employees).

Morgan and Lindsey, Inc., No. 3050, 215 Trenton, West Monroe, La.; effective 6–27–63 to 3–31–64 (variety store; 16 employees).

F. W. Woolworth Co., 816 Garrison Avenue, Fort Smith, Ark.; effective 6–23–63 to 3–31–64 (variety store; 22 employees).

F. W. Woolworth Co., 17 Big Chain Center, Bossier City, La.; effective 6–14–63 to 3–31–64 (variety store; 12 employees).

F. W. Woolworth Co., No. 1220, 510 Main Street, Houma, La.; effective 6–10–63 to 3–31–64 (variety store; 39 employees).

REGION VI

Neisner Brothers, Inc., No. 129, 122 17th Avenue NW., Rochester, Minn.; effective 6–

10–63 to 3–31–64 (variety store; 25 employees).

Neisner Brothers, Inc., No. 20, 48 East Seventh Street, St. Paul, Minn.; effective 6–10–63 to 3–31–64 (variety store; 38 employees).

Roadhouse Search Food Stores, Inc., Roadhouse, Ill.; effective 6–10–63 to 3–31–64 (food store; 11 employees).

REGION VIII

C. R. Anthony Co., Borger, Tex.; effective 7–9–63 to 3–31–64 (department store; 19 employees).

Food Mart No. 21, 1300 10th Street, Alamogordo, N. Mex.; effective 7–9–63 to 3–31–64 (food store; 29 employees).

Food Mart No. 31, 910 Delaware, Alamogordo, N. Mex.; effective 7–10–63 to 3–31–64 (food store; 13 employees).

Food Mart No. 26, Post Office Box 578, Carrizozo, N. Mex.; effective 7–10–63 to 3–31–64 (food store; 6 employees).

Food Mart No. 30, Main and Picacho, Las Cruces, N. Mex.; effective 7–10–63 to 3–31–64 (food store; 22 employees).

Food Mart No. 29, West Second, Roswell, N. Mex.; effective 7–10–63 to 3–31–64 (food store; 24 employees).

Food Mart No. 18, 527 Broadway, Truth or Consequences, N. Mex.; effective 7–9–63 to 3–31–64 (food store; 11 employees).

Food Mart No. 3, 8556 Dyer, El Paso, Tex.; effective 7–9–63 to 3–31–64 (food store; 20 employees).

Food Mart No. 8, 301 Cincinnati, El Paso, Tex.; effective 7–9–63 to 3–31–64 (food store; 20 employees).

Food Mart No. 11, 8824 Highway 80 East, El Paso, Tex.; effective 7–9–63 to 3–31–64 (food store; 9 employees).

Food Mart No. 16, 5583 Alameda, El Paso, Tex.; effective 7–9–63 to 3–31–64 (food store; 18 employees).

Food Mart No. 17, 1000 Chelsea, El Paso, Tex.; effective 7–9–63 to 3–31–64 (food store; 40 employees).

Food Mart No. 22, 7750 North Loop Road, El Paso, Tex.; effective 7–9–63 to 3–31–64 (food store; 14 employees).

Food Mart No. 23, 524 South Stanton, El Paso, Tex.; effective 7–10–63 to 3–31–64 (food store; 12 employees).

Food Mart No. 24, 7444 Gateway Boulevard, El Paso, Tex.; effective 7–10–63 to 3–31–64 (food store; 18 employees).

Food Mart No. 27, 303 South Stanton, El Paso, Tex.; effective 7–10–63 to 3–31–64 (food store; 7 employees).

Food Mart No. 14, 15 Meta, Midland, Tex.; effective 7–9–63 to 3–31–64 (food store; 22 employees).

Food Mart No. 19, 504 East Noble, Midland, Tex.; effective 7–9–63 to 3–31–64 (food store; 18 employees).

Food Mart No. 5, 619 West 10th, Odessa, Tex.; effective 7–9–63 to 3–31–64 (food store; 11 employees).

Food Mart No. 12, 1355 East Eighth Street, Odessa, Tex.; effective 7–9–63 to 3–31–64 (food store; 21 employees).

Food Mart No. 4, 1015 West Third, Pecos, Tex.; effective 7–9–63 to 3–31–64 (food store; 8 employees).

Food Mart No. 20, 523–633 42d Street, Odessa, Tex.; effective 7–10–63 to 3–31–64 (food store; 25 employees).

REGION X

Cooke's Food Store, 17 Broad Street SW., Cleveland, Tenn.; effective 7–11–63 to 3–31–64 (food store; 28 employees).

Dyche Jones Food Store, South Broad Street, London, Ky.; effective 7–26–63 to 8–31–64 (food store; 15 employees).

REGION XI

Colonial Stores, Inc., No. 2200, 901 Green Street, Augusta, Ga.; effective 6–11–63 to 3–31–64 (food store; 18 employees).

Colonial Stores, Inc., No. 2203, 2803 Wrightsboro Road, Augusta, Ga.; effective 6–11–63 to 3–31–64 (food store; 34 employees).

Colonial Stores, Inc., No. 2269, North Broad and Millage Road, Augusta, Ga.; effective 6–11–63 to 3–31–64 (food store; 32 employees).

Colonial Stores, Inc., No. 2302, 2606 Peach Orchard Road, Augusta, Ga.; effective 6–11–63 to 3–31–64 (food store; 10 employees).

Colonial Stores, Inc., No. 2209, Southgate Plaza Shopping Center, Augusta, Ga.; effective 6–11–63 to 3–31–64 (food store; 37 employees).

Colonial Stores, Inc,, No. 2228, 8491 Waters Road, Savannah, Ga.; effective 6–11–63 to 3–31–64 (food store; 15 employees).

Colonial Stores, Inc., No. 2056, 46 De Renne Avenue, Savannah, Ga.; effective 6–11–63 to 3–31–64 (food store; 19 employees).

Colonial Stores, Inc., No. 2225, 2125 East Victory Drive, Savannah, Ga,; effective 6–11–63 to 3–31–64 (food store; 27 employees).

Colonial Stores, Inc., No. 2206, 5 West Henry Street, Savannah, Ga,; effective 6–11–63 to 3–31–64 (food store; 13 employees).

Colonial Stores, Inc., No. 2232, Traffic Circle (Garden City), Savannah, Ga.; effective 6–11–63 to 3–31–64 (food store; 22 employees).

Colonial Stores, Inc., No. 2241, 16 Mitchell Shopping Center, Aiken, S.C.; effective 6–11–63 to 3–31–64 (food store; 20 employees).

Colonial Stores, Inc., No. 2317, 210 Richland Avenue West, Aiken, S.C.; effective 6–11–63 to 3–31–64 (food store; 18 employees).

Colonial Stores, Inc., No. 2050, 2309 Main Street, Anderson, S.C.; effective 6–11–63 to 3–31–64 (food store; 18 employees).

Colonial Stores, Inc., No. 2331, 1607 Allen Street, Barnwell, S.C.; effective 6–11–63 to 3–31–64 (food store; 19 employees).

Colonial Stores, Inc., No. 2223, 1907 Boundary Street, Beaufort, S.C.; effective 6–11–63 to 3–31–64 (food store; 20 employees).

Colonial Stores, Inc., No. 2208, 300 Knox Abbott Drive, Cayce, S.C.; effective 6–11–63 to 3–31–64 (food store; 25 employees).

Colonial Stores, Inc., No. 2210, 7 Beaufain Street, Charleston, S.C.; effective 6–11–63 to 3–31–64 (food store; 21 employees).

Colonial Stores, Inc., No. 2101, Pinehaven Shopping Center, Charleston, S.C.; effective 6–11–63 to 3–31–64 (food store; 22 employees).

Colonial Stores, Inc., No. 2057, 921 Savannah Highway, Charleston, S.C.; effective 6–11–63 to 3–31–64 (food store; 20 employees).

Colonial Stores, Inc., No. 2261, 5509 Rivers Avenue, Charleston, S.C.; effective 6–11–63 to 3–31–64 (food store; 13 employees).

Colonial Stores, Inc., No. 2319, 104 York Street, Chester, S.C.; effective 6–11–63 to 3–31–64 (food store; 13 employees).

Colonial Stores, Inc., No. 2335, 2838 Rosewood Drive, Columbia, S.C.; effective 6–11–63 to 3–31–64 (food store; 26 employees).

Colonial Stores, Inc., No. 2267, 4825 Forest Drive, Columbia, S.C.; effective 6–11–63 to 3–31–64 (food store; 28 employees).

Colonial Stores, Inc., No. 2102, Midland Shopping Center, Columbia, S.C.; effective 6–11–63 to 3–31–64 (food store; 32 employees).

Colonial Stores, Inc., No. 2103, Richland Mall, Columbia, S.C.; effective 6–11–63 to 3–31–64 (food store; 30 employees).

Colonial Stores, Inc., No. 2220, 1023 Harden Street, Columbia, S.C.; effective 6–11–63 to 3–31–64 (food store; 22 employees).

Colonial Stores, Inc., No. 2256, 3604 Main Street, Columbia, S.C.; effective 6–11–63 to 3–31–64 (food store; 21 employees).

Colonial Stores, Inc., No. 2434, 205 Main Street, Edgefield, S.C.; effective 6–11–63 to 3–31–64 (food store; 11 employees).

Colonial Stores, Inc., No. 2058, 1721 West Palmetto Street, Florence, S.C.; effective 6–11–63 to 3–31–64 (food store; 21 employees).

Colonial Stores, Inc., No. 2217, 208 North Fraser Street, Georgetown, S.C.; effective 6–11–63 to 3–31–64 (food store; 21 employees).

Colonial Stores, Inc., No. 2230, 58 Liberty Lane, Greenville, S.C.; effective 6–11–63 to 3–31–64 (food store; 14 employees).

Colonial Stores, Inc., No. 2218, Stone Plaza Shopping Center, Greenville, S.C.; effective 6–11–63 to 3–31–64 (food store; 23 employees).

Colonial Stores, Inc., No. 2202, 1142 Pendleton Street, Greenville, S.C.; effective 6–11–63 to 3–31–64 (food store; 18 employees).

Colonial Stores, Inc., No. 2104, Terrace Shopping Center, Greenville, S.C.; effective 6–11–63 to 3–31–64 (food store; 33 employees).

Colonial Stores, Inc., No. 2204, 438 Main Street, Greenwood, S.C.; effective 6–11–63 to 3–31–64 (food store; 23 employees).

Colonial Stores, Inc., No. 2222, West Main and Saxon Street, Laurens, S.C.; effective 6–11–63 to 3–31–64 (food store; 20 employees).

Colonial Stores, Inc., No. 2309, 115 West Fairlee Street, Marion, S.C.; effective 6–11–63 to 3–31–64 (food store; 12 employees).

Colonial Stores, Inc., No. 2229, 687 Highway 17, Mt. Pleasant, S.C.; effective 6–11–63 to 3–31–64 (food store; 29 employees).

Colonial Stores, Inc., No. 2344, 1715 Main Street, Newberry, S.C.; effective 6–11–63 to 3–31–64 (food store; 16 employees).

Colonial Stores, Inc., No. 2201, 434 Georgia Avenue, North Augusta, S.C.; effective 6–11–63 to 3–31–64 (food store; 37 employees).

Colonial Stores, Inc., No. 2313, 425 Russell Street, Orangeburg, S.C.; effective 6–11–63 to 3–31–64 (food store; 12 employees).

Colonial Stores, Inc., No. 2233, 237 East Main Street, Rock Hill, S.C.; effective 6–11–63 to 3–31–64 (food store; 17 employees).

Colonial Stores, Inc., No. 2053, 159 South Pine Street, Spartanburg, S.C.; effective 6–11–63 to 3–31–64 (food store; 25 employees).

Colonial Stores, Inc., No. 2253, 370 North Church Street, Spartanburg, S.C.; effective 6–11–63 to 3–31–64 (food store; 28 employees).

Colonial Stores, Inc., No. 2214, 208 North Main Street, Summerville, S.C.; effective 6–11–63 to 3–31–64 (food store; 29 employees).

Colonial Stores, Inc., No. 2325, 325 Broad Street, Sumter, S.C.; effective 6–11–63 to 3–31–64 (food store; 10 employees).

Colonial Stores, Inc., No. 2332, 506 Washington Street, Walterboro, S.C.; effective 6–11–63 to 3–31–64 (food store; 17 employees).

McCrory-McLellan-Green Stores, 509–513 Cleveland Street, Clearwater, Fla.; effective 6–28–63 to 3–31–64 (variety store; 44 employees).

McCrory's, 128–30 South Beach Street, Daytona Beach, Fla.; effective 6–28–63 to 3–31–64 (variety store; 27 employees).

McCrory Stores Corp., 103–107 North Woodland Boulevard, DeLand, Fla.; effective 6–24–63 to 3–31–64 (variety store; 22 employees)

McCrory-McLellan-Green Stores, 108–110 Broadway, Kissimmee, Fla.; effective 6–10–63 to 3–31–64 (variety store; 21 employees).

McCrory, No. 157, 326–328 North Marion Street, Lake City, Fla.; effective 6–11–63 to 3–31–64 (variety store; 23 employees).

McCrory, No. 1313, 214 East Park Avenue, Lake Wales, Fla.; effective 6–11–63 to 3–31–64 (variety store; 18 employees).

McCrory-McLellan-Green Stores, No. 259, 301 West Main Street, Leesburg, Fla.; effective 6–24–63 to 3–31–64 (variety store; 25 employees).

McCrory-McLellan-Green, 455–59 Harrison Avenue, 282 Panama City, Fla.; effective 6–11–63 to 3–31–64 (variety store; 21 employees).

McCrory-McLellan-Green, 111–117 North Collins Street, Plant City, Fla.; effective 6–24–63 to 3–31–64 (variety store; 68 employees).

McCrory's, 105–109 East First, Sanford, Fla.; effective 6–24–63 to 3–31–64 (variety store; 39 employees).

McCrory-McLellan-Green Stores, No. 324, Tyrone Shopping Center, St. Petersburg, Fla.; effective 6–11–63 to 3–31–64 (variety store; 32 employees).

McCrory-McLellan-Green, No. 310, 3270 Central Avenue, St. Petersburg, Fla.; effective 6–24–63 to 3–31–64 (variety store; 39 employees).

McCrory's, 216–220 Monroe St., Tallahassee, Fla.; effective 6–24–63 to 3–31–64 (variety store; 53 employees).

McCrory-McLellan-Green Store, No. 71, 330–38 Clematis Street, West Palm Beach, Fla.; effective 6–10–63 to 3–31–64 (variety store; 39 employees).

McCrory-McLellan-Green Stores, 1620 Main Street, Columbia, S.C.; effective 6–24–63 to 3–31–64 (variety store; 33 employees).

McCrory-McLellan-Stores Corp., No. 132, 1556–1564 Main Street, Columbia, S.C.; effective 6–11–63 to 3–31–64 (variety store; 26 employees).

McCrory's, 512 Limestone Street, Gaffney, S.C.; effective 6–24–63 to 3–31–64 (variety store; 17 employees).

McCrory-McLellan-Green, Inc., No. 1108, 11–15 North Main Street, Greenville, S.C.; effective 6–11–63 to 3–31–64 (variety store; 36 employees).

McCrory-McLellan-Green, No. 415, 2 South Main Street, Sumter, S.C.; effective 6–24–63 to 3–31–64 (variety store; 37 employees).

G. C. Murphy Co., No. 255, 2505 North Atlantic Avenue, Daytona Beach Fla.; effective 6–26–63 to 3–31–64 (variety store; 34 employees).

G. C. Murphy Co., No. 276, 499 West 49th Street, Hialeah, Fla.; effective 6–26–63 to 3–31–64 (variety store; 46 employees).

G. C. Murphy Co., No. 279, Halifax Shopping Center, 231 Riverside Drive, Holly Hill, Fla.; effective 6–26–63 to 3–31–64 (variety store; 24 employees).

G. C. Murphy Co., No. 262, Gateway Shopping Center, Norwood Avenue, Jacksonville, Fla.; effective 6–26–63 to 3–31–64 (variety store; 45 employees).

G. C. Murphy Co., No. 264, 3709 Northwest Seventh Street, Miami, Fla.; effective 6–26–63 to 3–31–64 (variety store; 60 employees).

G. C. Murphy Co., No. 253, 3240–3248 Pace Boulevard, Pensacola, Fla.; effective 6–26–63 to 3–31–64 (variety store; 70 employees).

G. C. Murphy Co., No. 272, Tyrone Gardens Shopping Center, 950–58th Street North, St. Petersburg, Fla.; effective 6–26–63 to 3–31–64 (variety store; 43 employees).

G. C. Murphy Co., No. 274, Palm Coast Shopping Center, 7801 South Dixie Highway, West Palm Beach, Fla.; effective 6–26–63 to 3–31–64 (variety store; 46 employees).

J. J. Newberry Co., Franklin and Cass Streets, Tampa, Fla.; effective 6–28–63 to 3–31–64 (variety store; 59 employees).

McCrory-McLellan-Green Stores, 275 East Clayton Street, Athens, Ga.; effective 6–24–63 to 3–31–64 (variety store; 24 employees).

McCrory-McLellan-Green Stores, 47 Whitehall Street SW., Atlanta, Ga.; effective 6–24–63 to 3–31–64 (variety store; 53 employees).

McCrory-McLellan-Green Stores, No. 1113, 870 Broad Street, Augusta, Ga.; effective 6–10–63 to 3–31–64 (variety store; 87 employees).

McCrory Store, 1124 Broadway, Columbus, Ga.; effective 6–10–63 to 3–31–64 (variety store; 26 employees).

McCrory-McLellan-Green, 1141 Broadway, Columbus, Ga.; effective 6–10–63 to 3–31–64 (variety store; 21 employees).

McCrory-McLellan-Green, No. 423, 100 Jackson Street, Dublin, Ga.; effective 6–11–63 to 3–31–64 (variety store; 21 employees).

McCrory's Store, No. 327, Tri-Cities Plaza, East Point, Ga.; effective 6–24–63 to 3–31–64 (variety store; 30 employees).

McCrory-McLellan-Green, 452 Third Street, Macon, Ga.; effective 6–24–63 to 3–31–64 (variety store; 89 employees).

McLellan Stores Co., 56 South Park Square, Marietta, Ga.; effective 6–10–63 to 3–31–64 (variety store; 55 employees).

McCrory-McLellan-Green, No. 436, 2–6 Main Street, Moultrie, Ga.; effective 6–10–63 to 3–31–64 (variety store; 15 employees).

McCrory-McLellan-Green Stores, 1–3 Broughton Street West, Savannah, Ga.; effective 6–24–63 to 3–31–64 (variety store; 40 employees).

McCrory-McLellan-Green, 126 North Broad Street, Thomasville, Ga.; effective 6–10–63 to 3–31–64 (variety store; 25 employees).

McCrory's Store, 406–8 Mary Street, Waycross, Ga.; effective 6–11–63 to 3–31–64 (variety store; 31 employees).

G. C. Murphy Co., No. 259, Broadview Shopping Center, 2581 Piedmont Avenue NE., Atlanta, Ga.; effective 6–26–63 to 3–31–64 (variety store; 32 employees).

G. C. Murphy Co., No. 243, 15–17 East Central Avenue, Moultrie, Ga.; effective 6–26–63 to 3–31–64 (variety store; 28 employees).

G. C. Murphy Co., No. 250, 413–15–17 Broad Street, Rome, Ga.; effective 6–26–63 to 3–31–64 (variety store; 31 employees).

J. J. Newberry Co., 37 Whitehall Street SW., Atlanta, Ga.; effective 6–28–63 to 3–31–64 (variety store; 143 employees).

J. J. Newberry Co., 502–6 Cherry Street, Macon, Ga.; effective 6–28–63 to 3–31–64 (variety store; 67 employees).

Piggly Wiggly Super Market, No. 37, Post Office Box 834, Ridgeland, S.C.; effective 6–27–63 to 3–31–64 (food store; 13 employees).

Raylass Department Store, 144–146 South Main Street, Rock Hill, S.C.; effective 6–10–63 to 3–31–64 (department store; 12 employees).

Rose's 5–10–25¢ Store, Midland Center, 2638 Two Notch Road, Columbia, S.C.; effective 6–28–63 to 3–31–64 (variety store; 28 employees).

Rose's 5–10–25¢ Store, No. 49, Main Street, Union, S.C.; effective 6–10–63 to 3–31–64 (variety store; 23 employees).

Silver's 5–10¢ Store, 114 North Washington Street, Albany, Ga.; effective 6–27–63 to 3–31–64 (variety store; 25 employees).

Sunshine Department Stores, Inc., 795 Marietta Street NW., Atlanta, Ga.; effective 6–25–63 to 3–31–64 (department store; 20 employees).

Raylass Department Store, 835–841 Broad Street, Augusta, Ga.; effective 6–10–63 to 3–31–64 (department store; 20 employees).

The following certificate was issued to an establishment coming into existence after May 1, 1960, under paragraphs (c), (d), (g), and (h) of § 519.6 of 29 CFR Part 519. The certificate permits the employment of full-time students at rates below $1.00 an hour in the classes of occupations listed, and provides for limitations of the percentage of full-time student hours of employment at rates of not less than 85 cents an hour to total hours of employment of all employees. The percentage limitations vary from month to month between the minimum and maximum figures indicated.

S. S. Kresge Co., 6363 Grapevine Highway, Fort Worth, Tex.; effective 6–25–63 to 3–29–64; sales clerks; between 7.2 percent and 10 percent (variety store; 27 employees).

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not tend to displace full-time employees. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 24th day of July 1963.

LUTHER E. STONE,
*Authorized Representative of the Administrator.*

[F.R. Doc. 63–8080; Filed, July 31, 1963; 8:48 a.m.]

# INTERSTATE COMMERCE COMMISSION

[Notice No. 843]

## MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 29, 1963.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 65988. By order of July 23, 1963, the Transfer Board approved the transfer to A. J. Cunningham, Sr., and James R. Cunningham, a partnership, doing business as A. J. Cunningham & Sons, Trenton, N.J., of Certificate in No. MC 88071, and in Permits in Nos. MC 104731 and MC 104732, all issued September 1, 1950, to A. J. Cunningham, Sr., A. J. Cunningham, Jr., and James R. Cunningham, a partnership, doing business as A. J. Cunningham & Sons, Trenton, N.J., authorizing as a common carrier, the transportation of construction and road-building materials, supplies, and equipment, over irregular routes, between points in Pennsylvania within 50 miles of Trenton, N.J., on the one hand, and, on the other, points in New Jersey, and as a contract carrier, the transportation of railroad maintenance materials, equipment and supplies for construction and repair of railroads, restricted to shipments accompanied by maintenance or construction men necessary to work with those commodities, over irregular routes, between points in Pennsylvania along the lines of the Pennsylvania Railroad Co., from Morrisville, Pa., to Philadelphia, Pa., and from Morrisville to Glen Loch, Pa., on the one hand, and, on the other, points in New Jersey along the lines of the Pennsylvania Railroad Company, and as a contract carrier, the transportation of passengers, restricted to the transportation

of railroad maintenance and repair crews, and railroad train crews, in connection with repair and operation of railroads, over irregular routes, between points in Pennsylvania along the lines of the Pennsylvania Railroad Company from Morrisville, Pa., to Philadelphia, Pa., and from Morrisville to Glen Loch, Pa., on the one hand, and, on the other, points in New Jersey along the lines of the Pennsylvania Railroad Company. Isadore H. Schwartz, 200 Penn Square Building, Juniper and Filbert Streets, Philadelphia 7, Pennsylvania, attorney for applicants.

No. MC–FC 65993. By order of July 23, 1963, the Transfer Board approved the transfer to H. T. Moland and Leslie Moland, a partnership, doing business as Cedarburg Truck Line, Duluth, Minn., of Certificate in No. MC 80433, issued by the Commission August 24, 1949, to Edward F. Burmeister and Erna E. Burmeister, A Partnership, doing business as Cedarburg Truck Line, Cedarburg, Wis., authorizing the transportation of general commodities, excluding household goods, commodities in bulk, and other specified commodities, between Cedarburg, Wis., and Milwaukee, Wis. Claude J. Jasper, 301 Provident Building, 111 South Fairchild Street, Madison 3, Wisconsin, attorney for applicants.

No. MC–FC 66023. By order of July 23, 1963, the Transfer Board approved the transfer to James D. West, doing business as West Bus Service, De Soto, Ill., of Certificate in No. MC 114878, issued by the Commission, April 6, 1955, to Raymond Mueller, doing business as Mueller Bus Service, De Soto, Ill., authorizing the transportation of passengers and their baggage, in round-trip charter operations, beginning and ending at De Soto, Ill., and points in Illinois within 25 miles of De Soto, and extending to points in Missouri and those in that part of Kentucky on and west of a line beginning at Louisville, Ky., and extending along U.S. Highway 31E through Bardstown, Glasgow and Scottsville, Ky., to the Kentucky-Tennessee State line.

No. MC–FC 66086. By order of July 23, 1963, the Transfer Board approved the transfer to Joseph S. Sak, doing business as Gain's Express, Jefferson, Mass., of Certificate in No. MC 55665, issued by the Commission May 27, 1949, to William P. Gain, doing business as Gain's Express, Jefferson, Mass., authorizing the transportation, over a regular route, of general commodities, excluding commodities in bulk, household goods, and other specified commodities, between Jefferson, Mass., and Worcester, Mass. Richard Withstandley, 340 Main Street, Worcester 8, Mass., attorney for applicants.

No. MC–FC 66091. By order of July 23, 1963, the Transfer Board approved the transfer to Lowell G. Kinnison, doing business as Kinnison Truck Line, Red Oak, Iowa, of Certificate in No. MC 117516, issued December 4, 1958, to Joseph J. Smisek, Sr., and Joseph J. Smisek, Jr., a partnership, doing business as S & S Transfer, and acquired by transferor herein pursuant to order entered March 8, 1963, in MC–FC 65694, authorizing the transportation, over irregular routes, of animal and poultry feed, empty bags and sacks, fly spray, and mange oil, in cans and drums, and advertising material, for same, from Burlington, Wis., to 67 specified counties in Nebraska, a portion of Iowa, and a portion of Missouri. C. A. Ross, 1005 Terminal Building, Lincoln 8, Nebr., representative for applicants.

No. MC–FC 66110. By order of July 23, 1963, the Transfer Board approved the transfer to Antona Trucking Co., Inc., Washingtonville, N.Y., of Permits in Nos. MC 119367 (Sub No. 5) and MC 119367 (Sub No. 6), issued December 11, 1962 and August 24, 1962, respectively, to Joseph M. Antona, Washingtonville, N.Y., authorizing the transportation, over irregular routes, of: Scrap metal, subject to certain restrictions, including shippers named in the permits, from specified points in New York to named points in New Jersey. Edward M. Alfano, 2 West 45th Street, New York 36, N.Y., attorney for applicants.

No. MC–FC 66113. By order of July 23, 1963, the Transfer Board approved the transfer to M. Pascale Trucking, Inc., South Attleboro, Mass., of Certificates in Nos. MC 115760 and MC 115760 (Sub No. 1), issued October 12, 1961, and July 12, 1961, to Francis S. Hunnewell, doing business as Hunnewell Motor Lines, East Bridgewater, Mass., authorizing the transportation, over irregular routes, of: Brick, from specified points in Massachusetts points in Rhode Island, and between specified points in Massachusetts in a radial movement, to points in Connecticut. Russell B. Curnett, 49 Weybossett Street, Providence, R.I., transportation consultant.

No. MC–FC 66127. By order of July 23, 1963, the Transfer Board approved the transfer to Joman Trucking Corporation, Melville, N.Y., of a portion of Permit in No. MC 113349 (Sub No. 1), issued October 4, 1962, to Iurato Trucking Co., a corporation, Fairlawn, N.J., authorizing the transportation of such merchandise as is dealt in by wholesale and retail grocery houses, over irregular routes, between points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y., and points in Nassau, Suffolk, and Westchester Counties, N.Y., limited to a transportation service to be performed under special and individual contracts or agreements with persons (as defined in section 203(a) of the Interstate Commerce Act) who operate wholesale food business houses, the business of which is the sale of goods, for the transportation of the commodities specified and in the manner indicated. George A. Olsen, 69 Tonnele Avenue, Jersey City 6, N.J., representative for applicants.

No. MC–FC 66128. By order of July 23, 1963, the Transfer Board approved the transfer to George T. Kaylor, doing business as West Course Pigeon Training, Holbrook, N.Y., of Certificate in No. MC 124879 issued June 4, 1963, to Theodore Kruk, doing business as West Course Pigeon Training, Brentwood, N.Y., authorizing the transportation, over irregular routes, of homing pigeons, and in connection therewith, supplies and equipment used in the care of such pigeons, from points in Nassau and Suffolk Counties, N.Y., to points in New Jersey within 100 miles of New York, N.Y.; and from points in Kings, Queens, Nassau, and Suffolk Counties, N.Y., to Staten Island, N.Y., Fogelsville, Lebanon, Mount Union, Cresson, and East Liberty, Pa., and points in Pennsylvania on or within 10 miles of the Pennsylvania Turnpike between Philadelphia and Pittsburgh, Pa.; and supplies and equipment used in the care of homing pigeons, from points in New Jersey within 100 miles of New York, N.Y., to points in Nassau and Suffolk Counties, N.Y., and from Staten Island, N.Y., Fogelsville, Lebanon, Mount Union, Cresson, and East Liberty, Pa., and points in Pennsylvania on or within 10 miles of the Pennsylvania Turnpike between Philadelphia and Pittsburgh, Pa., to points in Kings, Queens, Nassau, and Suffolk Counties, N.Y. Martin Werner, 2 West 45th Street, New York 36, N.Y., attorney for applicants.

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

[F.R. Doc. 63–8091; Filed, July 31, 1963; 8:51 a.m.]

## FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 29, 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. 38452: *Joint motor-rail rates—Niagara Frontier.* Filed by Niagara Frontier Tariff Bureau, Inc., Agent (No. 5), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in central and middlewest territories, on the one hand, and points in provinces of Ontario and Quebec, Canada, on the other.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 16 to Niagara Frontier Tariff Bureau, Inc., Agent, tariff MF–I.C.C. 53.

FSA No. 38453: *Joint motor-rail rates—Niagara Frontier.* Filed by Niagara Frontier Tariff Bureau, Inc., Agent (No. 6), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in central and middlewest territories, on the one hand, and points in provinces of Ontario and Quebec, Canada, on the other.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 16 to Niagara Frontier Tariff Bureau, Inc., Agent, tariff MF–I.C.C. 53.

FSA No. 38454: *Rye and sorghum grains from, to, and between points in southwestern and WTL territories.* Filed by Southwestern Freight Bureau, Agent (No. B–8420), for interested rail carriers. Rates on rye or direct products thereof and sorghum grains, whole, broken,

chopped, cracked, crushed or ground, in carloads, from, to and between points in southwestern and western trunk-line territories, including Mississippi River crossings.

Grounds for relief: Carrier competition.

Tariffs: Supplement 26 to Southwestern Freight Bureau, Agent, tariff I.C.C. 4413, and 34 other schedules listed in the application.

FSA No. 38455: *T.O.F.C. service—class rates from and to southern territory.* Filed by O. W. South, Jr., Agent (No. A4355), for interested rail carriers. Rates on various commodities moving on class rates, loaded in or on trailers and transported on railroad flat cars between Erwin, Tenn., Spruce Pine, and Marion, N.C., and Chesnee, S.C., on the one hand, and points in official (not including Illinois) territory, on the other.

Ground for relief: Motor-truck competition.

Tariff: Supplement 45 to Southern Freight Association, Agent, tariff I.C.C. S–287.

By the Commission.

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

[F.R. Doc. 63–8092; Filed, July 31, 1963; 8:51 a.m.]



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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