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Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3562

PROCLAMATION CORRECTING PART 3 OF THE APPENDIX TO THE TARIFF SCHEDULES OF THE UNITED STATES WITH RESPECT TO THE IMPORTATION OF AGRICULTURAL COMMODITIES

By the President of the United States of America

A Proclamation

WHEREAS, by Proclamation No. 3019 of June 8, 1953 (3 CFR, 1949-1953 Supp., p. 189) which was issued pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), the President imposed import quotas on certain dairy products, subject to allocation and license requirements administered by the Secretary of Agriculture, including an annual aggregate quota of 4,167,000 pounds upon imports of blue-mold cheese (except Stilton) and cheese and substitutes for cheese containing, or processed from, blue-mold cheese (hereinafter referred to collectively as "blue-mold cheese"); and

WHEREAS, after investigation and report to the President by the United States Tariff Commission under subsection (d) of section 22 of the Agricultural Adjustment Act, the President issued Proclamation No. 3460 of March 29, 1962 (3 CFR, 1962 Supp., p. 41) which increased the annual quota for blue-mold cheese to an aggregate quantity of 5,016,999 pounds per quota year; and

WHEREAS headnote 1 to part 3 of the Appendix to the Tariff Schedules of the United States, as published in the FEDERAL REGISTER at the direction of the President pursuant to section 101(d) of the Tariff Classification Act of 1962 (28 F.R. 8599), states that part 3 covers "the provisions proclaimed by the President pursuant to section 22 of the Agricultural Adjustment Act, as amended * * * imposing quantitative limitations on articles imported into the United States * * *"; and

WHEREAS part 3 of the Appendix to the Tariff Schedules of the United States does not include certain of the provisions of Proclamation No. 3019 under which the Secretary of Agriculture allocates and licenses the quotas which were imposed thereunder; and

WHEREAS item 950.07 in part 3 of the Appendix to the Tariff Schedules of the United States specifies the quota quantity for blue-mold cheese as originally prescribed by Proclamation No. 3019 (4,167,000 pounds) rather than the quota quantity for such cheese as subsequently increased by Proclamation No. 3460 (5,016,999 pounds); and

WHEREAS, pursuant to section 102(3) of the Tariff Classification Act of 1962, the President proclaimed the additional import restrictions set forth in part 3 of the Appendix to the Tariff Schedules of the United States (Proclamation No. 3548 of August 21, 1963, paragraph numbered 3; 28 F.R. 10853) in the erroneous belief that the aforementioned provisions of Proclamation No. 3019 with respect to allocation and licensing had been included, and that the quota specified therein for blue-mold cheese was the effective restriction on such cheese "proclaimed pursuant to section 22 of the Agricultural Adjustment Act" as provided in section 102(3) of the Tariff Classification Act of 1962; and

WHEREAS the United States Tariff Commission has advised me that in the preparation of part 3 of the Appendix to the Tariff Schedules of the United States pursuant to title I of Public Law 768, 83d Congress, and the Tariff Classification Act of 1962, it inadvertently overlooked the aforementioned provisions of Proclamation No. 3019

THE PRESIDENT

with respect to the allocation and licensing of the quota quantities and the change made by Proclamation No. 3460; and

WHEREAS it would be contrary to the intent and purpose of, and the procedures prescribed by, section 22 of the Agricultural Adjustment Act, as amended, and the Tariff Classification Act of 1962 to permit these errors to remain uncorrected:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, acting under and by virtue of the authority vested in me as President, and in conformity with the provisions of section 22 of the Agricultural Adjustment Act, as amended, and the Tariff Classification Act of 1962, do hereby proclaim that—

(a) headnote 3(a) of part 3 of the Appendix to the Tariff Schedules of the United States is hereby amended by inserting at the end thereof the following:

Such licenses shall be issued under regulations of the Secretary of Agriculture which he determines will, to the fullest extent practicable, result in (1) the equitable distribution of the respective quotas for such articles among importers or users and (2) the allocation of shares of the respective quotas for such articles among supplying countries, based upon the proportion supplied by such countries during previous representative periods, taking due account of any special factors which may have affected or may be affecting the trade in the articles concerned. No licenses shall be issued which will permit any of the cheeses or substitutes for cheese (items 950.07-.10) to be entered during the first 4 months and the first 8 months of the quota year in excess of one-third and two-thirds, respectively, of the quantities specified for such articles in the column entitled "Quota Quantity".

and

(b) the quota quantity amount specified in item No. 950.07 of part 3 of the Appendix to the Tariff Schedules of the United States is hereby amended by deleting "4,167,000" and inserting in lieu thereof "5,016,999".

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

DONE at the City of Washington this 26th day of November in the year of our Lord nineteen hundred and sixty-three, and [SEAL] of the Independence of the United States of America the one hundred and eighty-eighth.

LYNDON B. JOHNSON

By the President:

Dean Rusk,
Secretary of State.

[F.R. Doc. 63-12561; Filed, Dec. 2, 1963; 10:11 a.m.]

Executive Order 11129

**DESIGNATING CERTAIN FACILITIES OF THE NATIONAL AERONAUTICS
AND SPACE ADMINISTRATION AND OF THE DEPARTMENT OF DE-
FENSE, IN THE STATE OF FLORIDA, AS THE JOHN F. KENNEDY
SPACE CENTER**

WHEREAS President John F. Kennedy lighted the imagination of our people when he set the moon as our target and man as the means to reach it; and

WHEREAS the installations now to be renamed are a center and symbol of our country's peaceful assault on space; and

WHEREAS it is in the nature of this assault that it should test the limits of our youth and grace, our strength and wit, our vigor and perseverance—qualities fitting to the memory of John F. Kennedy:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, I hereby designate the facilities of the Launch Operations Center of the National Aeronautics and Space Administration and the facilities of Station No. 1 of the Atlantic Missile Range, in the State of Florida, as the John F. Kennedy Space Center; and such facilities shall be hereafter known and referred to by that name.

LYNDON B. JOHNSON

THE WHITE HOUSE,
November 29, 1963.

[F.R. Doc. 63-12542; Filed, Nov. 29, 1963; 4:13 p.m.]

Executive Order 11130

**APPOINTING A COMMISSION TO REPORT UPON THE ASSASSINATION
OF PRESIDENT JOHN F. KENNEDY**

Pursuant to the authority vested in me as President of the United States, I hereby appoint a Commission to ascertain, evaluate and report upon the facts relating to the assassination of the late President John F. Kennedy and the subsequent violent death of the man charged with the assassination. The Commission shall consist of—

The Chief Justice of the United States, Chairman;
Senator Richard B. Russell;
Senator John Sherman Cooper;
Congressman Hale Boggs;
Congressman Gerald R. Ford;
The Honorable Allen W. Dulles;
The Honorable John J. McCloy.

The purposes of the Commission are to examine the evidence developed by the Federal Bureau of Investigation and any additional evidence that may hereafter come to light or be uncovered by federal or state authorities; to make such further investigation as the Commission finds desirable; to evaluate all the facts and circumstances surrounding such assassination, including the subsequent violent death of the man charged with the assassination, and to report to me its findings and conclusions.

The Commission is empowered to prescribe its own procedures and to employ such assistants as it deems necessary.

Necessary expenses of the Commission may be paid from the "Emergency Fund for the President".

All Executive departments and agencies are directed to furnish the Commission with such facilities, services and cooperation as it may request from time to time.

LYNDON B. JOHNSON

THE WHITE HOUSE,
November 29, 1963.

[F.R. Doc. 63-12560; Filed, Dec. 2, 1963; 10:05 a.m.]

Rules and Regulations

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

This checklist, arranged in order of titles, shows the issuance date and price of current volumes and pocket supplements of the Code of Federal Regulations. (The rate for subscription service to all revised volumes and pocket supplements to be issued as of January 1, 1963, is \$100 domestic, \$30 additional for foreign mailing.) Order from Superintendent of Documents, Government Printing Office, Washington, D.C., 20402.

CFR Unit	Price
1-4 (Revised Jan. 1, 1961)	\$4.00
Supp. (Jan. 1, 1963)	1.25
3 1933-1943 Cum. Supp.	3.00
1943-1948 (Compilation)	7.00
1949-1958 (Compilation)	7.00
1954-1958 (Compilation)	4.00
1959 (Supp.)	.60
1960 (Supp.)	.50
1961 (Supp.)	.60
1962 (Supp.)	1.75
5 (Rev. Jan. 1, 1961)	4.00
Supp. (Jan. 1, 1963)	.60
6 (Rev. Jan. 1, 1963)	2.50
7 Parts:	
1-50 (Rev. Jan. 1, 1959)	4.00
Supp. (Jan. 1, 1963)	.70
51-52 (Rev. Jan. 1, 1959)	6.25
Supp. (Jan. 1, 1963)	1.00
53-209 (Rev. Jan. 1, 1959)	5.50
Supp. (Jan. 1, 1963)	.65
210-399 (Rev. Jan. 1, 1960)	4.00
Supp. (Jan. 1, 1963)	.55
400-899 (Rev. Jan. 1, 1963)	3.25
900-944 (Rev. Jan. 1, 1963)	1.00
945-980 (Rev. Jan. 1, 1963)	.70
981-999 (Rev. Jan. 1, 1963)	.60
1000-1029 (Rev. Jan. 1, 1963)	1.00
1030-1059 (Rev. Jan. 1, 1963)	1.00
1060-1089 (Rev. Jan. 1, 1963)	.70
1090-1119 (Rev. Jan. 1, 1963)	.65
1120-end (Rev. Jan. 1, 1963)	.70
8 (Rev. Jan. 1, 1958)	3.25
Supp. (Jan. 1, 1963)	.50
9 (Rev. Jan. 1, 1959)	4.75
Supp. (Jan. 1, 1963)	.70
10-11 (Rev. Jan. 1, 1963)	4.50
12 (Rev. Jan. 1, 1963)	4.75
13 (Rev. Jan. 1, 1963)	4.25
14 Parts:	
1-19 (Rev. Jan. 1, 1963)	2.50
20-199 (Rev. Jan. 1, 1963)	2.00
200-399 (Rev. Jan. 1, 1963)	1.00
400-end (Rev. Jan. 1, 1963)	1.00
15 (Rev. Jan. 1, 1963)	1.50
16 (Rev. Jan. 1, 1960)	6.50
Supp. (Jan. 1, 1963)	.70
17 (Rev. 1949)	2.75
Supp. (Jan. 1, 1963)	1.00
18 (Rev. Jan. 1, 1961)	6.75
Supp. (Jan. 1, 1963)	.50
19 (Rev. Jan. 1, 1961)	5.50
Supp. (Jan. 1, 1963)	.45
20 (Rev. Jan. 1, 1961)	5.50
Supp. (Jan. 1, 1963)	.50
21 (Rev. Jan. 1, 1963)	3.00
22-23 (Rev. Jan. 1, 1958)	4.25
Supp. (Jan. 1, 1963)	.60
24 (Rev. Jan. 1, 1962)	3.00
Supp. (Jan. 1, 1963)	.40
25 (Rev. Jan. 1, 1958)	4.50
Supp. (Jan. 1, 1963)	.60

CFR Unit	Price
26 Parts:	
1 (§§ 1.0-1-1.400; Rev. Jan. 1, 1961)	\$5.50
Supp. (Jan. 1, 1963)	.50
1 (§§ 1.401-1.860; Rev. Jan. 1, 1961)	5.50
Supp. (Jan. 1, 1963)	.70
1 (§§ 1.861-end) to 19 (Rev. Jan. 1, 1961)	5.00
Supp. (Jan. 1, 1963)	.50
20-29 (Rev. Jan. 1, 1961)	4.25
Supp. (Jan. 1, 1963)	.35
30-39 (Rev. Jan. 1, 1961)	3.50
Supp. (Jan. 1, 1963)	.30
40-169 (Rev. Jan. 1, 1961)	4.50
Supp. (Jan. 1, 1963)	.65
170-299 (Rev. Jan. 1, 1961)	6.25
Supp. (Jan. 1, 1963)	.55
300-499 (Rev. Jan. 1, 1961)	4.00
Supp. (Jan. 1, 1963)	.35
500-599 (Rev. Jan. 1, 1961)	4.25
Supp. (Jan. 1, 1963)	.30
600-end (Rev. Jan. 1, 1961)	3.00
Supp. (Jan. 1, 1963)	.30
27 (Rev. Jan. 1, 1961)	3.00
Supp. (Jan. 1, 1963)	.30
28 (Rev. Jan. 1, 1963)	.65
29 (Rev. Jan. 1, 1963)	2.50
30-31 (Rev. Jan. 1, 1959)	3.50
Supp. (Jan. 1, 1963)	1.00
32 Parts:	
1-39 (Rev. Jan. 1, 1961)	5.50
Supp. (Jan. 1, 1963)	1.00
40-399 (Rev. Jan. 1, 1961)	4.00
Supp. (Jan. 1, 1963)	.55
400-589 (Rev. Jan. 1, 1962)	3.50
Supp. (Jan. 1, 1963)	.35
590-699 (Rev. Jan. 1, 1962)	4.25
Supp. (Jan. 1, 1963)	.40
700-799 (Rev. Jan. 1, 1962)	5.00
Supp. (Jan. 1, 1963)	.35
800-999 (Rev. Jan. 1, 1960)	3.75
Supp. (Jan. 1, 1963)	.60
1000-1099 (Rev. Jan. 1, 1963)	1.75
1100-end (Rev. Jan. 1, 1962)	4.50
Supp. (Jan. 1, 1963)	.35
32A (Rev. Jan. 1, 1958)	5.00
Supp. (Jan. 1, 1963)	.65
33-34 (Rev. Jan. 1, 1962)	8.25
Supp. (Jan. 1, 1963)	.50
35 (Rev. Jan. 1, 1960)	3.50
Supp. (Jan. 1, 1963)	.35
36 (Rev. Jan. 1, 1960)	3.00
Supp. (Jan. 1, 1963)	.40
37 (Rev. Jan. 1, 1960)	3.50
Supp. (Jan. 1, 1963)	.30
38 (Rev. 1956)	8.00
Supp. (Jan. 1, 1963)	1.50
39 (Rev. Jan. 1, 1962)	5.25
Supp. (Jan. 1, 1963)	1.00
40-41 (Rev. Jan. 1, 1963)	2.50
42 (Rev. Jan. 1, 1960)	4.00
Supp. (Jan. 1, 1963)	.50
43 (Rev. Jan. 1, 1963)	2.50
44 (Rev. Jan. 1, 1960)	3.25
Supp. (Jan. 1, 1963)	.40
45 (Rev. Jan. 1, 1960)	3.75
Supp. (Jan. 1, 1963)	.50
46 Parts:	
1-145 (Rev. Jan. 1, 1963)	8.00
146-149 (Rev. Jan. 1, 1963)	2.25
Supp. (July 1, 1963)	.65
150-end (Rev. Jan. 1, 1958)	6.25
Supp. (Jan. 1, 1963)	1.25
47 Parts:	
1-29 (Rev. Jan. 1, 1958)	7.50
Supp. (Jan. 1, 1963)	2.00
30-end (Rev. Jan. 1, 1958)	4.75
Supp. (Jan. 1, 1963)	.45
48 Reserved	

CFR Unit	Price
49 Parts:	
0-70 (Rev. Jan. 1, 1963)	\$5.25
71-90 (Rev. Jan. 1, 1963)	2.75
91-164 (Rev. Jan. 1, 1958)	5.00
Supp. (Jan. 1, 1963)	.55
165-end (Rev. Jan. 1, 1961)	5.00
Supp. (Jan. 1, 1963)	.35
50 (Rev. Jan. 1, 1961)	3.75
Supp. (Jan. 1, 1963)	.45
General Index (Rev. Jan. 1, 1963)	.45

Title 7—AGRICULTURE

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

[Amdt. I]

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

The regulations for the operation of the Special Milk Program for Children (27 F.R. 7482) are hereby amended as follows:

1. Paragraph (a) of § 215.5 *Payments to State Agencies* is amended to read:

§ 215.5 *Payments to State Agencies.*

(a) The funds reserved for any State Agency for the fiscal year ending June 30, 1964, shall be made available in not less than nine monthly payments and for any fiscal year thereafter shall be made available in not less than ten monthly payments. The first payment shall be scheduled to arrive in the State on or about August 25 and shall include payments for July and August. Payments for September and for succeeding months shall be scheduled to arrive in the State on or about the 25th of the month in which obligations are incurred by the State: *Provided*, That the payment for May shall cover operations for May and June.

2. Paragraph (e) of § 215.8 *Reimbursement payments* is redesignated paragraph (f) and a new paragraph (e) is inserted as follows:

§ 215.8 *Reimbursement payments.*

(e) When FDD determines that a reduction in the payment of claims for reimbursement is necessary to insure that expenditures are within the funds appropriated for the program for any fiscal year, FDD shall pay or require States to pay claims for reimbursement for any of the months of the fiscal year at less than the amounts shown on the claims submitted by schools and child-care institutions. The percentage of such reductions shall be determined by FDD and notice thereof given to States and participating schools and child-care institutions under agreement with FDD: *Provided*, That no percentage reduction shall be applied to claims submitted by needy schools approved for Special As-

sistance pursuant to paragraph (f) of this section. FDD shall determine annually, not later than August 1, whether sufficient funds are available to increase the rate of reimbursement for the final claims of the preceding fiscal year from participating schools and child-care institutions. In the event it determines that sufficient funds are available for the purpose, FDD shall pay and shall authorize State Agencies to pay the last claim for the preceding fiscal year from any school or child-care institution at a rate in excess of the rate payable pursuant to paragraphs (b), (c) or (d) of this section: *Provided*, That the total reimbursement to the school or child-care institution for any fiscal year shall not exceed an amount equal to the number of reimbursable half pints claimed for the fiscal year times the rate assigned in the agreement.

3. Paragraph (f) of § 215.12 is amended to read:

§ 215.12 Claims against schools or child-care institutions.

(f) The amounts recovered by the State Agency from schools or childcare institutions shall be available to make reimbursement payments only for milk served during the fiscal year for which the funds were initially available.

Effective date. This amendment shall be effective upon publication.

[SEAL] CHARLES S. MURPHY,
Under Secretary.

NOVEMBER 26, 1963.

[F.R. Doc. 63-12482; Filed, Dec. 2, 1963; 8:48 a.m.]

Chapter III—Agricultural Research Service, Department of Agriculture

[P.P.C. 612, Revocation]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Khapra Beetle

REVOCATION OF ADMINISTRATIVE INSTRUCTIONS DESIGNATING CERTAIN PREMISES AS REGULATED AREAS

Pursuant to § 301.76-2 of the regulations supplemental to the Khapra Beetle Quarantine (7 CFR 301.76-2) under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 161, 162), administrative instructions issued as 7 CFR 301.76-2a (27 F.R. 11341), effective November 17, 1962, are hereby revoked, effective December 3, 1963. However, such instructions shall be deemed to continue in full force and effect for the purpose of sustaining any action or other proceeding with respect to any right that accrued, liability that was incurred, or violation that occurred prior to said date.

This revocation relieves restrictions by removing from the list of premises in which infestations of the khapra beetle have been determined to exist all premises now listed therein and terminating

the designation of such premises as regulated areas within the meaning of such quarantine and regulations, it having been determined by the Director of the Plant Pest Control Division that adequate sanitation measures have been practiced for a sufficient length of time to eradicate the khapra beetle in and upon such premises. Therefore, it is considered safe to release them from regulation. This revocation removes from regulation under the khapra beetle quarantine the only remaining premises retained in the latest revision of the administrative instructions effective November 17, 1962.

The revocation therefore relieves restrictions deemed unnecessary and must be made effective promptly in order to be of maximum benefit to persons wishing to move regulated products from these premises. 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 foregoing revocation are impracticable and contrary to the public interest, and since the revocation relieves restrictions it may be made effective less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 8, 37 Stat. 318, as amended; sec. 9, 37 Stat. 318; 7 U.S.C. 161, 162; 19 F.R. 74, as amended; 7 CFR 301.76-2)

Done at Hyattsville, Md., this 26th day of November, 1963.

[SEAL] E. D. BURGESS,
Director,
Plant Pest Control Division.

[F.R. Doc. 63-12506; Filed, Dec. 2, 1963; 8:53 a.m.]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 730—RICE

Subpart—1964-65 Marketing Year

STATE AND COUNTY RESERVE ACREAGES AND COUNTY ACREAGE ALLOTMENTS FOR 1964 CROP

Sec.
730.1505 Basis and purpose.
730.1506 State reserve acreages.
730.1507 County acreage allotments and county reserve acreages.

AUTHORITY: §§ 730.1505 to 730.1507 issued under secs. 301, 353, 375, 52 Stat. 38, 61, as amended, 66; 7 U.S.C. 1301, 1353, 1375.

§ 730.1505 Basis and purpose.

(a) The State and county reserve acreages and county acreage allotments for 1964 crop rice contained in §§ 730.1506 and 730.1507 have been determined pursuant to and in conformity with the provisions of section 353 of the Agricultural Adjustment Act of 1938, as amended. Said sections are issued to announce: (1) State reserve acreages for new farms or new producers in each of the applicable rice-producing States; (2) State reserve acreages for appeals and correc-

tions, missed farms, and adjustments in factored allotments in the producer States of Arizona, California, Florida, South Carolina, Tennessee, Texas, and the "producer administrative area" in Louisiana; and (3) county acreage allotments and county reserve acreages for appeals and corrections, missed farms, and adjustments in factored allotments in the farm States of Arkansas, Illinois, Mississippi, Missouri, North Carolina, Oklahoma, and the "farm administrative area" in Louisiana. Since farm acreage allotments for 1964 crop rice in the producer States, including the "producer administrative area" of Louisiana, will be established pursuant to the act primarily on the basis of past production of rice by the producer on the farm in lieu of past production of rice on the farm, the 1964 State acreage allotments of rice for those States will be apportioned directly to farms, and county acreage allotments and county reserve acreages for appeals and corrections, missed farms, and adjustments in factored allotments will not be determined for such States.

(b) The determinations made in §§ 730.1506 and 730.1507 indicate the amount of State reserve acreages for new farms or new producers in each of the applicable rice-producing States, the amount of State reserve acreages for appeals and corrections, missed farms, and adjustments in factored allotments in the "producer States"; and the amount of county acreage allotments and county reserve acreages for appeals and corrections, missed farms, and adjustments in factored allotments in the "farm States".

(c) The State and county reserve acreages in §§ 730.1506 and 730.1507 were established on the basis of the needs therefor as recommended by the State and county committees.

(d) The county acreage allotments in § 730.1507 were established by apportioning the State acreage allotment, minus the State acreage reserve for new farms, among the counties in the State in the same proportion that they shared in the total acreage allotted in 1956, as provided by section 353(c) (1) and section 353(c) (6) of the Agricultural Adjustment Act of 1938, as amended. No adjustments in county acreage allotments were made under the proviso in section 353(c) (1) of the act.

(e) Prior to the determination of State and county reserve acreages and county acreage allotments for 1964 crop rice, public notice (28 F.R. 10216) was given in accordance with the Administrative Procedure Act (5 U.S.C. 1003). The data, views, and recommendations received pursuant to such notice have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

(f) The determinations made in §§ 730.1506 and 730.1507 have been made on the basis of the latest available statistics of the Federal Government as required by section 301(c) of the Agricultural Adjustment Act of 1938, as amended.

(g) Pursuant to the Agricultural Adjustment Act of 1938, as amended, marketing quotas on the 1964 crop of rice have been proclaimed (28 F.R. 12081)

and the date for the referendum to be held to determine whether farmers are in favor of or opposed to such quotas has been set for December 10, 1963 (28 F.R. 12104). The act requires that, insofar as practicable, notices of farm acreage allotments, which are based on State and county allotments and reserves, be mailed to producers in time to be received prior to the referendum. Since the referendum will be held on December 10, 1963, it is necessary to waive the 30-day effective date provision of the Administrative Procedure Act as applied to the determinations herein. Accordingly, this document shall become effective upon filing with the Director, Office of the Federal Register.

§ 730.1506 State reserve acreages.

State	State reserve acreage for new farms or new producers	State reserve acreages for appeals, etc. ¹ in producer States
Arizona	0	0
Arkansas	30	
California	700	700
Florida	23	31.6
Illinois	0	
Louisiana:		
Farm administrative area	50	
Producer administrative area	5	0
Mississippi	0	
Missouri	0	
North Carolina	0	
Oklahoma	0	
South Carolina	0	5
Tennessee	0	
Texas	0	50

¹ For appeals and corrections, missed producers, and adjustments in factored allotments in producer States and the "producer administrative area" in Louisiana.

§ 730.1507 County acreage allotments and county reserve acreages.

County	County acreage allotment	County reserve acreage ¹
Arkansas	76,498	10.0
Ashley	6,561	6.6
Chicot	9,874	3.0
Clark	558	0
Clay	7,878	0
Conway	11	0
Craighead	17,538	3.0
Crittenden	6,662	2.0
Cross	35,732	3.6
Dallas	72	0
Desha	14,042	3.0
Drew	4,689	0
Faulkner	462	0
Grant	34	0
Greene	5,464	2.0
Hot Spring	476	0
Independence	869	0
Jackson	20,689	16.3
Jefferson	17,398	0
Lafayette	882	0
Lawrence	8,424	0
Lee	8,575	7.7
Lincoln	9,440	0
Little River	410	0
Lemoke	39,337	12.6
Miller	755	0
Mississippi	1,542	1.0
Monroe	14,669	3.0
Perry	1,000	0
Phillips	5,152	0
Poinsett	38,391	0
Prairie	40,337	0.8
Pulaski	1,893	0
Randolph	2,321	0
St. Francis	18,743	0
White	1,155	0.1
Woodruff	20,456	8.0
State total	438,989	82.7

¹ County reserve acreage for appeals and corrections, missed farms, and adjustments.

ILLINOIS		
County	County acreage allotment	County reserve acreage ¹
Adams	22	0
State total	22	0

LOUISIANA		
FARM ADMINISTRATIVE AREA		
Acadia	93,660	146.0
Allen	24,161	15.0
Avoyelles	2,791	139.5
Beauregard	5,018	15.0
Bossier	66	0
Calcasieu	66,095	33.1
Cameron	13,340	3.2
Evangeline	45,035	15.5
Grant	185	0
Iberia	6,510	13.0
Jefferson Davis	97,427	50.0
Lafayette	9,682	5.0
Rapides	574	0
St. Landry	16,985	492.4
St. Martin	4,144	207.2
St. Mary	3,204	0
Vermilion	115,057	69.5
Farm administrative area total	503,934	1,204.4

MISSISSIPPI		
Bolivar	21,619	0
Coahoma	1,666	0
DeSoto	1,677	0
Hancock	184	0
Humphreys	2,137	96
Issaquena	106	0
Leflore	3,878	0
Panola	79	0
Quitman	1,409	0
Sharkey	1,054	0
Sunflower	4,358	0
Tallahatchie	510	0
Tate	246	0
Tunica	2,898	0
Washington	9,533	0
State total	51,354	96

MISSOURI		
Butler	1,581	0
Holt	2	0
Lewis	9	0
Lincoln	37	0
Marion	339	0
Mississippi	96	0
New Madrid	222	0
Pemiscot	653	0
Ripley	516	0
St. Charles	39	0
Scott	266	0
Stoddard	1,485	0
State total	5,245	0

NORTH CAROLINA		
Brunswick	10	0
Hyde	32	0
State total	42	0

OKLAHOMA		
McCurtain	164	0
State total	164	0

¹ County reserve acreage for appeals and corrections, missed farms, and adjustments.

Effective date: Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on November 27, 1963.

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

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

[Milk Order No. 96]

PART 1096—MILK IN NORTHERN LOUISIANA MARKETING AREA

Order Amending Order

§ 1096.0 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 the 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 Northern Louisiana 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; and

(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.

(b) Additional findings. It is necessary in the public interest to make this order amending the order effective not later than December 1, 1963. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of Assistant Secretary was issued October 29, 1963, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued November 23, 1963. The changes effected by this order will not require extensive preparation or substantial al-

teration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective December 1, 1963, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER (sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001-1011).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed with the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Northern Louisiana 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:

Paragraph (a) of § 1096.51 is revised to read as follows:

§ 1096.51 Class prices.

Subject to the provisions of §§ 1096.52 and 1096.53, the minimum prices per hundredweight to be paid by each handler for milk received from producers during the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus \$2.27.

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

Effective date. December 1, 1963.

Signed at Washington, D.C., on November 27, 1963.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 63-12503; Filed, Dec. 2, 1963; 8:52 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Cotton Loan Program Regs., Amdt. 1]

PART 1427—COTTON

Subpart—Cotton Loan Program Regulations

POWER OF ATTORNEY

The regulations issued by Commodity Credit Corporation, published in 28 F.R.

5712 as Cotton Loan Program Regulations and containing the terms and conditions with respect to the Cotton Loan Program, are hereby amended to revise the procedure dealing with the power of attorney forms a producer may use to designate an attorney-in-fact to act in his place and stead in obtaining loans, to sell his equity in loan cotton and to redeem his loan cotton.

Paragraph (f) of § 1427.1357 is hereby amended to read as follows:

§ 1427.1357 Forms and authorizations.

(f) *Powers of attorney.* A producer who desires to appoint an attorney-in-fact to act in his place and stead in obtaining loans shall use Power of Attorney, Form CCC 818 (referred to in this subpart as "Form 818"), except that a power of attorney on another form will be accepted if it is determined by CCC to be legally sufficient and if the producer is unable to execute Form 818. The original of the power of attorney must be filed with the New Orleans office and an executed copy must be filed with the lending agency or with the county office disbursing the loan proceeds, except that if a form other than Form 818 is used, facsimiles or copies certified by a notary public as true and correct may be filed.

Section 1427.1373 is hereby amended to read as follows:

§ 1427.1373 Transfer of producer's interest in loan cotton.

If a producer desires to sell his equity in upland or extra long staple cotton pledged as security for a loan, he must use a Form CCC Cotton AA, Release of Warehouse Receipts (referred to in this subpart as "Form AA"), for this purpose. This form may be obtained only from a county office. A producer who desires to appoint an attorney-in-fact to act in his place and stead in selling his equity in loan cotton shall use Power of Attorney, Form CCC-819 (referred to in this subpart as "Form 819"), except that a power of attorney on another form will be accepted if it is determined by CCC to be legally sufficient and if the producer is unable to execute Form 819. The original of the power of attorney must be filed with the New Orleans office and an executed copy must be filed with the county office validating the Form AA, except that if a form other than Form 819 is used, facsimiles or copies certified by a notary public as true and correct may be filed. To obtain the Form AA, the producer may (a) present his copy of the Form A to any county office in the cotton producing area for preparation of Form AA, or (b) without presenting his copy of the Form A, request in person, by telephone or by written communication the county office in which the farm records are maintained to transmit a validated Form AA to him or to a person designated by him. If the "Producer's Copy" of the Form A has been lost or destroyed, he may obtain a duplicate from the New Orleans office, or from the county office disbursing the loan if it was disbursed by a county office. Unless the equity purchaser completes the Redemption Request on the Form AA, or the transferee executes the trans-

feree's Redemption Request on Form AA, and presents or mails the form to CCC, in care of the New Orleans office, within 15 days after the date of issuance of the Form AA by the county office, the equity transfer will be void. It shall be the responsibility of the equity purchaser to see that all necessary entries have been made on the Form AA. Upon timely receipt of the Form AA, the New Orleans office will forward the warehouse receipts to the bank designated by the person who signed the redemption request with directions to the bank to release the warehouse receipts to such person upon payment of the loan value of the cotton plus applicable charges and interest. Banks may accept valid cotton export payment certificates issued under the cotton export program in payment of all or part of the amount due on CCC loans on upland cotton. If payment is not effected within five business days after the date warehouse receipts are received by the bank or prior to the time at which the loan matures and CCC acquires the cotton, which ever is earlier, the equity transfer will be void, and the bank will return the warehouse receipts to the New Orleans office. Repayments will not be accepted after CCC acquires the cotton. All charges assessed by the bank to which the warehouse receipts are sent must be paid by the person redeeming the cotton.

Section 1427.1374 is hereby amended to read as follows:

§ 1427.1374 Repayment of loan by producer.

If a producer desires to redeem one or more bales of cotton pledged to CCC as security for a loan, he must use a Form AA which may be obtained only from a county office. A producer who desires to appoint an attorney-in-fact to act in his place and stead to redeem his loan cotton shall use Form 819, except that a power of attorney on another form will be accepted if it is determined by CCC to be legally sufficient and if the producer is unable to execute Form 819. The original of the Power of Attorney must be filed with the New Orleans office and an executed copy must be filed with the county office validating the Form AA, except that if a form other than Form 819 is used, facsimiles or copies certified by a notary public as true and correct may be filed. To obtain the Form AA, the producer may (a) present his copy of Form A to any county office in the cotton-producing area for preparation of Form AA, or (b) without presenting his copy of Form A, request in person, by telephone or by written communication the county office in which the farm records are maintained, to transmit a validated Form AA to him or to a person designated by him. In the event the "Producer's Copy" of the Form A has been lost or destroyed, he may obtain a duplicate from the New Orleans office, or from the county office disbursing the loan if it was disbursed by a county office. The producer must complete the Redemption Request on the Form AA and present or mail the form to CCC, in care of the New Orleans office, within 15 days after the date Form AA is validated by the county office. It

shall be the responsibility of the producer to see that all necessary entries have been made on the Form AA. Upon timely receipt of Form AA, the New Orleans office will forward the warehouse receipts to a bank designated by the producer with directions to the bank to release the warehouse receipts to the producer upon payment of the loan value of the cotton plus applicable charges and interest. Banks may accept valid cotton export payment certificates issued under the cotton export program in payment of all or part of the amount due on CCC loans on upland cotton. If payment is not effected within five business days after the receipts are received by the bank or prior to the time at which the loan matures and CCC acquires the cotton, which ever is the earlier, the bank will return the warehouse receipts to the New Orleans office. Repayments will not be accepted after CCC acquires the cotton. All charges assessed by the bank to which the warehouse receipts are sent must be paid by the person redeeming the cotton.

(Secs. 4, 5, 62 Stat. 1070, as amended; secs. 101, 103, 401, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1441, 1444, 1421)

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

Signed at Washington, D.C. on November 27, 1963.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 63-12507; Filed, Dec. 2, 1963; 8:54 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket C-618]

PART 13—PROHIBITED TRADE PRACTICES

McCrory Corp.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections*; § 13.15-235 *Producer status of dealer or seller*; § 13.15-235(m) *Manufacturer*. Subpart—Using misleading name—vendor: § 13.2445 *Producer or laboratory status of seller*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, McCrory Corporation, New York, N.Y., Docket C-618, Nov. 6, 1963]

Consent order requiring a New York City operator of numerous stores under the name "Gulf Mills Discount Department Stores" in various states, to cease using the word "Mills" in the stores' name since it owned no mill or factory but bought from manufacturers and others the clothing and other merchandise it offered for resale.

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

It is ordered. That respondent McCrory Corporation, a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of clothing or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from using the word "Mills" or any other word of similar import or meaning in or as a part of respondent's corporate or trade name, or representing in any other manner, that respondent is the manufacturer of the clothing and the other merchandise sold by it unless and until respondent owns and operates, or directly and absolutely controls, the manufacturing plant wherein such clothing or other merchandise is made.

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

Issued: November 6, 1963.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 63-12476; Filed, Dec. 2, 1963; 8:47 a.m.]

Title 18—CONSERVATION OF POWER

Chapter I—Federal Power Commission

[Docket No. R-228; Order 272]

PART 11—ANNUAL CHARGES

Miscellaneous Amendments

NOVEMBER 20, 1963.

We are concerned here with amendments to § 11.20 and § 11.31 of Subchapter B, Part 11 of the Commission's regulations under the Federal Power Act (18 CFR 11.20) which were proposed in the amended notice issued herein on August 27, 1963.

Section 11.20 would be amended so as to base the assessment of annual charges for licenses heretofore or hereafter issued for projects of more than 2,000 horsepower installed capacity (other than those issued to State or municipal licensees) upon the actual costs of administering Part I of the Act, except those costs associated with administration of the Act in regard to licenses issued to State and municipal licensees, licenses for projects of not more than 2,000 horsepower installed capacity and those minor part licenses for which the charges have been waived in whole or in part under section 10(i) of the Act. The assessment of annual charges shall be in the proportion that the annual charge factor for each such license bears to the total of the annual charge factors under all outstanding licenses. The annual charge

factor shall include components based upon both project capacity and energy generated.

Section 11.31 would be amended so as to extend the period for payment of all annual charges by licensees (except charges for headwater benefits) from 30 days to within 45 days of rendition of a bill therefor by the Commission.

General public notice of this proposed rule making was given in the FEDERAL REGISTER on August 31, 1963 (28 F.R. 9648).

In commenting on the proposed amended regulation, most of the licensees reporting took the position that licenses may be altered only by mutual agreement of the licensee and the Commission, unless otherwise provided in the license, and this was especially so in connection with licenses issued prior to the 1935 amendment of the Federal Water Power Act. Some stated that the proposed amended regulation provides no ceiling as to the assessment which may be imposed; that it does not describe how costs are to be determined initially; and that it does not specify the basis for the allocation of such costs as between public and private projects. It appeared to one licensee that the proposed regulation will reasonably apportion, between capacity and energy, the annual charges involved.

No comments respecting the proposed amendment to § 11.31 were made.

We have considered the comments submitted. Section 10(e) of the Act, both prior and subsequent to the 1935 clarifying amendments, provides that "the licensee shall pay to the United States reasonable annual charges in an amount to be fixed by the Commission for the purpose of reimbursing the United States for the costs of administration" of Part I of the Act. The above quoted terms and conditions are expressly made part of licenses issued both prior and subsequent to 1935. The annual assessment to a given non-public licensee under the proposed amended regulation will include charges in relation to the administrative costs incurred by the Commission under Part I of the Act with respect to non-public projects, except those incurred in connection with minor projects, those which have been waived for minor part licenses under section 10(i) and those fixed by the Commission in determining headwater benefit payments under section 10(f) of the Act.

Upon consideration of the entire record in this proceeding, the Commission finds:

(1) The adjustment of annual administrative charges, as hereinafter provided is necessary and appropriate in carrying out the provisions of the Federal Power Act.

(2) The extension of the period for payment of annual charges by licensees (except charges for headwater benefits), as hereinafter provided, is in the public interest.

Acting pursuant to the authority granted by the Federal Power Act, particularly sections 10(e) and 309 thereof (16 U.S.C. 803(e), 825h), the Commission orders:

(A) Sections 11.20 and 11.31 of the Commission's regulations under the Federal Power Act, Subchapter B, Chapter

I of Title 18 of the Code of Federal Regulations are amended as follows:

1. In § 11.20 delete the introductory paragraph and paragraph (a) and the three subparagraphs thereunder and in lieu thereof insert the following; amend paragraph (c), to read as follows.

§ 11.20 Costs of administration.

Reasonable annual charges will be assessed by the Commission against each licensee to reimburse the United States for the costs of administration of Part I of the Federal Power Act as follows:

(a) For licensees, other than State or municipal, of projects of more than 2,000 horsepower of installed capacity:

(1) A determination shall be made for each fiscal year of the costs of administration of Part I of the Federal Power Act chargeable to such licensees, from which shall be deducted such administrative costs allocated by the Commission to minor part licenses for which administrative charges are waived under section 10 (i) of the Act and those fixed by the Commission in determining headwater benefit payments.

(2) For each calendar year the costs of administration determined under subparagraph (1) of this paragraph shall be assessed against each such licensee in the proportion that the annual charge factor for each such project bears to the total of the annual charge factors under all such outstanding licenses.

(3) The annual charge factor for each such project shall be its authorized installed capacity (horsepower); plus 150 times its annual energy output in kilowatt hours divided by one million.

(4) To enable the Commission to determine such charges annually, each such licensee shall file with the Commission, on or before February 1 of each year, a statement under oath showing the gross amount of power generated (or produced by non-electrical equipment) by the project during the preceding calendar year, expressed in kilowatt hours.

(c) For licensees of projects of 2,000 horsepower or less of installed capacity the charge for costs of administration shall be 5 cents per horsepower, with a minimum charge of \$5 per annum for each such license except for those licenses for which administrative charges are waived under section 10(i) of the Act.

2. Paragraph (a) of § 11.31 is hereby amended to read as follows:

§ 11.31 Time for payment, protest or request for hearing, penalties.

(a) *Payment of annual charges.* Annual charges shall be paid within 45 days of rendition of a bill therefor by the Commission, except that annual charges for headwater benefits shall be paid within 60 days of rendition of a bill therefor.

(Secs. 10(e) and 309 (16 U.S.C. 803(e), 825h)

(B) The amendments prescribed herein will become effective on January 1, 1964.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12475; Filed, Dec. 2, 1963;
8:47 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6691]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DE- CEMBER 31, 1953

Miscellaneous Amendments

On December 20, 1962, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under chapter 2 (Self-Employment Contributions Act of 1954) of the Internal Revenue Code of 1954 to conform such regulations to Title II, Social Security Amendments of 1956, the Act of August 30, 1957 (Public Law 85-239), Title IV, Social Security Amendments of 1958, Title I, Social Security Amendments of 1960, and Title II, Social Security Amendments of 1961 was published in the FEDERAL REGISTER (27 F.R. 12621). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as so proposed are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Paragraph (a) of § 1.1402 (a)-2, as set forth in paragraph 1 of the notice of proposed rule making, is changed by revising the next to last sentence of such paragraph.

PAR. 2. Paragraph (a) of § 1.1402(a)-4, as set forth in paragraph 1 of the notice of proposed rule making, is changed by revising the next to last sentence of such paragraph, and paragraph (b) of such section is changed by revising subparagraphs (1) and (2), by deleting subparagraph (3), by renumbering and revising subparagraphs (4), (5), and (6), and by renumbering subparagraph (7) as subparagraph (6).

PAR. 3. Paragraph (c) of § 1.1402(a)-11, as set forth in paragraph 1 of the notice of proposed rule making, is amended by revising the title thereof, by revising the title of subparagraph (1) of such paragraph, and by revising subparagraph (2) (i) and (iii) of such paragraph to correct cross references.

PAR. 4. Paragraph (d) of § 1.1402(a)-13, as set forth in paragraph 1 of the notice of proposed rule making, is revised by changing the word "individual" to "person" wherever it appears in the first sentence of such paragraph.

PAR. 5. Paragraph (b) of § 1.1402(b)-1, as set forth in paragraph 1 of the notice of proposed rule making, is changed by revising subparagraph (2) (i) of such

paragraph, and paragraph (c) of such section is changed by revising the third and fourth sentences thereof.

PAR. 6. Section 1.1402(c)-5, as set forth in paragraph 1 of the notice of proposed rule making, is changed by revising paragraphs (a), (b) (1), (c) (1), and (d) of such section to correct cross references.

PAR. 7. Section 1.1402(c)-6, as set forth in paragraph 1 of the notice of proposed rule making, is changed by revising paragraph (b) of such section to correct cross references.

PAR. 8. Section 1.1402(e) (1)-1, as set forth in paragraph 1 of the notice of proposed rule making, is changed by revising paragraph (b) of such section to correct cross references.

PAR. 9. Section 1.1402(e) (3)-1, as set forth in paragraph 1 of the notice of proposed rule making, is changed by revising the third sentence of paragraph (a) (1) of such section.

PAR. 10. Section 1.1402(f)-1 is amended by revising paragraph (b) to correct cross references.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: November 20, 1963.

STANLEY S. SURREY,
Assistant Secretary of the
Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to the amendments made to the Internal Revenue Code of 1954 by Title II of the Social Security Amendments of 1956 (70 Stat. 839), the Act of August 30, 1957 (Public Law 85-239, 71 Stat. 521), Title IV of the Social Security Amendments of 1958 (72 Stat. 1041), Title I of the Social Security Amendments of 1960 (74 Stat. 924), and Title II of the Social Security Amendments of 1961, such regulations are amended as follows:

PARAGRAPH 1. Sections 1.1401 to 1.1403-1, inclusive, are deleted, and the following regulations are substituted therefor:

Sec.	
1.1401	Statutory provisions; rate of tax on self-employment income.
1.1401-1	Tax on self-employment income.
1.1402(a)	Statutory provisions; definitions; net earnings from self-employment.
1.1402(a)-1	Definition of net earnings from self-employment.
1.1402(a)-2	Computation of net earnings from self-employment.
1.1402(a)-3	Special rules for computing net earnings from self-employment.
1.1402(a)-4	Rentals from real estate.
1.1402(a)-5	Dividends and interest.
1.1402(a)-6	Gain or loss from disposition of property.
1.1402(a)-7	Net operating loss deduction.
1.1402(a)-8	Community income.
1.1402(a)-9	Puerto Rico.
1.1402(a)-10	Personal exemption deduction.
1.1402(a)-11	Ministers and members of religious orders.

Sec.	
1.1402(a)-12	Possession of the United States.
1.1402(a)-13	Income from agricultural activity.
1.1402(a)-14	Options available to farmers in computing net earnings from self-employment for taxable years ending after 1954 and before December 31, 1956.
1.1402(a)-15	Options available to farmers in computing net earnings from self-employment for taxable years ending on or after December 31, 1956.
1.1402(a)-16	Exercise of option.
1.1402(b)	Statutory provisions; definitions; self-employment income.
1.1402(b)-1	Self-employment income.
1.1402(c)	Statutory provisions; definitions; trade or business.
1.1402(c)-1	Trade or business.
1.1402(c)-2	Public office.
1.1402(c)-3	Employees.
1.1402(c)-4	Individuals under Railroad Retirement System.
1.1402(c)-5	Ministers and members of religious orders.
1.1402(c)-6	Members of certain professions.
1.1402(d)	Statutory provisions; definitions; employee and wages.
1.1402(d)-1	Employee and wages.
1.1402(e)(1)	Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; waiver certificate.
1.1402(e)(1)-1	Election by ministers, members of religious orders, and Christian Science practitioners for self-employment coverage.
1.1402(e)(2)	Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; time for filing certificate.
1.1402(e)(2)-1	Time limitation for filing waiver certificate.
1.1402(e)(3)	Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; effective date of certificate.
1.1402(e)(3)-1	Effective date of waiver certificate.
1.1402(e)(4)	Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; treatment of certain remuneration paid in 1955 and 1956 as wages.
1.1402(e)(4)-1	Treatment of certain remuneration paid in 1955 and 1956 as wages.
1.1402(e)(5)	Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; optional provision for certain certificates filed on or before April 15, 1962.
1.1402(e)(5)-1	Optional provision for certain certificates filed before April 15, 1962.
1.1402(e)(6)	Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; certificate filed by fiduciary or survivor on or before April 15, 1962.
1.1402(e)(6)-1	Certificates filed by fiduciaries or survivors on or before April 15, 1962.

Sec.	
1.1402(f)	Statutory provisions; definitions; partner's taxable year ending as the result of death.
1.1402(f)-1	Computation of partner's net earnings from self-employment for taxable year which ends as result of his death.
1.1402(g)	Statutory provisions; definitions; treatment of certain remuneration erroneously reported as net earnings from self-employment.
1.1402(g)-1	Treatment of certain remuneration erroneously reported as net earnings from self-employment.
1.1403	Statutory provisions; miscellaneous provisions.
1.1403-1	Cross references.

§ 1.1401 Statutory provisions; rate of tax on self-employment income.

SEC. 1401. *Rate of tax.* In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

(1) In the case of any taxable year beginning after December 31, 1961, and before January 1, 1963, the tax shall be equal to 4.7 percent of the amount of the self-employment income for such taxable year;

(2) In the case of any taxable year beginning after December 31, 1962, and before January 1, 1966, the tax shall be equal to 5.4 percent of the amount of the self-employment income for such taxable year;

(3) In the case of any taxable year beginning after December 31, 1965, and before January 1, 1968, the tax shall be equal to 6.2 percent of the amount of the self-employment income for such taxable year; and

(4) In the case of any taxable year beginning after December 31, 1967, the tax shall be equal to 6.9 percent of the amount of the self-employment income for such taxable year.

[Sec. 1401 as amended by sec. 208(a) Social Security Amendments 1954 (68 Stat. 1093); sec. 202(a), Social Security Amendments 1956 (70 Stat. 845); sec. 401(a), Social Security Amendments 1958 (72 Stat. 1041); sec. 201(a), Social Security Amendments 1961 (75 Stat. 140)]

§ 1.1401-1 Tax on self-employment income.

(a) There is imposed, in addition to other taxes, a tax upon the self-employment income of every individual at the rates prescribed in section 1401. (See paragraph (b) of this section.) This tax shall be levied, assessed, and collected as part of the income tax imposed by subtitle A of the Code and, except as otherwise expressly provided, will be included with the tax imposed by section 1 or 3 in computing any deficiency or overpayment and in computing the interest and additions to any deficiency, overpayment, or tax. Since the tax on self-employment income is part of the income tax, it is subject to the jurisdiction of the Tax Court of the United States to the same extent and in the same manner as the other taxes under subtitle A of the Code. However, this tax is not required to be taken into account in computing any estimate of the taxes required to be declared under section 6015.

(b) The rates of tax on self-employment income are as follows:

Taxable year	Percent
Beginning before Jan. 1, 1957-----	3
Beginning after Dec. 31, 1956 and before Jan. 1, 1959-----	3.375
Beginning after Dec. 31, 1958 and before Jan. 1, 1960-----	3.75
Beginning after Dec. 31, 1959 and before Jan. 1, 1962-----	4.5
Beginning after Dec. 31, 1961 and before Jan. 1, 1963-----	4.7
Beginning after Dec. 31, 1962 and before Jan. 1, 1966-----	5.4
Beginning after Dec. 31, 1965 and before Jan. 1, 1968-----	6.2
Beginning after Dec. 31, 1967-----	6.9

(c) In general, self-employment income consists of the net earnings derived by an individual (other than a nonresident alien) from a trade or business carried on by him as sole proprietor or by a partnership of which he is a member, including the net earnings of certain employees as set forth in § 1.1402(c)-3, and of crew leaders, as defined in section 3121(o) (see such section and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations)). See, however, the exclusions, exceptions, and limitations set forth in §§ 1.1402(a)-1 through 1.1402(g)-1.

§ 1.1402(a) Statutory provisions; definitions; net earnings from self-employment.

SEC. 1402. *Definitions.*—(a) *Net earnings from self-employment.* The term "net earnings from self-employment" means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702(a)(9) from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

(1) There shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares) together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant with respect to any such agricultural or horticultural commodity;

(2) There shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof), unless such dividends and interest (other than interest described in section 35) are received in the course of a trade or business as a dealer in stocks or securities;

(3) There shall be excluded any gain or loss—

(A) Which is considered as gain or loss from the sale or exchange of a capital asset,

(B) From the cutting of timber, or the disposal of timber or coal, if section 631 applies to such gain or loss, or

(C) From the sale, exchange, involuntary conversion, or other disposition of property if such property is neither—

(i) Stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor

(ii) Property held primarily for sale to customers in the ordinary course of the trade or business;

(4) The deduction for net operating losses provided in section 172 shall not be allowed;

(5) If—

(A) Any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife; and

(B) Any portion of a partner's distributive share of the ordinary income or loss from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(6) A resident of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to section 933;

(7) The deduction for personal exemptions provided in section 151 shall not be allowed;

(8) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 3121(h)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States); and

(9) The term "possession of the United States" as used in sections 931 (relating to income from sources within possessions of the United States) and 932 (relating to citizens of possessions of the United States) shall be deemed not to include the Virgin Islands, Guam, or American Samoa.

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based on the ordinary income or loss of the partnership for any taxable year of the partnership ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121(g)—

(i) In the case of an individual, if the gross income derived by him from such trade or business is not more than \$1,800, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income; or

(ii) In the case of an individual, if the gross income derived by him from such trade or business is more than \$1,800 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than \$1,200, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be \$1,200; and

(iii) In the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is not more than \$1,800, his distributive share of income described in section 702(a) (9) derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) In the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is more than \$1,800 and his distributive share (whether or not distributed) of income described in section 702(a) (9) derived from such trade or business (computed under this subsection without regard to this sentence) is less than \$1,200, his distributive share of income described in section 702(a) (9) derived from such trade or business may, at his option, be deemed to be \$1,200.

For purposes of the preceding sentence, gross income means—

(v) In the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection; and

(vi) In the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

[Sec. 1402(a) as amended by sec. 201 (a) and (c) (4), Social Security Amendments 1954 (68 Stat. 1087, 1089); sec. 201 (e) (2), (g), and (i), Social Security Amendments 1956 (70 Stat. 840-842); sec. 5(b), Act of Aug. 30, 1957 (Pub. Law 85-239, 71 Stat. 523); sec. 103(k), Social Security Amendments 1960 (74 Stat. 938)]

Sec. 201. [Social Security Amendments of 1956]. * * *

(m) *Effective dates.* (1) * * *

(2) (A) Except as provided in subparagraph (B), the amendment made by subsection (g) shall apply only with respect to taxable years ending after 1956.

(B) Any individual who, for a taxable year ending after 1954 and prior to 1957, had income which by reason of the amendment made by subsection (g) would have been included within the meaning of "net earnings from self-employment" (as such term is defined in section 1402(a) of the Internal Revenue Code of 1954), if such income had been derived in a taxable year ending after 1956 by an individual who had filed a waiver certificate under section 1402(e) of such Code, may elect to have the amendment made by subsection (g) apply to his taxable years ending after 1954 and prior to 1957. No election made by any individual under this subparagraph shall be valid unless such individual has filed a waiver certificate under section 1402(e) of such Code prior to the making of such election or files a waiver certificate at the time he makes such election.

(C) Any individual described in subparagraph (B) who has filed a waiver certificate under section 1402(e) of such Code prior to the date of enactment of this Act, or who files a waiver certificate under such section on or before the due date of his return (including any extension thereof) for his last taxable year ending prior to 1957, must make such election on or before the due date of his return (including any extension thereof) for his last taxable year ending prior to 1957, or before April 16, 1957, whichever is the later.

(D) Any individual described in subparagraph (B) who has not filed a waiver certificate under section 1402(e) of such Code on or before the due date of his return (including any extension thereof) for his last taxable year ending prior to 1957 must make such election on or before the due date of his return (including any extension thereof) for his first taxable year ending after 1956. Any individual described in this subparagraph whose period for filing a waiver certificate under section 1402(e) of such Code has expired at the time he makes such election may, notwithstanding the provisions of paragraph (2) of such section, file a waiver certificate at the time he makes such election.

(E) An election under subparagraph (B) shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe by regulations. Notwithstanding the provisions of paragraph (3) of section 1402 (e) of such Code, the waiver certificate filed by an individual who makes an election under subparagraph (B) (regardless of when filed) shall be effective for such individual's first taxable year ending after 1954 in which he had income which by reason of the amendment made by subsection (g) would have been included within the meaning of "net earnings from self-employment" (as such term is defined in section 1402(a) of such Code), if such income had been derived in a taxable year ending after 1956 by an individual who had filed a waiver certificate under section 1402(e) of such Code, or for the taxable year prescribed by such paragraph (3) of section 1402(e), if such taxable year is earlier, and for all succeeding taxable years.

(F) No interest or penalty shall be assessed or collected for failure to file a return within the time prescribed by law, if such failure arises solely by reason of an election made by an individual under subparagraph (B), or for any underpayment of the tax imposed by section 1401 of such Code arising solely by reason of such election, for the period ending with the date such individual makes an election under subparagraph (B).

(3) Any tax under chapter 2 of the Internal Revenue Code of 1954 which is due, solely by reason of the enactment of subsection (f), or paragraph (2) of subsection (e), of this section, for any taxable year ending on or before the date of the enactment of this Act shall be considered timely paid if

payment is made in full on or before the last day of the sixth calendar month following the month in which this Act is enacted. In no event shall interest be imposed on the amount of any tax due under such chapter solely by reason of the enactment of subsection (f), or paragraph (2) of subsection (e), of this section for any period before the day after the date of enactment of this Act.

[Sec. 201(m), Social Security Amendments 1956 (70 Stat. 843)]

§ 1.1402(a)-1 Definition of net earnings from self-employment.

(a) Subject to the special rules set forth in §§ 1.1402(a)-3 to 1.1402(a)-16, inclusive, and to the exclusions set forth in §§ 1.1402(c)-2 to 1.1402(c)-6, inclusive, the term "net earnings from self-employment" means—

(1) The gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by chapter 1 of the Code which are attributable to such trade or business, plus

(2) His distributive share (whether or not distributed), as determined under section 704, of the income (or minus the loss), described in section 702(a) (9) and as computed under section 703, from any trade or business carried on by any partnership of which he is a member.

(b) Gross income derived by an individual from a trade or business includes payments received by him from a partnership of which he is a member for services rendered to the partnership or for the use of capital by the partnership, to the extent the payments are determined without regard to the income of the partnership. However, such payments received from a partnership not engaged in a trade or business within the meaning of section 1402(c) and § 1.1402(c)-1 do not constitute gross income derived by an individual from a trade or business. See section 707(c) and the regulations thereunder, relating to guaranteed payments to a member of a partnership for services or the use of capital. See also section 706(a) and the regulations thereunder, relating to the taxable year of the partner in which such guaranteed payments are to be included in computing taxable income.

(c) Gross income derived by an individual from a trade or business includes gross income received (in the case of an individual reporting income on the cash receipts and disbursements method) or accrued (in the case of an individual reporting income on the accrual method) in the taxable year from a trade or business even though such income may be attributable in whole or in part to services rendered or other acts performed in a prior taxable year as to which the individual was not subject to the tax on self-employment income.

§ 1.1402(a)-2 Computation of net earnings from self-employment.

(a) *General rule.* In general, the gross income and deductions of an individual attributable to a trade or business (including a trade or business conducted by an employee referred to in paragraphs (b), (c), (d), or (e) of § 1.1402(c)-3), for the purpose of ascertain-

ing his net earnings from self-employment, are to be determined by reference to the provisions of law and regulations applicable with respect to the taxes imposed by sections 1 and 3. Thus, if an individual uses the accrual method of accounting in computing taxable income from a trade or business for the purpose of the tax imposed by section 1 or 3, he must use the same method in determining net earnings from self-employment. Likewise, if a taxpayer engaged in a trade or business of selling property on the installment plan elects, under the provisions of section 453, to use the installment method in computing income for purposes of the tax under section 1 or 3, he must use the same method in determining net earnings from self-employment. Income which is excludable from gross income under any provision of subtitle A of the Internal Revenue Code is not taken into account in determining net earnings from self-employment except as otherwise provided in § 1.1402(a)-9, relating to certain residents of Puerto Rico, in § 1.1402(a)-11, relating to ministers or members of religious orders, and in § 1.1402(a)-12, relating to the term "possession of the United States" as used for purposes of the tax on self-employment income. Thus, in the case of a citizen of the United States conducting, in a foreign country, a trade or business in which both personal services and capital are material income-producing factors, any part of the income therefrom which is excluded from gross income as earned income under the provisions of section 911 and the regulations thereunder is not taken into account in determining net earnings from self-employment.

(b) *Trade or business carried on.* The trade or business must be carried on by the individual, either personally or through agents or employees. Accordingly, income derived from a trade or business carried on by an estate or trust is not included in determining the net earnings from self-employment of the individual beneficiaries of such estate or trust.

(c) *Aggregate net earnings.* Where an individual is engaged in more than one trade or business within the meaning of section 1402(c) and § 1.1402(c)-1, his net earnings from self-employment consist of the aggregate of the net income and losses (computed subject to the special rules provided in §§ 1.1402(a)-1 to 1.1402(a)-16, inclusive) of all such trades or businesses carried on by him. Thus, a loss sustained in one trade or business carried on by an individual will operate to offset the income derived by him from another trade or business.

(d) *Partnerships.* The net earnings from self-employment of an individual include, in addition to the earnings from a trade or business carried on by him, his distributive share of the income or loss, described in section 702(a) (9), from any trade or business carried on by each partnership of which he is a member. An individual's distributive share of such income or loss of a partnership shall be determined as provided in section 704, subject to the special rules set forth in section 1402(a) and in §§ 1.1402(a)-1 to

1.1402(a)-16, inclusive, and to the exclusions provided in section 1402(c) and §§ 1.1402(c)-2 to 1.1402(c)-6, inclusive. For provisions relating to the computation of the taxable income of a partnership, see section 703.

(e) *Different taxable years.* If the taxable year of a partner differs from that of the partnership, the partner shall include, in computing net earnings from self-employment, his distributive share of the income or loss, described in section 702(a) (9), of the partnership for its taxable year ending with or within the taxable year of the partner. For the special rule in case of the termination of a partner's taxable year as result of death, see §§ 1.1402(f) and 1.1402(f)-1.

(f) *Meaning of partnerships.* For the purpose of determining net earnings from self-employment, a partnership is one which is recognized as such for income tax purposes. For income tax purposes, the term "partnership" includes not only a partnership as known at common law, but, also a syndicate, group, pool, joint venture, or other unincorporated organization which carries on any trade or business, financial operation, or venture, and which is not, within the meaning of the Code, a trust, estate, or a corporation. An organization described in the preceding sentence shall be treated as a partnership for purposes of the tax on self-employment income even though such organization has elected, pursuant to section 1361 and the regulations thereunder, to be taxed as a domestic corporation.

(g) *Nature of partnership interest.* The net earnings from self-employment of a partner include his distributive share of the income or loss, described in section 702(a) (9), of the partnership of which he is a member, irrespective of the nature of his membership. Thus, in determining his net earnings from self-employment, a limited or inactive partner includes his distributive share of such partnership income or loss. In the case of a partner who is a member of a partnership with respect to which an election has been made pursuant to section 1361 and the regulations thereunder to be taxed as a domestic corporation, net earnings from self-employment include his distributive share of the income or loss, described in section 702(a) (9), from the trade or business carried on by the partnership computed without regard to the fact that the partnership has elected to be taxed as a domestic corporation.

(h) *Proprietorship taxed as domestic corporation.* A proprietor of an unincorporated business enterprise with respect to which an election has been made pursuant to section 1361 and the regulations thereunder to be taxed as a domestic corporation shall compute his net earnings from self-employment without regard to the fact that such election has been made.

§ 1.1402(a)-3 Special rules for computing net earnings from self-employment.

For the purpose of computing net earnings from self-employment, the gross income derived by an individual from a trade or business carried on by

him, the allowable deductions attributable to such trade or business, and the individual's distributive share of the income or loss, described in section 702 (a) (9), from any trade or business carried on by a partnership of which he is a member shall be computed in accordance with the special rules set forth in §§ 1.1402(a)-4 to 1.1402(a)-16, inclusive.

§ 1.1402(a)-4 Rentals from real estate.

(a) *In general.* Rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares) and the deductions attributable thereto, unless such rentals are received by an individual in the course of a trade or business as a real-estate dealer, are excluded. Whether or not an individual is engaged in the trade or business of a real-estate dealer is determined by the application of the principles followed in respect of the taxes imposed by sections 1 and 3. In general, an individual who is engaged in the business of selling real estate to customers with a view to the gains and profits that may be derived from such sales is a real-estate dealer. On the other hand, an individual who merely holds real estate for investment or speculation and receives rentals therefrom is not considered a real-estate dealer. Where a real-estate dealer holds real estate for investment or speculation in addition to real estate held for sale to customers in the ordinary course of his trade or business as a real-estate dealer, only the rentals from the real estate held for sale to customers in the ordinary course of his trade or business as a real-estate dealer, and the deductions attributable thereto, are included in determining net earnings from self-employment; the rentals from the real estate held for investment or speculation, and the deductions attributable thereto, are excluded. Rentals paid in crop shares include income derived by an owner or lessee of land under an agreement entered into with another person pursuant to which such other person undertakes to produce a crop or livestock on such land and pursuant to which (1) the crop or livestock, or the proceeds thereof, are to be divided between such owner or lessee and such other person, and (2) the share of the owner or lessee depends on the amount of the crop or livestock produced. See, however, paragraph (b) of this section.

(b) *Special rule for "includible farm rental income"*—(1) *In general.* Notwithstanding the rules set forth in paragraph (a) of this section, there shall be included in determining net earnings from self-employment for taxable years ending after 1955 any income derived by an owner or tenant of land, if the following requirements are met with respect to such income:

(i) The income is derived under an arrangement between the owner or tenant of land and another person which provides that such other person shall produce agricultural or horticultural commodities on such land, and that there shall be material participation by the owner or tenant in the production or the management of the pro-

duction of such agricultural or horticultural commodities; and

(ii) There is material participation by the owner or tenant with respect to any such agricultural or horticultural commodity.

Income so derived shall be referred to in this section as "includible farm rental income".

(2) *Requirement that income be derived under an arrangement.* In order for rental income received by an owner or tenant of land to be treated as includible farm rental income, such income must be derived pursuant to a share-farming or other rental arrangement which contemplates material participation by the owner or tenant in the production or management of production of agricultural or horticultural commodities.

(3) *Nature of arrangement.* (i) The arrangement between the owner or tenant and the person referred to in subparagraph (1) of this paragraph may be either oral or written. The arrangement must impose upon such other person the obligation to produce one or more agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on the land of the owner or tenant. In addition, it must be within the contemplation of the parties that the owner or tenant will participate in the production or the management of the production of the agricultural or horticultural commodities required to be produced by the other person under such arrangement to an extent which is material with respect either to the production or to the management of production of such commodities or is material with respect to the production and management of production when the total required participation in connection with both is considered.

(ii) The term "production", wherever used in this paragraph, refers to the physical work performed and the expenses incurred in producing a commodity. It includes such activities as the actual work of planting, cultivating, and harvesting crops, and the furnishing of machinery, implements, seed, and livestock. An arrangement will be treated as contemplating that the owner or tenant will materially participate in the "production" of the commodities required to be produced by the other person under the arrangement if under the arrangement it is understood that the owner or tenant is to engage to a material degree in the physical work related to the production of such commodities. The mere undertaking to furnish machinery, implements, and livestock and to incur expenses is not, in and of itself, sufficient. Such factors may be significant, however, in cases where the degree of physical work intended of the owner or tenant is not material. For example, if under the arrangement it is understood that the owner or tenant is to engage periodically in physical work to a degree which is not material in and of itself and, in addition, to furnish a substantial portion of the machinery, implements, and livestock to be used in the production of the commodities or to

furnish or advance funds or assume financial responsibility for a substantial part of the expense involved in the production of the commodities, the arrangement will be treated as contemplating material participation of the owner or tenant in the production of such commodities.

(iii) The term "management of the production", wherever used in this paragraph, refers to services performed in making managerial decisions relating to the production, such as when to plant, cultivate, dust, spray, or harvest the crop, and includes advising and consulting, making inspections, and making decisions as to matters such as rotation of crops, the type of crops to be grown, the type of livestock to be raised, and the type of machinery and implements to be furnished. An arrangement will be treated as contemplating that the owner or tenant is to participate materially in the "management of the production" of the commodities required to be produced by the other person under the arrangement if the owner or tenant is to engage to a material degree in the management decisions related to the production of such commodities. The services which are considered of particular importance in making such management decisions are those services performed in making inspections of the production activities and in advising and consulting with such person as to the production of the commodities. Thus, if under the arrangement it is understood that the owner or tenant is to advise or consult periodically with the other person as to the production of the commodities required to be produced by such person under the arrangement and to inspect periodically the production activities on the land, a strong inference will be drawn that the arrangement contemplates participation by the owner or tenant in the management of the production of such commodities. The mere undertaking to select the crops or livestock to be produced or the type of machinery and implements to be furnished or to make decisions as to the rotation of crops generally is not, in and of itself, sufficient. Such factors may be significant, however, in making the overall determination of whether the arrangement contemplates that the owner or tenant is to participate materially in the management of the production of the commodities. Thus, if in addition to the understanding that the owner or tenant is to advise or consult periodically with the other person as to the production of the commodities and to inspect periodically the production activities on the land, it is also understood that the owner is to select the type of crops and livestock to be produced and the type of machinery and implements to be furnished and to make decisions as to the rotation of crops, the arrangement will be treated as contemplating material participation of the owner or tenant in the management of production of such commodities.

(4) *Actual participation.* In order for the rental income received by the owner or tenant of land to be treated as includible farm rental income, not only must it be derived pursuant to the

arrangement described in subparagraph (1) of this paragraph, but also the owner or tenant must actually participate to a material degree in the production or in the management of the production of any of the commodities required to be produced under the arrangement, or he must actually participate in both the production and the management of the production to an extent that his participation in the one when combined with his participation in the other will be considered participation to a material degree. If the owner or tenant shows that he periodically advises or consults with the other person, who under the arrangement produces the agricultural or horticultural commodities, as to the production of any of these commodities and also shows that he periodically inspects the production activities on the land, he will have presented strong evidence of the existence of the degree of participation contemplated by section 1402(a)(1). If, in addition to the foregoing, the owner or tenant shows that he furnishes a substantial portion of the machinery, implements, and livestock used in the production of the commodities or that he furnishes or advances funds, or assumes financial responsibility, for a substantial part of the expense involved in the production of the commodities, he will have established the existence of the degree of participation contemplated by section 1402(a)(1) and this paragraph.

(5) *Employees or agents.* Any arrangement entered into by an employee or agent of an owner or tenant and another person shall be considered an arrangement entered into by the owner or tenant for purposes of satisfying the requirement set forth in subparagraph (2) of this paragraph that the income must be derived under an arrangement between the owner or tenant and another person. For purposes of determining whether the arrangement satisfies the requirement set forth in subparagraph (3) of this paragraph that the parties contemplate that the owner or tenant will materially participate in the production or management of production of a commodity, services which will be performed by an employee or agent of the owner or tenant are considered to be services which the arrangement contemplates will be performed by the owner or tenant. Services performed by such an employee or agent are considered services performed by the owner or tenant in determining the extent to which the owner or tenant has participated in the production or management of production of a commodity.

(6) *Examples.* Application of the rules prescribed in this paragraph may be illustrated by the following examples:

Example (1). After the death of her husband, Mrs. A rents her farm, together with its machinery and equipment, to B for one-half of the proceeds from the commodities produced on such farm by B. It is agreed that B will live in the tenant house on the farm and be responsible for the over-all operation of the farm, such as planting, cultivating, and harvesting the field crops, caring for the orchard and harvesting the fruit and caring for the livestock and poultry. It also is agreed that Mrs. A will continue to live in the farm residence and help

B operate the farm. Under the agreement it is contemplated that Mrs. A will regularly operate and clean the cream separator and feed the poultry flock and collect the eggs. When possible she will assist B in such work as spraying the fruit trees, penning livestock, culling the poultry, and controlling weeds. She will also assist in preparing the meals when B engages seasonal workers. The agreement between Mrs. A and B clearly provides that she will materially participate in the over-all production operations to be conducted on her farm by B. In actual practice, Mrs. A performs such regular and intermittent services. The regularly performed services are material to the production of an agricultural commodity, and the intermittent services performed are material to the production operations to which they relate. The furnishing of a substantial portion of the farm machinery and equipment also adds support to a conclusion that Mrs. A has materially participated. Accordingly, the rental income Mrs. A receives from her farm should be included in net earnings from self-employment.

Example (2). D agrees to produce a crop on C's cotton farm under an arrangement providing that C and D will each receive one-half of the proceeds from such production. C agrees to furnish all the necessary equipment, and it is understood that he is to advise D when to plant the cotton and when it needs to be chopped, plowed, sprayed, and picked. It is also understood that during the growing season C is to inspect the crop every few days to determine whether D is properly taking care of the crop. Under the arrangement, D is required to furnish all labor needed to grow and harvest the crop. C, in fact, renders such advice, makes such inspections, and furnishes such equipment. C's contemplated participation in management decisions is considered material with respect to the management of the cotton production operation. C's actual participation pursuant to the arrangement is also considered to be material with respect to the management of the production of cotton. Accordingly, the income C receives from his cotton farm is to be included in computing his net earnings from self-employment.

Example (3). E owns a grain farm and turns its operation over to his son, F. By the oral rental arrangement between E and F, the latter agrees to produce crops of grain on the farm, and E agrees that he will be available for consultation and advice and will inspect and help to harvest the crops. E furnishes most of the equipment, including a tractor, a combine, plows, wagons, drills, and harrows; he continues to live on the farm and does some of the work such as repairing barns and farm machinery, going to town for supplies, cutting weeds, etc.; he regularly inspects the crops during the growing season; and he helps F to harvest the crops. Although the final decisions are made by F, he frequently consults with his father regarding the production of the crops. An evaluation of all of E's actual activities indicates that they are sufficiently substantial and regular to support a conclusion that he is materially participating in the crop production operations and the management thereof. If it can be shown that the degree of E's actual participation was contemplated by the arrangement, E's income from the grain farm will be included in computing net earnings from self-employment.

Example (4). G owns a fully-equipped farm which he rents to H under an arrangement which contemplates that G shall materially participate in the management of the production of crops raised on the farm pursuant to the arrangement. G lives in town about 5 miles from the farm. About twice a month he visits the farm and looks over the buildings and equipment. G may occasionally, in an emergency, discuss with H some phase of a crop production activity.

In effect, H has complete charge of the management of farming operations regardless of the understanding between him and G. Although G pays one-half of the cost of the seed and fertilizer and is charged for the cost of materials purchased by H to make all necessary repairs, G's activities do not constitute material participation in the crop production activities. Accordingly, G's income from the crops is not included in computing net earnings from self-employment.

Example (5). J owned a farm several miles from the town in which he lived. He rented the farm to K under an arrangement which contemplated J's material participation in the management of production of wheat. J furnished one-half the seed and fertilizer and all the farm equipment and livestock. He employed H to perform all the services in advising, consulting, and inspecting contemplated by the arrangement. J is materially participating in the management of production of wheat by K. The work done by J's employee, H, is attributable to J in determining the extent of J's participation. J's rental income from the arrangement is to be included in computing his net earnings from self-employment.

Example (6). Assume the same facts as in the previous example except that J appointed the X Bank as his agent to enter into the rental arrangement with K and to perform the services contemplated by the arrangement. J is also materially participating in the management of production of wheat by K because the work done by X Bank is attributable to J in determining the extent of J's participation even though X Bank is an independent contractor. J's rental income from the arrangement is to be included in computing his net earnings from self-employment.

(c) *Rentals from living quarters—(1) No services rendered for occupants.* Payments for the use or occupancy of entire private residences or living quarters in duplex or multiple-housing units are generally rentals from real estate. Except in the case of real-estate dealers, such payments are excluded in determining net earnings from self-employment even though such payments are in part attributable to personal property furnished under the lease.

(2) *Services rendered for occupants.* Payments for the use or occupancy of rooms or other space where services are also rendered to the occupant, such as for the use or occupancy of rooms or other quarters in hotels, boarding houses, or apartment houses furnishing hotel services, or in tourist camps or tourist homes, or payments for the use or occupancy of space in parking lots, warehouses, or storage garages, do not constitute rentals from real estate; consequently, such payments are included in determining net earnings from self-employment. Generally, services are considered rendered to the occupant if they are primarily for his convenience and are other than those usually or customarily rendered in connection with the rental of rooms or other space for occupancy only. The supplying of maid service, for example, constitutes such service; whereas the furnishing of heat and light, the cleaning of public entrances, exits, stairways and lobbies, the collection of trash, and so forth, are not considered as services rendered to the occupant.

(3) *Example.* The application of this paragraph may be illustrated by the following example:

Example. A, an individual, owns a building containing four apartments. During the taxable year, he receives \$1,400 from apartments numbered 1 and 2, which are rented without services rendered to the occupants, and \$3,600 from apartments numbered 3 and 4, which are rented with services rendered to the occupants. His fixed expenses for the four apartments aggregate \$1,200 during the taxable year. In addition, he has \$500 of expenses attributable to the services rendered to the occupants of apartments 3 and 4. In determining his net earnings from self-employment, A includes the \$3,600 received from apartments 3 and 4, and the expenses of \$1,100 (\$500 plus one-half of \$1,200) attributable thereto. The rentals and expenses attributable to apartments 1 and 2 are excluded. Therefore, A has \$2,500 of net earnings from self-employment for the taxable year from the building.

(d) *Treatment of business income which includes rentals from real estate.* Except in the case of a real-estate dealer, where an individual or a partnership is engaged in a trade or business the income of which is classifiable in part as rentals from real estate, only that portion of such income which is not classifiable as rentals from real estate, and the expenses attributable to such portion, are included in determining net earnings from self-employment.

§ 1.1402(a)-5 Dividends and interest.

(a) All dividends on shares of stock are excluded unless they are received by an individual in the course of his trade or business as a dealer in stocks or securities.

(b) Interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof) is excluded unless such interest is received in the course of a trade or business as a dealer in stocks or securities. However, interest with respect to which a credit against tax is allowable as provided in section 35, that is, interest on certain obligations of the United States and its instrumentalities, is not included in net earnings from self-employment even though received in the course of a trade or business as a dealer in stocks or securities. Only interest on bonds, debentures, notes, or certificates, or other evidence of indebtedness, issued with interest coupons or in registered form by a corporation, is excluded in the case of all persons other than dealers in stocks or securities; other interest received in the course of any trade or business (such as interest received by a pawnbroker on his loans or interest received by a merchant on his accounts or notes receivable) is not excluded.

(c) Dividends and interest of the character excludable under paragraphs (a) and (b) of this section received by an individual on stocks or securities held for speculation or investment are excluded whether or not the individual is a dealer in stocks or securities.

(d) A dealer in stocks or securities is a merchant of stocks or securities with an established place of business, regularly engaged in the business of purchasing stocks or securities and reselling

them to customers; that is, he is one who as a merchant buys stocks or securities and sells them to customers with a view to the gains and profits that may be derived therefrom. Persons who buy and sell or hold stocks or securities for investment or speculation, irrespective of whether such buying or selling constitutes the carrying on of a trade or business, are not dealers in stocks or securities.

§ 1.1402(a)-6 Gain or loss from disposition of property.

(a) There is excluded any gain or loss: (1) Which is considered as gain or loss from the sale or exchange of a capital asset; (2) from the cutting of timber or the disposal of timber or the disposal of coal, even though held primarily for sale to customers, if section 631 is applicable to such gain or loss; and (3) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither (i) stock in trade or other property of a kind which would properly be includable in inventory if on hand at the close of the taxable year, nor (ii) property held primarily for sale to customers in the ordinary course of a trade or business. For the purpose of the special rule in subparagraph (3) of this paragraph, it is immaterial whether a gain or loss is treated as a capital gain or loss or as an ordinary gain or loss for purposes other than determining net earnings from self-employment. For instance, where the character of a loss is governed by the provisions of section 1231, such loss is excluded in determining net earnings from self-employment even though such loss is treated under section 1231 as an ordinary loss. For the purposes of this special rule, the term "involuntary conversion" means a compulsory or involuntary conversion of property into other property or money as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof; and the term "other disposition" includes the destruction or loss, in whole or in part, of property by fire, storm, shipwreck, or other casualty, or by theft, even though there is no conversion of such property into other property or money.

(b) The application of this section may be illustrated by the following example:

Example. During the taxable year 1954, A, who owns a grocery store, realized a net profit of \$1,500 from the sale of groceries and a gain of \$350 from the sale of a refrigerator case. During the same year, he sustained a loss of \$2,000 as a result of damage by fire to the store building. In computing taxable income, all of these items are taken into account. In determining net earnings from self-employment, however, only the \$1,500 of profit derived from the sale of groceries is included. The \$350 gain and the \$2,000 loss are excluded.

§ 1.1402(a)-7 Net operating loss deduction.

The deduction provided by section 172, relating to net operating losses sustained in years other than the taxable year, is excluded.

§ 1.1402(a)-8 Community income.

(a) *In case of an individual.* If any of the income derived by an individual from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income, and the deductions attributable to such income, shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife. For the purpose of this special rule, the term "management and control" means management and control in fact, not the management and control imputed to the husband under the community property laws. For example, a wife who operates a beauty parlor without any appreciable collaboration on the part of her husband will be considered as having substantially all of the management and control of such business despite the provision of any community property law vesting in the husband the right of management and control of community property; and the income and deductions attributable to the operation of such beauty parlor will be considered the income and deductions of the wife.

(b) *In case of a partnership.* Even though a portion of a partner's distributive share of the income or loss, described in section 702(a)(9), from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner; no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner. In any case in which both spouses are members of the same partnership, the distributive share of the income or loss of each spouse is included in computing the net earnings from self-employment of that spouse.

§ 1.1402(a)-9 Puerto Rico.

(a) *Residents.* A resident of Puerto Rico, whether or not a bona fide resident thereof during the entire taxable year, and whether or not an alien, a citizen of the United States, or a citizen of Puerto Rico, shall compute his net earnings from self-employment in the same manner as would a citizen of the United States residing in the United States. See paragraph (d) of § 1.1402(b)-1 for regulations relating to nonresident aliens. For the purpose of the tax on self-employment income, the gross income of such a resident of Puerto Rico also includes income from Puerto Rican sources. Thus, under this special rule, income from Puerto Rican sources will be included in determining net earnings from self-employment of a resident of Puerto Rico engaged in the active conduct of a trade or business in Puerto Rico despite the fact that, under section 933, such income may not be taken into

account for purposes of the tax under section 1 or 3.

(b) *Nonresidents.* A citizen of Puerto Rico who is also a citizen of the United States and who is not a resident of Puerto Rico will compute his net earnings from self-employment in the same manner and subject to the same provisions of law and regulations as other citizens of the United States.

§ 1.1402(a)-10 **Personal exemption deduction.**

The deduction provided by section 151, relating to personal exemptions, is excluded.

§ 1.1402(a)-11 **Ministers and members of religious orders.**

(a) *In general.* For each taxable year ending after 1954 in which a minister or member of a religious order is engaged in a trade or business, within the meaning of section 1402(c) and § 1.1402(c)-5, with respect to service performed in the exercise of his ministry or in the exercise of duties required by such order, net earnings from self-employment from such trade or business include the gross income derived during the taxable year from any such service, less the deductions attributable to such gross income. For each taxable year ending on or after December 31, 1957, such minister or member of a religious order shall compute his net earnings from self-employment derived from the performance of such service without regard to the exclusions from gross income provided by section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer). Thus, a minister who is subject to self-employment tax with respect to his services as a minister will include in the computation of his net earnings from self-employment for a taxable year ending on or after December 31, 1957, the rental value of a home furnished to him as remuneration for services performed in the exercise of his ministry or the rental allowance paid to him as remuneration for such services irrespective of whether such rental value or rental allowance is excluded from gross income by section 107. Similarly, the value of any meals or lodging furnished to a minister or to a member of a religious order in connection with service performed in the exercise of his ministry or as a member of such order will be included in the computation of his net earnings from self-employment for a taxable year ending on or after December 31, 1957, notwithstanding the exclusion of such value from gross income by section 119.

(b) *In employ of American employer.* If a minister or member of a religious order engaged in a trade or business described in section 1402(c) and § 1.1402(c)-5 is a citizen of the United States and performs service, in his capacity as a minister or member of a religious order, as an employee of an American employer, as defined in section 3121(h) and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations), his net earnings from self-employment derived from such service

shall be computed as provided in paragraph (a) of this section but without regard to the exclusions from gross income provided in section 911, relating to earned income from sources without the United States, and section 931, relating to income from sources within possessions of the United States. Thus, even though all the income of the minister or member for service of the character to which this paragraph is applicable was derived from sources without the United States, or from sources within possessions of the United States, and therefore may be excluded from gross income, such income is included in computing net earnings from self-employment.

(c) *Minister in a foreign country whose congregation is composed predominantly of citizens of the United States—*(1) *Taxable years ending after 1956.* For any taxable year ending after 1956, a minister of a church, who is engaged in a trade or business within the meaning of section 1402(c) and § 1.1402(c)-5, is a citizen of the United States, is performing service in the exercise of his ministry in a foreign country, and has a congregation composed predominantly of United States citizens, shall compute his net earnings from self-employment derived from his services as a minister for such taxable year without regard to the exclusion from gross income provided in section 911, relating to earned income from sources without the United States. For taxable years ending on or after December 31, 1957, such minister shall also disregard sections 107 and 119 in the computation of his net earnings from self-employment. (See paragraph (a) of this section.) For purposes of section 1402(a)(8) and this paragraph a "congregation composed predominantly of citizens of the United States" means a congregation the majority of which throughout the greater portion of its minister's taxable year were United States citizens.

(2) *Election for taxable years ending after 1954 and before 1957.* (i) A minister described in subparagraph (1) of this paragraph who, for a taxable year ending after 1954 and before 1957, had income from service described in such subparagraph which would have been included in computing net earnings from self-employment if such income had been derived in a taxable year ending after 1956 by an individual who had filed a waiver certificate under section 1402(e), may elect to have section 1402(a)(8) and subparagraph (1) of this paragraph apply to his income from such service for his taxable years ending after 1954 and before 1957. If such minister filed a waiver certificate prior to August 1, 1956, in accordance with § 1.1402(e)(1)-1, or he files such a waiver certificate on or before the due date of his return (including any extensions thereof) for his last taxable year ending before 1957, he must make such election on or before the due date of his return (including any extensions thereof) for such taxable year or before April 16, 1957, whichever is the later. If the waiver certificate is not so filed, the minister must make his

election on or before the due date of the return (including any extensions thereof) for his first taxable year ending after 1956. Notwithstanding the expiration of the period prescribed by section 1402(e)(2) for filing such waiver, the minister may file a waiver certificate at the time he makes the election. In no event shall an election be valid unless the minister files prior to or at the time of the election a waiver certificate in accordance with § 1.1402(e)(1)-1.

(ii) The election shall be made by filing with the district director of internal revenue with whom the waiver certificate, Form 2031, is filed a written statement indicating that, by reason of the Social Security Amendments of 1956, the minister desires to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services performed in a foreign country as a minister of a congregation composed predominantly of United States citizens beginning with the first taxable year ending after 1954 and prior to 1957 for which he had income from such services. The statement shall be dated and signed by the minister and shall clearly state that it is an election for retroactive self-employment tax coverage under the Self-Employment Contributions Act of 1954. In addition, the statement shall include the following information:

(a) The name and address of the minister.

(b) His social security account number, if he has one.

(c) That he is a duly ordained, commissioned, or licensed minister of a church.

(d) That he is a citizen of the United States.

(e) That he is performing services in the exercise of his ministry in a foreign country.

(f) That his congregation is composed predominantly of citizens of the United States.

(g) (1) That he has filed a waiver certificate and, if so, where and under what circumstances the certificate was filed and the taxable year for which it is effective; or (2) That he is filing a waiver certificate with his election for retroactive coverage and, if so, the taxable year for which it is effective.

(h) That he has or has not filed income tax returns for his taxable years ending after 1954 and before 1957. If he has filed such returns, he shall state the years for which they were filed and indicate the district director of internal revenue with whom they were filed.

(iii) Notwithstanding section 1402(e)(3), a waiver certificate filed pursuant to § 1.1402(e)(1)-1 by a minister making an election under this paragraph shall be effective (regardless of when such certificate is filed) for such minister's first taxable year ending after 1954 in which he had income from service described in subparagraph (1) of this paragraph or for the taxable year of the minister prescribed by section 1402(e)(3), if such taxable year is earlier, and for all succeeding taxable years.

(iv) No interest or penalty shall be assessed or collected for failure to file

a return within the time prescribed by law if such failure arises solely by reason of an election made by a minister pursuant to this paragraph or for any underpayment of self-employment income tax arising solely by reason of such election, for the period ending with the date such minister makes an election pursuant to this paragraph.

(d) *Treatment of certain remuneration paid in 1955 and 1956 as wages.* For treatment of remuneration paid to an individual for service described in section 3121(b)(8)(A) which was erroneously treated by the organization employing him as employment within the meaning of chapter 21 of the Internal Revenue Code, see § 1.1402(e)(4)-1.

§ 1.1402(a)-12 Possession of the United States.

For purposes of the tax on self-employment income, the term "possession of the United States", as used in section 931 (relating to income from sources within possessions of the United States) and section 932 (relating to citizens of possessions of the United States) shall be deemed not to include the Virgin Islands, Guam, or American Samoa. The provisions of section 1402(a)(9) and of this section insofar as they involve nonapplication of sections 931 and 932 to Guam or American Samoa, shall apply only in the case of taxable years beginning after 1960.

§ 1.1402(a)-13 Income from agricultural activity.

(a) *Agricultural trade or business.*
 (1) An agricultural trade or business is one in which, if the trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121(g) and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations). In case the services are in part agricultural and in part nonagricultural, the time devoted to the performance of each type of service is the test to be used to determine whether the major portion of the services would constitute agricultural labor. If more than half of the time spent in performing all the services is spent in performing services which would constitute agricultural labor under section 3121(g), the trade or business is agricultural. If only half, or less, of the time spent in performing all the services is spent in performing services which would constitute agricultural labor under section 3121(g), the trade or business is not agricultural. In every case the time spent in performing the services will be computed by adding the time spent in the trade or business during the taxable year by every individual (including the individual carrying on such trade or business and the members of his family) in performing such services. The operation of this special rule is not affected by section 3121(c), relating to the included-excluded rule for determining employment.

(2) The rules prescribed in subparagraph (1) of this paragraph have no application where the nonagricultural services are performed in connection

with an enterprise which constitutes a trade or business separate and distinct from the trade or business conducted as an agricultural enterprise. Thus, the operation of a roadside automobile service station on farm premises constitutes a trade or business separate and distinct from the agricultural enterprise, and the gross income derived from such service station, less the deductions attributable thereto, is to be taken into account in determining net earnings from self-employment.

(b) *Farm operator's income for taxable years ending before 1955.* Income derived in a taxable year ending before 1955 from any agricultural trade or business (see paragraph (a) of this section), and all deductions attributable to such income, are excluded in computing net earnings from self-employment.

(c) *Farm operator's income for taxable years ending after 1954.* Income derived in a taxable year ending after 1954 from an agricultural trade or business (see paragraph (a) of this section) is includible in computing net earnings from self-employment. Income derived from an agricultural trade or business includes income derived by an individual under an agreement entered into by such individual with another person pursuant to which such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on land owned or leased by such other person and pursuant to which the agricultural or horticultural commodities produced by such individual, or the proceeds therefrom, are to be divided between such individual and such other person, and the amount of such individual's share depends on the amount of the agricultural or horticultural commodities produced. However, except as provided in paragraph (d) of this section, relating to arrangements involving material participation, the income derived under such an agreement by the owner or lessee of the land is not includible in computing net earnings from self-employment. See § 1.1402(a)-4. For options relating to the computation of net earnings from self-employment, see §§ 1.1402(a)-14 and 1.1402(a)-15.

(d) *Includible farm rental income for taxable years ending after 1955.* For taxable years ending after 1955, income derived from an agricultural trade or business (see paragraph (a) of this section) includes also income derived by the owner or tenant of land under an arrangement between such owner or tenant and another person, if such arrangement provides that such other person shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant in the production or the management of the production of such agricultural or horticultural commodities, and if there is material participation by the owner or tenant with respect to any such agricultural or horticultural commodity. See paragraph (b) of § 1.1402(a)-4. For options relating to the computation of net earnings from

self-employment, see §§ 1.1402(a)-14 and 1.1402(a)-15.

(e) *Income from service performed after 1956 as a crew leader.* Income derived by a crew leader (see section 3121(o) and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations)) from service performed after 1956 in furnishing individuals to perform agricultural labor for another person and from service performed after 1956 in agricultural labor as a member of the crew is considered to be income derived from a trade or business for purposes of § 1.1402(c)-1. Whether such trade or business is an agricultural trade or business shall be determined by applying the rules set forth in this section.

§ 1.1402(a)-14 Options available to farmers in computing net earnings from self-employment for taxable years ending after 1954 and before December 31, 1956.

(a) *Computation of net earnings.* In the case of any trade or business which is carried on by an individual who reports his income on the cash receipts and disbursements method, and in which, if it were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121(g) (see paragraph (a) of § 1.1402(a)-13), net earnings from self-employment may, for a taxable year ending after 1954, at the option of the taxpayer, be computed as follows:

(1) *Gross income \$1,800 or less.* If the gross income, computed as provided in paragraph (b) of this section, from such trade or business is \$1,800 or less, the taxpayer may, at his option, treat as net earnings from self-employment from such trade or business an amount equal to 50 percent of such gross income. If the taxpayer so elects, the amount equal to 50 percent of such gross income shall be used in computing his self-employment income in lieu of his actual net earnings from such trade or business, if any.

(2) *Gross income in excess of \$1,800.* If the gross income, computed as provided in paragraph (b) of this section, from such trade or business is more than \$1,800, and the actual net earnings from self-employment from such trade or business are less than \$900, the taxpayer may, at his option, treat \$900 as net earnings from self-employment. If the taxpayer so elects, \$900 shall be used in computing his self-employment income in lieu of his actual net earnings from such trade or business, if any. However, if the taxpayer's actual net earnings from such trade or business, as computed in accordance with §§ 1.1402(a)-1 through 1.1402(a)-3 are \$900 or more, such actual net earnings shall be used in computing his self-employment income.

(b) *Computation of gross income.* For purposes of paragraph (a) of this section, gross income shall consist of the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of § 1.1402

(a)-3, relating to income and deductions not included in computing net earnings from self-employment.

(c) *Two or more agricultural activities.* If an individual is engaged in more than one agricultural trade or business within the meaning of paragraph (a) of § 1.1402(a)-13 (for example, the business of ordinary farming and the business of cotton ginning), the gross income derived from each agricultural trade or business shall be aggregated for purposes of the optional method provided in paragraph (a) of this section for computing net earnings from self-employment.

(d) *Examples.* Application of the regulations prescribed in paragraphs (a) and (b) of this section may be illustrated by the following examples:

Example (1). F, a farmer, uses the cash receipts and disbursements method of accounting in making his income tax returns. F's books and records show that during the calendar year 1955 he received \$1,200 from the sale of produce raised on the farm, \$200 from the sale of livestock raised on the farm and not held for breeding or dairy purposes, and \$600 from the sale of a tractor. The income from the sale of the tractor is of a type which is excluded from net earnings from self-employment by section 1402(a). F's actual net earnings from self-employment, computed in accordance with the provisions of §§ 1.1402(a)-1 through 1.1402(a)-3, are \$450. F may report \$450 as his net earnings from self-employment or he may elect to report \$700 (one-half of \$1,400).

Example (2). C, a cattleman, uses the cash receipts and disbursements method of accounting in making his income tax returns. C had actual net earnings from self-employment, computed in accordance with the provisions of §§ 1.1402(a)-1 through 1.1402(a)-3, of \$725. His gross receipts were \$1,000 from the sale of produce raised on the farm and \$1,200 from the sale of feeder cattle, which C bought for \$500. The income from the sale of the feeder cattle is of a type which is included in computing net earnings from self-employment. Therefore, C may report \$725 as his net earnings from self-employment or he may elect to report \$850, one-half of \$1,700 (\$2,200 minus \$500).

Example (3). R, a rancher, has gross income of \$3,000 from the operation of his ranch, computed as provided in paragraph (b) of this section. His actual net earnings from self-employment from farming activities are less than \$900. R, nevertheless, may elect to report \$900 as net earnings from self-employment from such trade or business. If R had actual net earnings from self-employment from his farming activities in the amount of \$900 or more, he would be required to report such amount in computing his self-employment income.

(e) *Members of farm partnerships.* The optional method provided by paragraph (a) of this section for computing net earnings from self-employment is not available to a member of a partnership with respect to his distributive share of the income or loss from any trade or business carried on by any partnership of which he is a member.

§ 1.1402(a)-15 *Options available to farmers in computing net earnings from self-employment for taxable years ending on or after December 31, 1956.*

(a) *Computation of net earnings.* In the case of any trade or business which is carried on by an individual or by a

partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121(g) (see paragraph (a) of § 1.1402(a)-13), net earnings from self-employment may, for a taxable year ending on or after December 31, 1956, at the option of the taxpayer, be computed as follows:

(i) *In case of an individual—(i) Gross income \$1,800 or less.* If the gross income, computed as provided in paragraph (b) of this section, from such trade or business is \$1,800 or less, the taxpayer may, at his option, treat as net earnings from self-employment from such trade or business an amount equal to 66⅔ percent of such gross income. If the taxpayer so elects, the amount equal to 66⅔ percent of such gross income shall be used in computing his self-employment income in lieu of his actual net earnings from such trade or business, if any.

(ii) *Gross income in excess of \$1,800.* If the gross income, computed as provided in paragraph (b) of this section, from such trade or business is more than \$1,800, and the net earnings from self-employment from such trade or business (computed without regard to this section) are less than \$1,200, the taxpayer may, at his option, treat \$1,200 as net earnings from self-employment. If the taxpayer so elects, \$1,200 shall be used in computing his self-employment income in lieu of his actual net earnings from such trade or business, if any. However, if the taxpayer's actual net earnings from such trade or business, as computed in accordance with the applicable provisions of §§ 1.1402(a)-1 to 1.1402(a)-13, inclusive, are \$1,200 or more, such actual net earnings shall be used in computing his self-employment income.

(2) *In case of a member of a partnership—(i) Distributive share of gross income \$1,800 or less.* If a taxpayer's distributive share of the gross income of a partnership (as such gross income is computed under the provisions of paragraph (b) of this section) derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is \$1,800 or less, the taxpayer may, at his option, treat as his distributive share of income described in section 702(a)(9) derived from such trade or business an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been reduced by the sum of all payments to which section 707(c) applies). If the taxpayer so elects, the amount equal to 66⅔ percent of his distributive share of such gross income shall be used by him in the computation of his net earnings from self-employment in lieu of the actual amount of his distributive share of income described in section 702(a)(9) from such trade or business, if any.

(ii) *Distributive share of gross income in excess of \$1,800.* If a taxpayer's distributive share of the gross income of the partnership (as such gross income is computed under the provisions of paragraph (b) of this section) derived from such trade or business (after such gross

income has been reduced by the sum of all payments to which section 707(c) applies) is more than \$1,800 and the actual amount of his distributive share (whether or not distributed) of income described in section 702(a)(9) derived from such trade or business (computed without regard to this section) is less than \$1,200, the taxpayer may, at his option, treat \$1,200 as his distributive share of income described in section 702(a)(9) derived from such trade or business. If the taxpayer so elects, \$1,200 shall be used by him in the computation of his net earnings from self-employment in lieu of the actual amount of his distributive share of income described in section 702(a)(9) from such trade or business, if any. However, if the actual amount of the taxpayer's distributive share of income described in section 702(a)(9) from such trade or business, as computed in accordance with the applicable provisions of §§ 1.1402(a)-1 to 1.1402(a)-13, inclusive, is \$1,200 or more, such actual amount of the taxpayer's distributive share shall be used in computing his net earnings from self-employment.

(iii) *Cross reference.* For a special rule in the case of certain deceased partners, see paragraph (c) of § 1.1402(f)-1.

(b) *Computation of gross income.* For purposes of this section gross income has the following meanings:

(1) In the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business (see paragraphs (a) and (c), other than paragraph (a)(5), of § 1.61-4), adjusted (after such reduction) in accordance with the applicable provisions of §§ 1.1402(a)-3 to 1.1402(a)-13, inclusive.

(2) In the case of any such trade or business in which the income is computed under an accrual method (see paragraphs (b) and (c), other than paragraph (b)(5), of § 1.61-4), the gross income from such trade or business, adjusted in accordance with the applicable provisions of §§ 1.1402(a)-3 to 1.1402(a)-13, inclusive.

(c) *Two or more agricultural activities.* If an individual (including a member of a partnership) derives gross income (as defined in paragraph (b) of this section) from more than one agricultural trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business. Thus, such an individual shall aggregate his gross income derived from each agricultural trade or business carried on by him (which includes, under paragraph (b) of § 1.1402(a)-1, any guaranteed payment, within the meaning of section 707(c), received by him from a farm partnership of which he is a member) and his distributive share of partnership gross income (after such gross income has been reduced by any guaranteed payment within the meaning of section 707(c)) derived from each farm

partnership of which he is a member. Such gross income is the amount to be considered for purposes of the optional method provided in this section for computing net earnings from self-employment. If the aggregate gross income of an individual includes income derived from an agricultural trade or business carried on by him and a distributive share of partnership income derived from an agricultural trade or business carried on by a partnership of which he is a member, such aggregate gross income shall be treated as income derived from a single trade or business carried on by him, and such individual shall apply the optional method applicable to individuals set forth in paragraph (a) (1) of this section for purposes of computing his net earnings from self-employment.

(d) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). F is engaged in the business of farming and computes his income under the cash receipts and disbursements method. He files his income tax returns on the basis of the calendar year. During the year 1956, F's gross income from the business of farming (computed in accordance with paragraph (b) (1) of this section) is \$1,725. His actual net earnings from self-employment derived from such business are \$650. As his net earnings from self-employment, F may report \$650 or, by the optional computation method, he may report \$1,150 (66% percent of \$1,725).

Example (2). G is engaged in the business of farming and computes his income under the accrual method. His income tax returns are filed on the calendar year basis. For the year 1957, G's gross income from the operation of his farm (computed in accordance with paragraph (b) (2) of this section) is \$2,500. He has actual net earnings from self-employment derived from such farm in the amount of \$950. As his net earnings from self-employment derived from his farm, G may report his actual net earnings of \$950, or by the optional method he may report \$1,200. If G's actual net earnings from self-employment from his farming activities for 1957 were in an amount of \$1,200 or more, he would be required to report such amount in computing his self-employment income.

Example (3). M, who files his income tax returns on a calendar year basis, is one of the three partners of the XYZ Company, a partnership, engaged in the business of farming. The taxable year of the partnership is the calendar year, and its income is computed under the cash receipts and disbursements method. For M's services in connection with the planting, cultivating, and harvesting of the crops during the year 1958, the partnership agrees to pay him \$500, the full amount of which is determined without regard to the income of the partnership and constitutes a guaranteed payment within the meaning of section 707(c). This guaranteed payment to M is the only such payment made during such year. The gross income derived from the business for the year 1958, computed in accordance with paragraph (b) (1) of this section and after being reduced by the guaranteed payment of \$500 made to M, is \$3,000. One-third of the \$3,000 (\$1,000), is M's distributive share of such gross income. Under paragraph (c) of this section, the guaranteed payment (\$500) received by M and his distributive share of the partnership gross income (\$1,000) are deemed to have been derived from one trade or business, and such amounts must be aggregated for purposes

of the optional method of computing net earnings from self-employment. Since M's combined gross income from his two agricultural businesses (\$1,000 and \$500) is not more than \$1,800 and since such income is deemed to be derived from one trade or business, M's net earnings from self-employment derived from such farming business may, at his option, be deemed to be \$1,000 (66% percent of \$1,500).

Example (4). A is one of the two partners of the AB partnership which is engaged in the business of farming. The taxable year of the partnership is the calendar year and its income is computed under the accrual method. A files his income tax returns on the calendar year basis. The partnership agreement provides for an equal sharing in the profits and losses of the partnership by the two partners. A is an experienced farmer and for his services as manager of the partnership's farm activities during the year 1959, he receives \$3,000 which amount constitutes a guaranteed payment within the meaning of section 707(c). The gross income of the partnership derived from such business for the year 1959, computed in accordance with paragraph (b) (2) of this section and after being reduced by the guaranteed payment made to A, is \$6,600. A's distributive share of such gross income is \$3,300, and his distributive share of income described in section 702(a) (9) derived from the partnership's business is \$1,100. Under paragraph (c) of this section, the guaranteed payment received by A and his distributive share of the partnership gross income are deemed to have been derived from one trade or business, and such amounts must be aggregated for purposes of the optional method of computing his net earnings from self-employment. Since the aggregate of A's guaranteed payment (\$3,000) and his distributive share of partnership gross income (\$3,300) is more than \$1,800 and since the aggregate of A's guaranteed payment (\$3,000) and his distributive share (\$1,100) of partnership income described in section 702(a) (9) is not less than \$1,200, the optional method of computing net earnings from self-employment is not available to A.

Example (5). F is a member of the EFG partnership which is engaged in the business of farming. F files his income tax returns on the calendar year basis. The taxable year of the partnership is the calendar year, and its income is computed under a cash receipts and disbursements method. Under the partnership agreement the partners are to share equally the profits or losses of the business. The gross income derived from the partnership business for the year 1959, computed in accordance with paragraph (b) (1) of this section is \$5,700. F's share of such gross income is \$1,900. Due to drought and an epidemic among the livestock, the partnership sustains a net loss of \$6,000 for the year 1959 of which loss F's share is \$2,000. Since F's distributive share of gross income derived from such business is in excess of \$1,800 and since F does not receive income described in section 702(a) (9) of \$1,200 or more from such business, he may, at his option, be deemed to have received \$1,200 as his distributive share of income described in section 702(a) (9) from such business.

§ 1.1402(a)-16 Exercise of option.

A taxpayer shall, for each taxable year with respect to which he is eligible to use the optional method described in § 1.1402(a)-14 or § 1.1402(a)-15, make a determination as to whether his net earnings from self-employment are to be computed in accordance with such method. If the taxpayer elects the optional method for a taxable year, he shall signify such election by computing net earnings from self-employment un-

der the optional method as set forth in Schedule F (Form 1040) of the income tax return filed by the taxpayer for such taxable year. If the optional method is not elected at the time of the filing of the return for a taxable year with respect to which the taxpayer is eligible to elect such optional method, such method may be elected on an amended return (or on such other form as may be prescribed for such use) filed within the period prescribed by section 6501 and the regulations thereunder for the assessment of the tax for such taxable year. If the optional method is elected on a return for a taxable year, the taxpayer may revoke such election by filing an amended return (or such other form as may be prescribed for such use) for the taxable year within the period prescribed by section 6501 and the regulations thereunder for the assessment of the tax for such taxable year. If the taxpayer is deceased or unable to make an election, the person designated in section 6012(b) and the regulations thereunder may, within the period prescribed in this section elect the optional method for any taxable year with respect to which the taxpayer is eligible to use the optional method and revoke an election previously made by or for the taxpayer.

§ 1.1402(b) Statutory provisions; definitions; self-employment income.

Sec. 1402. *Definitions.* * * *

(b) *Self-employment income.* The term "self-employment income" means the net earnings from self-employment derived by an individual (other than a nonresident alien individual) during any taxable year; except that such term shall not include—

(1) That part of the net earnings from self-employment which is in excess of—

(A) For any taxable year ending prior to 1955, (i) \$3,600, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(B) For any taxable year ending after 1954 and before 1959, (i) \$4,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(C) For any taxable year ending after 1958, (i) \$4,800, minus (ii) the amount of the wages paid to such individual during the taxable year; or

(2) The net earnings from self-employment, if such net earnings for the taxable year are less than \$400.

For purposes of clause (1), the term "wages" includes such remuneration paid to an employee for services included under an agreement entered into pursuant to the provisions of section 218 of the Social Security Act (relating to coverage of State employees), or under an agreement entered into pursuant to the provisions of section 3121(1) (relating to coverage of citizens of the United States who are employees of foreign subsidiaries of domestic corporations), as would be wages under section 3121(a) if such services constituted employment under section 3121(b). An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for purposes of this chapter be considered to be a nonresident alien individual.

[Sec. 1402(b) as amended by sec. 201(b), Social Security Amendments 1954 (68 Stat. 1088); sec. 402(a), Social Security Amendments 1958 (72 Stat. 1042); sec. 103(l), Social Security Amendments 1960 (74 Stat. 938)]

§ 1.1402(b)-1 Self-employment income.

(a) *In general.* Except for the exclusions in paragraphs (b) and (c) of this section and the exception in paragraph (d) of this section, the term "self-employment income" means the net earnings from self-employment derived by an individual during a taxable year.

(b) *Maximum self-employment income.* (1) The maximum self-employment income of an individual for any taxable year (whether a period of 12 months or less) is \$4,800, except that the maximum self-employment income for any taxable year ending before 1955 is \$3,600 and the maximum self-employment income for any taxable year ending after 1954 and before 1959 is \$4,200. If an individual is paid wages as defined in section 3121(a), the maximum self-employment income is the excess of \$4,800 (\$3,600 for a taxable year ending before 1955 and \$4,200 for a taxable year ending after 1954 and before 1959) over the amount of such wages. For example, if during the taxable year ending in 1959 no such wages are paid and the individual has \$5,000 of net earnings from self-employment, he has \$4,800 of self-employment income for such taxable year. If, in addition to having \$5,000 of net earnings from self-employment, such individual is paid \$1,000 of such wages, he has only \$3,800 of self-employment income for the taxable year.

(2) For the purpose of the limitation described in subparagraph (1) of this paragraph, the term "wages" includes such remuneration paid to an employee for services covered by—

(i) An agreement entered into pursuant to section 218 of the Social Security Act (42 U.S.C. 418), which section provides for extension of the Federal old-age, survivors and disability insurance system to State and local government employees under voluntary agreements between the States and the Secretary of Health, Education, and Welfare (Federal Security Administrator before April 11, 1953), or

(ii) An agreement entered into pursuant to the provisions of section 3121 (1), relating to coverage of citizens of the United States who are employees of foreign subsidiaries of domestic corporations,

as would be wages under section 3121(a) if such services constituted employment under section 3121(b). For an explanation of the term "wages", see the regulations under section 3121(a) in Part 31 of this chapter (Employment Tax Regulations).

(c) *Minimum net earnings from self-employment.* Self-employment income does not include the net earnings from self-employment of an individual when the amount of such earnings for the taxable year is less than \$400. Thus, an individual having only \$300 of net earnings from self-employment for the taxable year would not have any self-employment income. However, an individual having net earnings from self-employment of \$400 or more for the taxable year may have less than \$400 of self-employment income. This could occur in a case in which the amount of the individual's net earnings from self-employment

is \$400 or more for a taxable year and the amount of such net earnings from self-employment plus the amount of the wages received by the individual during that taxable year exceeded \$4,800 (\$3,600 for taxable years ending before 1955 or \$4,200 for taxable years ending after 1954 and before 1959). For example, if an individual has net earnings from self-employment of \$1,000 for 1959 and also receives wages of \$4,500 during that taxable year, his self-employment income for that taxable year is \$300.

(d) *Nonresident aliens.* A nonresident alien individual never has self-employment income. While a nonresident alien individual who derives income from a trade or business carried on within the United States, Puerto Rico, the Virgin Islands, Guam, or American Samoa (whether by agents or employees, or by a partnership of which he is a member) may be subject to the applicable income tax provisions on such income, such nonresident alien individual will not be subject to the tax on self-employment income, since any net earnings which he may have from self-employment do not constitute self-employment income. For the purpose of the tax on self-employment income, an individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, or, for taxable years beginning after 1960, of Guam or American Samoa is not considered to be a nonresident alien individual.

§ 1.1402(c) Statutory provisions; definitions; trade or business.

SEC. 1402. *Definitions.* * * *

(c) *Trade or business.* The term "trade or business", when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 162 (relating to trade or business expenses), except that such term shall not include—

(1) The performance of the functions of a public office;

(2) The performance of service by an individual as an employee, other than—

(A) Service described in section 3121(b)

(14) (B) performed by an individual who has attained the age of 18,

(B) Service described in section 3121(b) (16),

(C) Service described in section 3121(b) (11), (12), or (15) performed in the United States (as defined in section 3121(e) (2)) by a citizen of the United States, and

(D) Service described in paragraph (4) of this subsection;

(3) The performance of service by an individual as an employee or employee representative as defined in section 3231;

(4) The performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(5) The performance of service by an individual in the exercise of his profession as a doctor of medicine or Christian Science practitioner; or the performance of such service by a partnership.

The provisions of paragraph (4) shall not apply to service (other than service performed by a member of a religious order who has taken a vow of poverty as a member of such order) performed by an individual during the period for which a certificate filed by such individual under subsection (e) is in

effect. The provisions of paragraph (5) shall not apply to service performed by an individual in the exercise of his profession as a Christian Science practitioner during the period for which a certificate filed by him under subsection (e) is in effect.

[Sec. 1402(c) as amended by secs. 201(c) (1), (2), and (5), and 205(e), Social Security Amendments 1954 (68 Stat. 1088, 1089, 1092); sec. 201(e) (3), and (f), Social Security Amendments 1956 (70 Stat. 841); sec. 106(b), Social Security Amendments 1960 (74 Stat. 945)]

§ 1.1402(c)-1 Trade or business.

In order for an individual to have net earnings from self-employment, he must carry on a trade or business, either as an individual or as a member of a partnership. Except for the exclusions discussed in §§ 1.1402(c)-2 to 1.1402(c)-6, inclusive, the term "trade or business", for the purpose of the tax on self-employment income, shall have the same meaning as when used in section 162. An individual engaged in one of the excluded activities specified in such sections of the regulations may also be engaged in carrying on activities which constitute a trade or business for purposes of the tax on self-employment income. Whether or not he is also engaged in carrying on a trade or business will be dependent upon all of the facts and circumstances in the particular case. An individual who is a crew leader, as defined in section 3121(o) (see such section and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations)), is considered to be engaged in carrying on a trade or business with respect to services performed by him after 1956 in furnishing individuals to perform agricultural labor for another person or services performed by him after 1956 as a member of the crew.

§ 1.1402(c)-2 Public office.

The performance of the functions of a public office does not constitute a trade or business. The term "public office" includes any elective or appointive office of the United States or any possession thereof, or of a State or its political subdivisions, or of a wholly owned instrumentality of any one or more of the foregoing. For example, the President, the Vice President, a governor, a mayor, the Secretary of State, a member of Congress, a State representative, a county commissioner, a judge, a county or city attorney, a marshal, a sheriff, a register of deeds, or a notary public performs the functions of a public office.

§ 1.1402(c)-3 Employees.

(a) *General rule.* Generally, the performance of service by an individual as an employee, as defined in the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code) does not constitute a trade or business within the meaning of section 1402(c) and § 1.1402(c)-1. However, in the four cases set forth in paragraphs (b) to (e), inclusive, of this section, the performance of service by an individual is considered to constitute a trade or business within the meaning of section 1402(c) and § 1.1402(c)-1. (As to when an individual is an employee, see section 3121 (d) and (o) and the regulations thereunder in Part

31 of this chapter (Employment Tax Regulations).)

(b) *Newspaper vendors.* Service performed by an individual who has attained the age of 18 constitutes a trade or business for purposes of the tax on self-employment income within the meaning of section 1402(c) and § 1.1402(c)-1 if performed in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.

(c) *Sharecroppers.* Service performed by an individual under an arrangement with the owner or tenant of land pursuant to which—

(1) Such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land,

(2) The agricultural or horticultural commodities produced by such individual, or the proceeds therefrom, are to be divided between such individual and such owner or tenant, and

(3) The amount of such individual's share depends on the amount of the agricultural or horticultural commodities produced,

constitutes a trade or business within the meaning of section 1402(c) and § 1.1402(c)-1.

(d) *Employees of foreign government, instrumentality wholly owned by foreign government, or international organization.* Service performed in the United States, as defined in section 3121(e) (2) (see such section and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations)), by an individual who is a citizen of the United States constitutes a trade or business within the meaning of section 1402(c) and § 1.1402(c)-1 if such service is excepted from employment, for purposes of the Federal Insurance Contributions Act (chapter 21 of the Code), by—

(1) Section 3121(b) (11), relating to service in the employ of a foreign government (for regulations under section 3121(b) (11), see § 31.3121(b) (11)-1 of this chapter);

(2) Section 3121(b) (12), relating to service in the employ of an instrumentality wholly owned by a foreign government (for regulations under section 3121(b) (12), see § 31.3121(b) (12)-1 of this chapter); or

(3) Section 3121(b) (15), relating to service in the employ of an international organization (for regulations under section 3121(b) (15), see § 31.3121(b) (15)-1 of this chapter).

This paragraph is applicable to service performed in any taxable year ending on or after December 31, 1960, except that it does not apply to service performed before 1961 in Guam or American Samoa.

(e) *Ministers and members of religious orders.* Service described in section 1402(c) (4) performed by an individual during taxable years for which a certificate filed pursuant to section 1402(e) is in effect constitutes a trade or business within the meaning of section 1402(c) and § 1.1402(c)-1. See also § 1.1402(c)-5.

§ 1.1402(c)-4 Individuals under Railroad Retirement System.

The performance of service by an individual as an employee or employee representative as defined in section 3231 (b) and (c), respectively (see §§ 31.3231(b)-1 and 31.3231(c)-1 of Part 31 of this chapter (Employment Tax Regulations)), that is, an individual covered under the railroad retirement system, does not constitute a trade or business.

§ 1.1402(c)-5 Ministers and members of religious orders.

(a) *In general.* For taxable years ending before 1955, a duly ordained, commissioned, or licensed minister of a church or a member of a religious order is not engaged in carrying on a trade or business with respect to service performed by him in the exercise of his ministry or in the exercise of duties required by such order. However, for taxable years ending after 1954, any individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) may elect, as provided in § 1.1402(e) (1)-1, to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to service performed by him in his capacity as such a minister or member. If such a minister or a member of a religious order makes an election pursuant to § 1.1402(e) (1)-1 he is, with respect to service performed by him in such capacity, engaged in carrying on a trade or business for each taxable year to which the election is effective. An election by a minister or member of a religious order has no application to service performed by such minister or member which is not in the exercise of his ministry or in the exercise of duties required by such order.

(b) *Service by a minister in the exercise of his ministry.* (1) A certificate of election filed by a duly ordained, commissioned, or licensed minister of a church under the provisions of § 1.1402(e) (1)-1 has application only to service performed by him in the exercise of his ministry.

(2) Except as provided in paragraph (c) (3) of this section, service performed by a minister in the exercise of his ministry includes the ministration of sacerdotal functions and the conduct of religious worship, and the control, conduct, and maintenance of religious organizations (including the religious boards, societies, and other integral agencies of such organizations), under the authority of a religious body constituting a church or church denomination. The following rules are applicable in determining whether services per-

formed by a minister are performed in the exercise of his ministry:

(i) Whether service performed by a minister constitutes the conduct of religious worship or the ministration of sacerdotal functions depends on the tenets and practices of the particular religious body constituting his church or church denomination.

(ii) Service performed by a minister in the control, conduct, and maintenance of a religious organization relates to directing, managing, or promoting the activities of such organization. Any religious organization is deemed to be under the authority of a religious body constituting a church or church denomination if it is organized and dedicated to carrying out the tenets and principles of a faith in accordance with either the requirements or sanctions governing the creation of institutions of the faith. The term "religious organization" has the same meaning and application as is given to the term for income tax purposes.

(iii) If a minister is performing service in the conduct of religious worship or the ministration of sacerdotal functions, such service is in the exercise of his ministry whether or not it is performed for a religious organization. The application of this rule may be illustrated by the following example:

Example. M, a duly ordained minister, is engaged to perform service as chaplain at N University. M devotes his entire time to performing his duties as chaplain which include the conduct of religious worship, offering spiritual counsel to the university students, and teaching a class in religion. M is performing service in the exercise of his ministry.

(iv) If a minister is performing service for an organization which is operated as an integral agency of a religious organization under the authority of a religious body constituting a church or church denomination, all service performed by the minister in the conduct of religious worship, in the ministration of sacerdotal functions, or in the control, conduct, and maintenance of such organization (see subparagraph (2) (ii) of this paragraph) is in the exercise of his ministry. The application of this rule may be illustrated by the following example:

Example. M, a duly ordained minister, is engaged by the N Religious Board to serve as director of one of its departments. He performs no other service. The N Religious Board is an integral agency of O, a religious organization operating under the authority of a religious body constituting a church denomination. M is performing service in the exercise of his ministry.

(v) If a minister, pursuant to an assignment or designation by a religious body constituting his church, performs service for an organization which is neither a religious organization nor operated as an integral agency of a religious organization, all service performed by him, even though such service may not involve the conduct of religious worship or the ministration of sacerdotal functions, is in the exercise of his ministry. The application of this rule may be illustrated by the following example:

Example. M, a duly ordained minister, is assigned by X, the religious body constituting his church, to perform advisory service to Y Company in connection with the publication of a book dealing with the history of M's church denomination. Y is neither a religious organization nor operated as an integral agency of a religious organization. M performs no other service for X or Y. M is performing service in the exercise of his ministry.

(c) *Service by a minister not in the exercise of his ministry.* (1) A certificate filed by a duly ordained, commissioned, or licensed minister of a church under the provisions of § 1.1402(e) (1)-1 has no application to service performed by him which is not in the exercise of his ministry.

(2) If a minister is performing service for an organization which is neither a religious organization nor operated as an integral agency of a religious organization and the service is not performed pursuant to an assignment or designation by his ecclesiastical superiors, then only the service performed by him in the conduct of religious worship or the ministrations of sacerdotal functions is in the exercise of his ministry. See, however, subparagraph (3) of this paragraph. The application of the rule in this subparagraph may be illustrated by the following example:

Example. M, a duly ordained minister, is engaged by N University to teach history and mathematics. He performs no other service for N although from time to time he performs marriages and conducts funerals for relatives and friends. N University is neither a religious organization nor operated as an integral agency of a religious organization. M is not performing the service for N pursuant to an assignment or designation by his ecclesiastical superiors. The service performed by M for N University is in the exercise of his ministry. However, service performed by M in performing marriages and conducting funerals is in the exercise of his ministry.

(3) Service performed by a duly ordained, commissioned, or licensed minister of a church as an employee of the United States, or a State, Territory, or possession of the United States, or the District of Columbia, or a foreign government, or a political subdivision of any of the foregoing, is not considered to be in the exercise of his ministry for purposes of the tax on self-employment income, even though such service may involve the ministrations of sacerdotal functions or the conduct of religious worship. Thus, for example, service performed by an individual as a chaplain in the Armed Forces of the United States is considered to be performed by a commissioned officer in his capacity as such, and not by a minister in the exercise of his ministry. Similarly, service performed by an employee of a State as a chaplain in a State prison is considered to be performed by a civil servant of the State and not by a minister in the exercise of his ministry.

(d) *Service in the exercise of duties required by a religious order.* A certificate of election filed by a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) under the provisions of § 1.1402(e) (1)-1 has application to all duties required of

him by such order. The nature or extent of such service is immaterial so long as it is a service which he is directed or required to perform by his ecclesiastical superiors.

§ 1.1402(c)-6 Members of certain professions.

(a) *Periods of exclusion.*—(1) *Taxable years ending before 1955.* For taxable years ending before 1955, an individual is not engaged in carrying on a trade or business with respect to the performance of service in the exercise of his profession as a physician, lawyer, dentist, osteopath, veterinarian, chiropractor, naturopath, optometrist, Christian Science practitioner, architect, certified public accountant, accountant registered or licensed as an accountant under State or municipal law, full-time practicing public accountant, funeral director, or professional engineer.

(2) *Taxable years ending in 1955.* Except as provided in paragraph (b) of this section, for a taxable year ending in 1955 an individual is not engaged in carrying on a trade or business with respect to the performance of service in the exercise of his profession as a physician, lawyer, dentist, osteopath, veterinarian, chiropractor, naturopath, optometrist, or Christian Science practitioner.

(3) *Taxable years ending after 1955.* Except as provided in paragraph (b) of this section, for taxable years ending after 1955 an individual is not engaged in carrying on a trade or business with respect to the performance of service in the exercise of his profession as a doctor of medicine or Christian Science practitioner.

(b) *Election by Christian Science practitioner.* For taxable years ending after 1954, a Christian Science practitioner may elect, as provided in § 1.1402(e) (1)-1, to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to service performed by him in the exercise of his profession as a Christian Science practitioner. If an election is made pursuant to § 1.1402(e) (1)-1, the Christian Science practitioner is, with respect to the performance of service in the exercise of such profession, engaged in carrying on a trade or business for each taxable year for which the election is effective. An election by a Christian Science practitioner has no application to service performed by him which is not in the exercise of his profession as a Christian Science practitioner.

(c) *Meaning of terms.* The designations in this section are to be given their commonly accepted meanings. For taxable years ending after 1955, an individual who is a doctor of osteopathy, and who is not a doctor of medicine within the commonly accepted meaning of that term, is deemed, for purposes of this section, not to be engaged in carrying on a trade or business in the exercise of the profession of doctor of medicine.

(d) *Legal requirements.* The exclusions specified in paragraph (a) of this section apply only if the individuals meet the legal requirements, if any, for practicing their professions in the place where they perform the service.

(e) *Partnerships.* In the case of a partnership engaged in the practice of any of the designated excluded professions, the partnership shall not be considered as carrying on a trade or business for the purpose of the tax on self-employment income, and none of the distributive shares of the income or loss, described in section 702(a) (9), of such partnership shall be included in computing net earnings from self-employment of any member of the partnership. On the other hand, where a partnership is engaged in a trade or business not within any of the designated excluded professions, each partner must include his distributive share of the income or loss, described in section 702(a) (9), of such partnership in computing his net earnings from self-employment, irrespective of whether such partner is engaged in the practice of one or more of such professions and contributes his professional services to the partnership.

§ 1.1402(d) Statutory provisions; definitions; employee and wages.

SEC. 1402. *Definitions.* * * *

(d) *Employee and wages.* The term "employee" and the term "wages" shall have the same meaning as when used in chapter 21 (sec. 3101 and following, relating to Federal Insurance Contributions Act).

§ 1.1402(d)-1 Employee and wages.

For the purpose of the tax on self-employment income, the term "employee" and the term "wages" shall have the same meaning as when used in the Federal Insurance Contributions Act. For an explanation of these terms, see Subpart B of Part 31 of this chapter (Employment Tax Regulations).

§ 1.1402(e)(1) Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; waiver certificate.

SEC. 1402. *Definitions.* * * *

(e) *Ministers, members of religious orders, and Christian Science practitioners.*—(1) *Waiver certificate.* Any individual who is (A) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) or (B) a Christian Science practitioner may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under this chapter) certifying that he elects to have the insurance system established by title II of the Social Security Act extended to service described in subsection (c) (4), or service described in subsection (c) (5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, as the case may be, performed by him.

[Sec. 1402(e) (1) as added by sec. 201(c) (3), Social Security Amendments 1954 (68 Stat. 1088)]

§ 1.1402(e)(1)-1 Election by ministers, members of religious orders, and Christian Science practitioners for self-employment coverage.

(a) *In general.* Any individual who is (1) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of

such order) or (2) a Christian Science practitioner may elect to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to service performed by him in the exercise of his ministry or in the exercise of duties required by such order, or in the exercise of his profession as a Christian Science practitioner, as the case may be. Such an election shall be made by filing a certificate on Form 2031 in the manner provided in paragraph (b) of this section and within the time specified in § 1.1402(e)(2)-1. If a minister or member to whom this section has application, or a Christian Science practitioner, makes an election by filing Form 2031 such individual shall, for each taxable year for which the election is effective (see § 1.1402(e)(3)-1), be considered as carrying on a trade or business with respect to the performance of service in his capacity as a minister or member, or as a Christian Science practitioner, as the case may be.

(b) *Waiver certificate.* The certificate on Form 2031 shall be filed in triplicate with the district director of internal revenue for the internal revenue district in which is located the legal residence or principal place of business of the individual who executes the certificate. If such individual has no legal residence or principal place of business in any internal revenue district, the certificate shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C., 20225, or at such other address as is designated in the instructions relating to the certificate. The certificate must be filed within the time prescribed in § 1.1402(e)(2)-1. If an individual to whom paragraph (a) of this section has application submits to a district director of internal revenue a dated and signed statement indicating that he desires to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services, such statement will be treated as a waiver certificate, if filed within the time specified in § 1.1402(e)(2)-1, provided that without unnecessary delay such statement is supplemented by a properly executed Form 2031. An application for a social security account number filed on Form SS-5 or the filing of an income tax return showing an amount representing self-employment income or self-employment tax shall not be construed to constitute an election referred to in § 1.1402(e)(1)-1.

§ 1.1402(e)(2) Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; time for filing certificate.

SEC. 1402. *Definitions.* * * *

(e) *Ministers, members of religious orders, and Christian Science practitioners.* * * *

(2) *Time for filing certificates.* Any individual who desires to file a certificate pursuant to paragraph (1) must file such certificate on or before whichever of the following dates is later: (A) the due date of the return (including any extension thereof) for his second taxable year ending after 1954 for which he has net earnings from self-employment (computed, in the case of an

individual referred to in paragraph (1)(A), without regard to subsection (c)(4), and, in the case of an individual referred to in paragraph (1)(B), without regard to subsection (c)(5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner) of \$400 or more, any part of which was derived from the performance of service described in subsection (c)(4), or from the performance of service described in subsection (c)(5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, as the case may be; or (B) the due date of the return (including any extension thereof) for his second taxable year ending after 1959.

[Sec. 1402(e)(2) as added by sec. 201(c)(3), Social Security Amendments 1954 (68 Stat. 1088); as amended by sec. 1, Act of Aug. 30, 1957 (Pub. Law 85-239, 71 Stat. 521); sec. 101(a), Social Security Amendments 1960 (74 Stat. 926)]

§ 1.1402(e)(2)-1 Time limitation for filing waiver certificate.

(a) *General rule.* (1) Any individual referred to in § 1.1402(e)(1)-1 who desires to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services must file the waiver certificate (Form 2031) prescribed by § 1.1402(e)(1)-1 on or before whichever of the following dates is later:

(i) The due date of the income tax return (see section 6072), including any extension thereof (see section 6081), for his second taxable year ending after 1959, or

(ii) The due date of the income tax return, including any extension thereof, for his second taxable year ending after 1954 for which he has net earnings from self-employment (computed as prescribed in paragraph (c) of this section) of \$400 or more, any part of which—

(a) In the case of a duly ordained, commissioned, or licensed minister of a church, consists of remuneration for service performed in the exercise of his ministry,

(b) In the case of a member of a religious order who has not taken a vow of poverty as a member of such order, consists of remuneration for service performed in the exercise of duties required by such order, or

(c) In the case of a Christian Science practitioner, consists of remuneration for service performed in the exercise of his profession as a Christian Science practitioner.

(2) If a minister, a member of a religious order, or a Christian Science practitioner derives gross income in a taxable year both from service performed in such capacity and from the conduct of another trade or business, and the deductions allowed by chapter 1 of the Internal Revenue Code which are attributable to the gross income derived from service performed in such capacity equal or exceed the gross income derived from service performed in such capacity, no part of the net earnings from self-employment (computed as prescribed in paragraph (c) of this section) for the taxable year shall be considered as derived from service performed in such capacity.

(3) The application of the rules set forth in subparagraphs (1) and (2) of this paragraph may be illustrated by the following examples:

Example (1). M was ordained as a minister in May 1959. During each of the taxable years 1959 and 1962, M, who makes his income tax returns on a calendar year basis, derives net earnings in excess of \$400 from his activities as a minister. M has net earnings of \$350 for each of the taxable years 1960 and 1961, \$200 of which is derived from service performed by him as a minister. If M wishes to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his service as a minister, he must file the waiver certificate on or before the due date of his income tax return for 1962, or any extension thereof.

Example (2). M, who was ordained a minister in January 1962, is employed as a tool-maker by the XYZ Corporation for the taxable years 1962 and 1963 and also engages in activities as a minister on weekends. M makes his income tax returns on the basis of a calendar year. During each of the taxable years 1962 and 1963, M receives wages of \$4,800 from the XYZ Corporation and derives \$400 (all of which constitutes net earnings from self-employment computed as prescribed in paragraph (c) of this section) from his activities as a minister. In such case if M wishes to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services as a minister, he must file the waiver certificate on or before the due date of his income tax return for 1963, or any extension thereof. A waiver certificate filed after such date will be invalid. It should be noted that although by reason of section 1402(b)(1)(C) no part of the \$400 represents "self-employment income," nevertheless the entire \$400 constitutes "net earnings from self-employment" for purposes of fulfilling the requirements of section 1402(e)(2).

Example (3). M, who files his income tax returns on a calendar year basis, was ordained as a minister in June 1961. During 1961 he receives \$410 for services performed in the exercise of his ministry. In addition to his ministerial services, M is engaged during the year 1961 in a mercantile venture from which he derives net earnings from self-employment in the amount of \$1,000. The expenses incurred by him in connection with his ministerial services during 1961 and which are allowable deductions under chapter 1 of the Internal Revenue Code amount to \$410. During 1962 and 1963, M has net earnings from self-employment in amounts of \$1,200 and \$1,500, respectively, and some part of each of these amounts is from the exercise of his ministry. The deductions allowed in each of the years 1962 and 1963 by chapter 1 which are attributable to the gross income derived by M from the exercise of his ministry in each of such years, respectively, do not equal or exceed such gross income in such year. If M wishes to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his service as a minister, he must file a waiver certificate on or before the due date of his income tax return (including any extension thereof) for 1963.

Example (4). M, a licensed minister who makes his income tax returns on the basis of a calendar year, derived net earnings of \$400 or more from the exercise of his ministry for two or more of the taxable years 1955 to 1961, inclusive. In such case, if M wishes to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services as a minister, he must file the waiver certificate on or be-

fore the due date (April 16, 1962) prescribed for filing his income tax return for 1961, or any extension thereof. A waiver certificate filed after such date will be invalid.

(b) *Effect of death.* Except as provided in section 1402(e) (5) and (6) and §§ 1.1402(e) (5)-1 and 1.1402(e) (6)-1, the right of an individual to file a waiver certificate shall cease from his death. Thus, except as provided in such sections, the surviving spouse, administrator, or executor of a decedent shall not be permitted to file a waiver certificate for such decedent.

(c) *Computation of net earnings without regard to election.* For the purpose of this section net earnings from self-employment shall be determined without regard to the fact that, without an election under section 1402(e), the performance of services by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order in the exercise of duties required by such order, or the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, does not constitute a trade or business for purposes of the tax on self-employment income.

§ 1.1402(e) (3) Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; effective date of certificate.

Sec. 1402. *Definitions.* * * *

(e) *Ministers, members of religious orders, and Christian Science practitioners.* * * *

(3) (A) *Effective date of certificate.* A certificate filed pursuant to this subsection shall be effective for the taxable year immediately preceding the earliest taxable year for which, at the time the certificate is filed, the period for filing a return (including any extension thereof) has not expired, and for all succeeding taxable years. An election made pursuant to this subsection shall be irrevocable.

(B) Notwithstanding the first sentence of subparagraph (A), if an individual filed a certificate on or before the date of enactment of this subparagraph which (but for this subparagraph) is effective only for the first taxable year ending after 1956 and all succeeding taxable years, such certificate shall be effective for his first taxable year ending after 1955 and all succeeding taxable years if—

(i) Such individual files a supplemental certificate after the date of enactment of this subparagraph and on or before April 15, 1962,

(ii) The tax under section 1401 in respect of all such individual's self-employment income (except for underpayments of tax attributable to errors made in good faith) for his first taxable year ending after 1955 is paid on or before April 15, 1962, and

(iii) In any case where refund has been made of any such tax which (but for this subparagraph) is an overpayment, the amount refunded (including any interest paid under section 6611) is repaid on or before April 15, 1962.

The provisions of section 6401 shall not apply to any payment or repayment described in this subparagraph.

[Sec. 1402(e) (3) as added by sec. 201(c) (3), Social Security Amendments 1954 (68 Stat. 1089); as amended by sec. 1, Act of Aug. 30, 1957 (Pub. Law 85-239, 71 Stat. 521); sec. 101(b), Social Security Amendments 1960 (74 Stat. 926)]

SECTION 101. [Social Security Amendments of 1960]. * * *

(d) In the case of a certificate or supplemental certificate filed pursuant to section 1402(e) (3) (B) or (5) of the Internal Revenue Code of 1954—

(1) For purposes of computing interest, the due date for the payment of the tax under section 1401 which is due for any taxable year ending before 1959 solely by reason of the filing of a certificate which is effective under such section 1402(e) (3) (B) or (5) shall be April 15, 1962;

(2) The statutory period for the assessment of any tax for any such year which is attributable to the filing of such certificate shall not expire before the expiration of 3 years from such due date; and

(3) For purposes of section 6651 of such Code (relating to addition to tax for failure to file tax return), the amount of tax required to be shown on the return shall not include such tax under section 1401.

[Sec. 101(d), Social Security Amendments 1960 (74 Stat. 927)]

§ 1.1402(e) (3)-1 Effective date of waiver certificate.

(a) *Filed before August 31, 1957—*(1)

In general. A certificate on Form 2031 filed by an individual before August 31, 1957, in accordance with the provisions of section 1402(e) in effect at the time the certificate is filed, shall be effective for the first taxable year with respect to which it is filed, and all subsequent taxable years. In order for a certificate filed by an individual before August 31, 1957, to be effective under section 1402(e), the certificate must be made effective for either the first or second taxable year ending after 1954 in which the individual has net earnings from self-employment of \$400 or more (determined as provided in paragraph (c) of § 1.1402(e) (2)-1) some part of which is derived from service of the character with respect to which an election may be made. However, a certificate on Form 2031, filed before August 31, 1957, even though filed within the time specified in paragraph (a) (1) (ii) of § 1.1402(e) (2)-1, may not be effective, except as provided in subparagraph (2) of this paragraph, for any taxable year with respect to which the due date for filing the individual's income tax return (including any extension thereof) has expired at the time such certificate is filed. Further, a certificate on Form 2031 may not be effective for any taxable year ending before 1955. In order for a certificate filed before August 31, 1957, except for the filing of a supplemental certificate, to be effective for the first or second taxable year ending after 1954 in which the individual has net earnings from self-employment (determined as provided in paragraph (c) of § 1.1402(e) (2)-1) some part of which is derived from service of the character with respect to which an election may be made, the certificate on Form 2031 must be filed on or before the due date for filing the income tax return of the individual for such first or second taxable year, respectively, or any extension thereof.

(2) *Supplemental certificates—*(i) *Filed before due date of 1958 return.* If under subparagraph (1) of this paragraph the certificate is effective only for the individual's third or fourth taxable year ending after 1954 and all succeeding

taxable years, the individual may make such a certificate effective for his first taxable year ending after 1955 and all succeeding taxable years by filing a supplemental certificate on Form 2031. To be valid the supplemental certificate must be filed after August 30, 1957, and on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956 and must be otherwise in accordance with § 1.1402(e) (1)-1.

Example. M, who files his income tax returns on a calendar year basis, was ordained as a minister in 1956, and his net earnings from service performed in the exercise of his ministry during such year were \$400 or more. M had no net earnings from the exercise of his ministry during 1957. On July 15, 1957, M filed a waiver certificate and indicated thereon that it was to become effective for the taxable year 1958. At the time of filing, the certificate was effective for 1958 and all succeeding taxable years. Since the certificate was not filed on or before April 15, 1957 (the due date of M's income tax return for the taxable year 1956), and since there was no extension of time for filing his 1956 income tax return, the certificate was not, at the time of filing, effective for the taxable year 1956. M files a supplemental certificate on April 15, 1958. By the filing of the supplemental certificate, the certificate filed by M on July 15, 1957, was made effective for the year 1956 and all succeeding taxable years.

(ii) *Filed after September 13, 1960, and on or before April 16, 1962.* If under subparagraph (1) of this paragraph the certificate is effective only for the individual's first taxable year ending after 1956 and all succeeding taxable years, the individual may make such certificate effective for his first taxable year ending after 1955 and all succeeding taxable years by—

(a) Filing a supplemental certificate on Form 2031 after September 13, 1960, and before April 17, 1962;

(b) Paying on or before April 16, 1962, the tax under section 1401 in respect of all the individual's self-employment income (except for underpayments of tax attributable to errors made in good faith) for his first taxable year ending after 1955; and

(c) By repaying on or before April 16, 1962, the amount of any refund (including any interest paid under section 6611) that has been made of any such tax which (but for section 1402(e) (3) (B)) is an overpayment.

Any payment or repayment described in section 1402(e) (3) (B) and in this subparagraph shall not constitute an overpayment within the meaning of section 6401 which relates to amounts treated as overpayments. See section 6401 and the regulations thereunder in Part 301 of this chapter (Regulations on Procedure and Administration).

Example. M, who files his income tax returns on a calendar year basis, was ordained as a minister in 1956, and his net earnings from service performed in the exercise of his ministry during each of the years 1956 and 1957 were \$400 or more. On July 15, 1957, M filed a waiver certificate which became effective, at the time of filing, for 1957 and all succeeding taxable years. Since the certificate was not filed on or before April 15, 1957 (the due date of M's income tax return for the taxable year 1956),

and since there was no extension of time for filing his 1956 income tax return, the certificate was not, at the time of filing, effective for the taxable year 1956. M files a supplemental certificate on April 17, 1961. If, in addition to the filing of the supplemental certificate, M pays on or before April 16, 1962, the self-employment tax in respect of all his self-employment income (except for underpayments of tax attributable to errors made in good faith) for his taxable year 1956, and repays, on or before April 16, 1962, the amount of any refund (including any interest paid under section 6611) that has been made of any such tax which (but for section 1402(e)(3)(B)) is an overpayment, the certificate filed by M on July 15, 1957, becomes effective for the year 1956 and all succeeding taxable years.

(b) *Filed after August 30, 1957, and before the due date of the 1958 return.* A certificate on Form 2031 filed by an individual after August 30, 1957, but on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956, in accordance with the provisions of section 1402(e) in effect at the time the certificate is filed, shall be effective for his first taxable year ending after 1955, and all subsequent taxable years.

(c) *Filed after due date of 1958 return.* Except as otherwise provided in § 1.1402(e)(5)-1, a certificate on Form 2031 filed by an individual in accordance with the provisions of §§ 1.1402(e)(1)-1 and 1.1402(e)(2)-1, inclusive, after the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the taxable year immediately preceding the earliest taxable year for which, at the time the certificate is filed, the period for filing a return (including any extension thereof) has not expired, and for all succeeding taxable years.

Example. M, a duly ordained minister of a church, makes his income tax returns on the basis of a calendar year. M has not been granted an extension of time for filing any return. On April 15, 1963, the due date of his income tax return for 1962, M files a waiver certificate pursuant to § 1.1402(e)(1)-1 and within the time limitation set forth in § 1.1402(e)(2)-1. On April 15, 1963, the year 1962 is the earliest taxable year for which the period for filing a return has not expired. Consequently, M's certificate is effective for 1961 and all succeeding taxable years. M must report and pay any self-employment tax due for 1961 and 1962. (The tax, if any, for 1962 is due on April 15, 1963.) Inasmuch as the due date of the tax for 1961 is April 16, 1962, M must pay interest on any tax due for 1961. For provisions relating to such interest, see § 301.6601-1 of Part 301 of this chapter (Regulations on Procedure and Administration).

(d) *Election irrevocable.* An election which has become effective pursuant to this section is irrevocable. A certificate may not be withdrawn after June 30, 1961.

§ 1.1402(e)(4) **Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; treatment of certain remuneration paid in 1955 and 1956 as wages.**

SEC. 1402. *Definitions.* * * *

(e) *Ministers, members of religious orders, and Christian Science practitioners.* * * *

(4) *Treatment of certain remuneration paid in 1955 and 1956 as wages.* If—

(A) In 1955 or 1956 an individual was paid remuneration for service described in section 3121(b)(8)(A) which was erroneously treated by the organization employing him (under a certificate filed by such organization pursuant to section 3121(k) or the corresponding section of prior law) as employment (within the meaning of chapter 21), and

(B) On or before the date of the enactment of this paragraph the taxes imposed by sections 3101 and 3111 were paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such service) with respect to any part of the remuneration paid to such individual for such service,

then the remuneration with respect to which such taxes were paid, and with respect to which no credit or refund of such taxes (other than a credit or refund which would be allowable if such service had constituted employment) has been obtained on or before the date of the enactment of this paragraph, shall be deemed (for purposes of this chapter and chapter 21) to constitute remuneration paid for employment and not net earnings from self-employment.

[Sec. 1402(e)(4) as added by sec. 2, Act of Aug. 30, 1957 (Pub. Law 85-239, 71 Stat. 522)]

§ 1.1402(e)(4)-1 **Treatment of certain remuneration paid in 1955 and 1956 as wages.**

If in 1955 or 1956 an individual was paid remuneration for service described in section 3121(b)(8)(A) which was erroneously treated by the organization employing him (under a certificate filed by such organization pursuant to section 3121(k) or the corresponding section of prior law) as employment, within the meaning of the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code), and if on or before August 30, 1957, the taxes imposed by sections 3101 and 3111 were paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such service) with respect to any part of the remuneration paid to such individual for such service, then the remuneration with respect to which such taxes were paid, and with respect to which no credit or refund of such taxes (other than a credit or refund which would be allowable if such service had constituted employment) has been obtained either by the employer or the employee on or before August 30, 1957, shall be deemed, for purposes of the Self-Employment Contributions Act of 1954 and the Federal Insurance Contributions Act, to constitute remuneration paid for employment and not net earnings from self-employment. For regulations relating to section 3121(b)(8)(A) and (k), see §§ 31.3121(b)(8)-1 and 31.3121(k)-1 of Subpart B of Part 31 of this chapter (Employment Tax Regulations).

§ 1.1402(e)(5) **Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; optional provision for certain certificates filed on or before April 15, 1962.**

SEC. 1402. *Definitions.* * * *

(e) *Ministers, members of religious orders, and Christian Science practitioners.* * * *

(5) *Optional provision for certain certificates filed on or before April 15, 1962.* In any case where an individual has derived earnings, in any taxable year ending after 1954 and before 1960, from the performance of service described in subsection (c)(4), or in subsection (c)(5) (as in effect prior to the enactment of this paragraph) insofar as it related to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, and has reported such earnings as self-employment income on a return filed on or before the date of the enactment of this paragraph and on or before the due date prescribed for filing such return (including any extension thereof)—

(A) A certificate filed by such individual (or a fiduciary acting for such individual or his estate, or his survivor within the meaning of section 205(c)(1)(C) of the Social Security Act) after the date of the enactment of this paragraph and on or before April 15, 1962, may be effective, at the election of the person filing such certificate, for the first taxable year ending after 1954 and before 1960 for which such a return was filed, and for all succeeding taxable years, rather than for the period prescribed in paragraph (3), and

(B) A certificate filed by such individual on or before the date of the enactment of this paragraph which (but for this subparagraph) is ineffective for the first taxable year ending after 1954 and before 1959 for which such a return was filed shall be effective for such first taxable year, and for all succeeding taxable years, provided a supplemental certificate is filed by such individual (or a fiduciary acting for such individual or his estate, or his survivor within the meaning of section 205(c)(1)(C) of the Social Security Act) after the date of the enactment of this paragraph and on or before April 15, 1962,

but only if—

(i) The tax under section 1401 in respect of all such individual's self-employment income (except for underpayments of tax attributable to errors made in good faith), for each such year ending before 1960 in the case of a certificate described in subparagraph (A) or for each such year ending before 1959 in the case of a certificate described in subparagraph (B), is paid on or before April 15, 1962, and

(ii) In any case where refund has been made of any such tax which (but for this paragraph) is an overpayment, the amount refunded (including any interest paid under section 6611) is repaid on or before April 15, 1962.

The provisions of section 6401 shall not apply to any payment or repayment described in this paragraph.

[Sec. 1402(e)(5) as added by sec. 101(c), Social Security Amendments 1960 (74 Stat. 927)]

SECTION 101. [Social Security Amendments of 1960]. * * *

(d) In the case of a certificate or supplemental certificate filed pursuant to section 1402(e)(3)(B) or (5) of the Internal Revenue Code of 1954—

(1) For purposes of computing interest, the due date for the payment of the tax under section 1401 which is due for any taxable year ending before 1959 solely by reason of the filing of a certificate which is effective under such section 1402(e)(3)(B) or (5) shall be April 15, 1962;

(2) The statutory period for the assessment of any tax for any such year which is attributable to the filing of such certificate shall not expire before the expiration of 3 years from such due date; and

(3) For purposes of section 6651 of such Code (relating to addition to tax for failure to file tax return), the amount of tax re-

quired to be shown on the return shall not include such tax under section 1401.

[Sec. 101(d), Social Security Amendments 1960 (74 Stat. 927)]

§ 1.1402(e)(5)-1 Optional provision for certain certificates filed before April 15, 1962.

(a) *Certificates.* (1) The optional provision contained in section 1402(e)(5)(A) may be applied to a certificate on Form 2031 filed within the period September 14, 1960, to April 16, 1962, inclusive, in the case of a duly ordained, commissioned, or licensed minister of a church, a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order), or a Christian Science practitioner, who has derived net earnings, in any taxable year ending after 1954 and before 1960, from the performance of service in the exercise of his ministry, in the exercise of duties required by his religious order, or in the exercise of his profession as a Christian Science practitioner, respectively, and who has reported such earnings as self-employment income on a return filed before September 14, 1960, and on or before the date prescribed for filing such return (including any extension thereof). The certificate may be filed by such minister, member of a religious order, or Christian Science practitioner or by a fiduciary acting for such individual or his estate, or by his survivor within the meaning of section 205(c)(1)(C) of the Social Security Act, and it must be filed after September 13, 1960, and on or before April 16, 1962. Subject to the conditions stated in subparagraph (2) of this paragraph, such certificate may be effective at the election of the person filing it, for the first taxable year ending after 1954 and before 1960 for which a return, as described in the first sentence of this subparagraph, was filed, and for all succeeding taxable years, rather than for the period prescribed in § 1.1402(e)(3)-1. The election for retroactive application of the certificate may be made by indicating on the certificate the first taxable year for which it is to be effective and that such year is the first taxable year ending after 1954 and before 1960 for which the minister, member of a religious order, or Christian Science practitioner filed an income tax return on which he reported net earnings for such year from the exercise of his ministry, the exercise of duties required by his religious order, or the exercise of his profession as a Christian Science practitioner, as the case may be, and by fulfilling the conditions prescribed in subparagraph (2) of this paragraph.

(2) A certificate to which subparagraph (1) of this paragraph relates may be effective for a taxable year prior to the taxable year immediately preceding the earliest taxable year for which, at the time the certificate is filed, the period for filing a return (including any extension thereof) has not expired, only if the following conditions are met:

(i) The tax under section 1401 is paid on or before April 16, 1962, in respect of all self-employment income (whether or not derived from the performance of

service by the individual in the exercise of his ministry, in the exercise of duties required by his religious order, or in the exercise of his profession as a Christian Science practitioner, as the case may be) for the first taxable year ending after 1954 and before 1960 for which such individual has filed a return, as described in subparagraph (1) of this paragraph, and for each succeeding taxable year ending before 1960; and

(ii) In any case where refund has been made of any such tax which (but for section 1402(e)(5)) is an overpayment, the amount refunded (including any interest paid under section 6611) is repaid on or before April 16, 1962. For regulations under section 6611 (relating to interest on overpayments), see § 301.6611-1 of Part 301 of this chapter (Regulations on Procedure and Administration).

(b) *Supplemental certificates.* (1) Subject to the conditions stated in subparagraph (2) of this paragraph, a certificate on Form 2031 filed on or before September 13, 1960, by a minister, member of a religious order, or a Christian Science practitioner described in paragraph (a)(1) of this section and which (but for section 1402(e)(5)(B)) is ineffective for the first taxable year ending after 1954 and before 1959 for which such a return as described in paragraph (a)(1) of this section was filed by such individual, shall be effective for such first taxable year and for all succeeding taxable years, provided a supplemental certificate is filed by such individual or by a fiduciary acting for him or his estate, or by his survivor (within the meaning of section 205(c)(1)(C) of the Social Security Act), after September 13, 1960 and on or before April 16, 1962.

(2) The filing of a supplemental certificate pursuant to subparagraph (1) of this paragraph will give retroactive effect to a certificate to which such subparagraph applies only if the following conditions are met:

(i) The tax under section 1401 is paid on or before April 16, 1962, in respect of all self-employment income (whether or not attributable to earnings as a minister, member of a religious order, or Christian Science practitioner) for the first taxable year for which the certificate is retroactively effective and for each subsequent year ending before 1959; and

(ii) In any case where refund has been made of any such tax which (but for section 1402(d)(5)) is an overpayment, the amount refunded (including any interest paid under section 6611) is repaid on or before April 16, 1962.

(c) *Underpayment of tax.* For purposes of this section, any underpayment of the tax which is attributable to an error made in good faith will not invalidate an election which is otherwise valid.

(d) *Nonapplicability of section 6401.* Any payment or repayment described in paragraph (a)(2) or paragraph (b)(2) of this section shall not constitute an overpayment within the meaning of section 6401 which relates to amounts treated as overpayments. For the provisions of section 6401 and the regula-

tions thereunder, see §§ 301.6401 and 301.6401-1 of Part 301 of this chapter (Regulations on Procedure and Administration).

§ 1.1402(e)(6) Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; certificate filed by fiduciary or survivor on or before April 15, 1962.

SEC. 1402. *Definitions.* * * *

(e) *Ministers, members of religious orders, and Christian Science practitioners.* * * *

(6) *Certificate filed by fiduciaries or survivors on or before April 15, 1962.* In any case where an individual, whose death has occurred after September 12, 1960, and before April 16, 1962, derived earnings from the performance of services described in subsection (c)(4), or in subsection (c)(5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, a certificate may be filed after the date of enactment of this paragraph, and on or before April 15, 1962, by a fiduciary acting for such individual's estate or by such individual's survivor within the meaning of section 205(c)(1)(C) of the Social Security Act. Such certificate shall be effective for the period prescribed in paragraph (3)(A) as if filed by the individual on the day of his death.

[Sec. 1402(e)(6) as added by sec. 202(a), Social Security Amendments 1961 (75 Stat. 141)]

§ 1.1402(e)(6)-1 Certificates filed by fiduciaries or survivors on or before April 15, 1962.

In any case in which an individual whose death has occurred after September 12, 1960, and before April 16, 1962, derived earnings from the performance of services as a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, as a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) in the exercise of duties required by such order, or in the exercise of his profession as a Christian Science practitioner, a waiver certificate on Form 2031 may be filed after June 30, 1961 (the date of enactment of the Social Security Amendments of 1961), and on or before April 16, 1962, by a fiduciary acting for such individual's estate or by such individual's survivor within the meaning of section 205(c)(1)(C) of the Social Security Act. Such certificates shall be effective for the period prescribed in section 1402(e)(3)(A) (see § 1.1402(e)(3)-1(c)) as if filed by the individual on the date of his death.

§ 1.1402(f) Statutory provisions; definitions; partner's taxable year ending as the result of death.

SEC. 1402. *Definitions.* * * *

(f) *Partner's taxable year ending as the result of death.* In computing a partner's net earnings from self-employment for his taxable year which ends as a result of his death (but only if such taxable year ends within, and not with, the taxable year of the partnership), there shall be included so much of the deceased partner's distributive share of the partnership's ordinary income or loss for the partnership taxable year as is not attributable to an interest in the partnership during any period beginning on or after the first day of the first calendar month fol-

lowing the month in which such partner died. For purposes of this subsection—

(1) In determining the portion of the distributive share which is attributable to any period specified in the preceding sentence, the ordinary income or loss of the partnership shall be treated as having been realized or sustained ratably over the partnership taxable year; and

(2) The term "deceased partner's distributive share" includes the share of his estate or of any other person succeeding, by reason of his death, to rights with respect to his partnership interest.

[Sec. 1402(f) as added by sec. 403(a), Social Security Amendments 1958 (72 Stat. 1043)]

SEC. 403. [Social Security Amendments of 1958]. * * *

(b) *Effective dates.* (1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply only with respect to individuals who die after the date of the enactment of this Act.

(2) In the case of an individual who died after 1955 and on or before the date of the enactment of this Act, the amendment made by subsection (a) shall apply only if—

(A) Before January 1, 1960, there is filed a return (or amended return) of the tax imposed by chapter 2 of the Internal Revenue Code of 1954 for the taxable year ending as a result of his death, and

(B) In any case where the return is filed solely for the purpose of reporting net earnings from self-employment resulting from the amendment made by subsection (a), the return is accompanied by the amount of tax attributable to such net earnings.

In any case described in the preceding sentence, no interest or penalty shall be assessed or collected on the amount of any tax due under chapter 2 of such Code solely by reason of the operation of section 1402(f) of such Code.

[Sec. 403(b), Social Security Amendments 1958 (72 Stat. 1044)]

§ 1.1402(f)-1 Computation of partner's net earnings from self-employment for taxable year which ends as result of his death.

(a) *Taxable years ending after August 28, 1958*—(1) *In general.* The rules for the computation of a partner's net earnings from self-employment are set forth in paragraphs (d) to (g), inclusive, of § 1.1402(a)-2. In addition to the net earnings from self-employment computed under such rules for the last taxable year of a deceased partner, if a partner's taxable year ends after August 28, 1958, solely because of death, and on a day other than the last day of the partnership's taxable year, the deceased partner's net earnings from self-employment for such year shall also include so much of the deceased partner's distributive share of partnership ordinary income or loss (see subparagraph (3) of this paragraph) for the taxable year of the partnership in which his death occurs as is attributable to an interest in the partnership prior to the month following the month of his death.

(2) *Computation.* (i) The deceased partner's distributive share of partnership ordinary income or loss for the partnership taxable year in which he died shall be determined by applying the rules contained in paragraphs (d) to (g), inclusive, of § 1.1402(a)-2, except that paragraph (e) shall not apply.

(ii) The portion of such distributive share to be included under this section in the deceased partner's net earnings

from self-employment for his last taxable year shall be determined by treating the ordinary income or loss constituting such distributive share as having been realized or sustained ratably over the period of the partnership taxable year during which the deceased partner had an interest in the partnership and during which his estate, or any other person succeeding by reason of his death to rights with respect to his partnership interest, held such interest in the partnership or held a right with respect to such interest. The amount to be included under this section in the deceased partner's net earnings from self-employment for his last taxable year will, therefore, be determined by multiplying the deceased partner's distributive share of partnership ordinary income or loss for the partnership taxable year in which he died, as determined under subdivision (i) of this subparagraph, by a fraction, the denominator of which is the number of calendar months in the partnership taxable year over which the ordinary income or loss constituting the deceased partner's distributive share of partnership income or loss for such year is treated as having been realized or sustained under the preceding sentence and the numerator of which is the number of calendar months in such partnership taxable year that precede the month following the month of his death.

(3) *Definition of "deceased partner's distributive share".* For the purpose of this section, the term "deceased partner's distributive share" includes the distributive share of his estate or of any other person succeeding, by reason of his death, to rights with respect to his partnership interest. It does not include any share attributable to a partnership interest which was not held by the deceased partner at the time of his death. Thus, if a deceased partner's estate should acquire an interest in a partnership additional to the interest to which it succeeded upon the death of the deceased partner, the amount of the distributive share attributable to such additional interest acquired by the estate would not be included in computing the "deceased partner's distributive share" of the partnership's ordinary income or loss for the partnership taxable year.

(4) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). B, an individual who files his income tax returns on the calendar year basis, is a member of the ABC partnership, the taxable year of which ends on June 30. B dies on October 17, 1958, and his estate succeeds to his partnership interest and continues as a partner in its own right under local law until June 30, 1959. B's distributive share of the partnership's ordinary income, as determined under paragraphs (d) to (g), inclusive, of § 1.1402(a)-2, for the taxable year of the partnership ended June 30, 1958 is \$2,400. His distributive share, including the share of his estate, of such partnership's ordinary income, as determined under paragraphs (d) to (g), inclusive, of § 1.1402(a)-2 (with the exception of paragraph (e)), for the taxable year of the partnership ended June 30, 1959 is \$4,500. The portion of such \$4,500 attributable to an in-

terest in the partnership prior to the month following the month in which he died is $\$4,500 \times \frac{4}{12}$ (4 being the number of months in the partnership taxable year in which B died which precede the month following the month of his death and 12 being the number of months in such partnership taxable year in which B and his estate had an interest in the partnership) or \$1,500. The amount to be included in the deceased partner's net earnings from self-employment for his last taxable year is \$3,900 (\$2,400 plus \$1,500).

Example (2). If in the preceding example B's estate is entitled to only \$1,000, the amount of B's distributive share of partnership ordinary income for the period July 1, 1958 through October 17, 1958, such \$1,000 is considered to have been realized ratably over the period preceding B's death and will be included in B's net earnings from self-employment for his last taxable year.

Example (3). X, who reports his income on a calendar year basis, is a member of a partnership which also reports its income on a calendar year basis. X dies on June 30, 1959, and his estate succeeds to his partnership interest and continues as a partner in its own right under local law. On September 15, 1959, X's estate sells the partnership interest to which it succeeded on the death of X. X's distributive share of partnership income for 1959 is \$5,500. \$600 of such amount is X's share of the gain from the sale of a capital asset which occurs on May 1, 1959, and \$400 of such amount is the estate's share of the gain from the sale of a capital asset which occurs on July 15, 1959. The remainder of such amount is income from services rendered. X's distributive share of partnership ordinary income for 1959, as determined under paragraphs (d) to (g), inclusive, of § 1.1402(a)-2 (with the exception of paragraph (e)), is \$4,500 (\$5,500 minus \$1,000). The portion of such share attributable to an interest in the partnership prior to the month following the month of his death is $\$4,500 \times \frac{6}{8.5}$ (6 being the number of months in the partnership taxable year in which X died as precede the month following the month of his death and 8.5 being the number of months in such partnership taxable year in which X and his estate had an interest in the partnership) or \$3,176.47.

(b) *Options available to farmers*—(1) *Special rule.* In determining whether the optional method available to a member of a farm partnership in computing his net earnings from self-employment may be applied, and in applying such method, it is necessary to determine the partner's distributive share of partnership gross income and the partner's distributive share of income described in section 702(a)(9). See section 1402(a) and § 1.1402(a)-15. If section 1402(f) and this section apply, or may be made applicable under section 403(b)(2) of the Social Security Amendments of 1958 and paragraph (c) of this section, for the last taxable year of a deceased partner, such partner's distributive share of income described in section 702(a)(9) for his last taxable year shall be determined by including therein any amount which is included under section 1402(f) and this section in his net earnings from self-employment for such taxable year. Such a partner's distributive share of partnership gross income for his last taxable year shall be determined by including therein so much of the deceased partner's distributive share (see paragraph (a)(3) of this section) of partnership gross income, as defined in section 1402(a) and paragraph (b) of § 1.1402(a)-15, for the partnership taxable year

in which he died as is attributable to an interest in the partnership prior to the month following the month of his death. Such allocation shall be made in the same manner as is prescribed in paragraph (a) (2) of this section for determining the portion of a deceased partner's distributive share of partnership ordinary income or loss to be included under section 1402(f) and this section in his net earnings from self-employment for his last taxable year.

(2) *Examples.* The principles set forth in this paragraph may be illustrated by the following examples:

Example (1). X, an individual who files his income tax returns on a calendar year basis, is a member of the XYZ farm partnership, the taxable year of which ends on March 31. X dies on May 31, 1959, and his estate succeeds to his partnership interest and continues as a partner in its own right under local law until March 31, 1960. X's distributive share of the partnership's ordinary income, determined under paragraphs (d) to (g), inclusive, of § 1.1402(a)-2, for the taxable year of the partnership ended March 31, 1959, is \$1,200. His distributive share, including the share of his estate, of such partnership's ordinary loss as determined under paragraphs (d) to (g), inclusive, of § 1.1402(a)-2 (with the exception of paragraph (e)), for the taxable year of the partnership ended March 31, 1960, is \$600. The portion of such \$600 attributable to an interest in the partnership prior to the month following the month in which he died is $\$600 \times \frac{1}{2}$ (2 being the number of months in the partnership taxable year in which X died which precede the month following the month of his death and 12 being the number of months in such partnership taxable year in which X and his estate had an interest in the partnership) or \$100. X is also a member of the ABX farm partnership, the taxable year of which ends on May 31. His distributive share of the partnership loss described in section 702(a) (9) for the partnership taxable year ending May 31, 1959, is \$200. Section 1402(f) and this section do not apply with respect to such \$200 since X's last taxable year ends, as a result of his death, with the taxable year of the ABX partnership. Under this paragraph the \$100 loss must be included in determining X's distributive share of XYZ partnership income described in section 702(a) (9) for the purpose of applying the optional method available to farmers for computing net earnings from self-employment. Further, the resulting \$100 of income must be aggregated, pursuant to paragraph (c) of § 1.1402(a)-15, with the \$200 loss, X's distributive share of ABX partnership loss described in section 702(a) (9), for purposes of applying such option. The representative of X's estate may exercise the option described in paragraph (a) (2) (ii) of § 1.1402(a)-15, provided the portion of X's distributive share of XYZ partnership gross income for the taxable year ended March 31, 1960, attributable to an interest in the partnership prior to the month following the month in which he died (the allocation being made in the manner prescribed for allocating his \$600 distributive share of XYZ partnership loss for such year), when aggregated with his distributive share of XYZ partnership gross income for the partnership taxable year ended March 31, 1959, and with his distributive share of ABX partnership gross income for the partnership taxable year ended May 31, 1959, results in X having more than \$1,800 of gross income from the trade or business of farming. If such aggregate amount of gross income is not more than \$1,800, the option described in paragraph (a) (2) (i) of § 1.1402(a)-15, is available.

Example (2). A, a sole proprietor engaged in the business of farming, files his income tax returns on a calendar year basis. A is also a member of a partnership engaged in an agricultural activity. The partnership files its returns on the basis of a fiscal year ending March 31. A dies June 29, 1959. A's gross income from farming as a sole proprietor for the six-month period comprising his taxable year which ends because of death is \$1,200 and his actual net earnings from self-employment based thereon is \$300. As of March 31, 1959, A's distributive share of the gross income of the farm partnership is \$2,000 and his distributive share of income described in section 702(a) (9) based thereon is \$900. The amount of A's distributive share of the partnership's ordinary income for its taxable year ended March 31, 1960, which may be included in his net earnings from self-employment under section 1402(f) and paragraph (a) of this section is \$200. The amount of the deceased partner's distributive share of partnership gross income attributable to an interest in the partnership prior to the month following the month of his death as is determined, pursuant to subparagraph (1) of this paragraph, under paragraph (a) of this section is \$1,800. An aggregation of the above figures produces a gross income from farming of \$5,000 and actual net earnings from self-employment of \$1,400. Under these circumstances none of the options provided by section 1402(a) may be used. If the actual net earnings from self-employment had been less than \$1,200, the option described in paragraph (a) (2) (ii) of § 1.1402(a)-15 would have been available.

(c) *Taxable years ending after 1955 and on or before August 28, 1958—(1) Requirement of election.* If a partner's taxable year ended, as a result of his death, after 1955 and on or before August 28, 1958, the rules set forth in paragraph (a) of this section may be made applicable in computing the deceased partner's net earnings from self-employment for his last taxable year provided that—

(i) Before January 1, 1960, there is filed, by the person designated in section 6012(b) (1) and paragraph (b) (1) of § 1.6012-3, a return (or amended return) of the tax imposed by chapter 2 for the taxable year ending as a result of death, and

(ii) Such return, if filed solely for the purpose of reporting net earnings from self-employment resulting from the enactment of section 1402(f), is accompanied by the amount of tax attributable to such net earnings.

(2) *Administrative rule of special application.* Notwithstanding the provisions of sections 6601, 6651, and 6653 (see such sections and the regulations thereunder) no interest or penalty shall be assessed or collected on the amount of any self-employment tax due solely by reason of the operation of section 1402(f) in the case of an individual who died after 1955 and before August 29, 1958.

§ 1.1402(g) Statutory provisions; definitions; treatment of certain remuneration erroneously reported as net earnings from self-employment.

SEC. 1402. *Definitions.* * * *
(g) *Treatment of certain remuneration erroneously reported as net earnings from self-employment.* If—

(1) An amount is erroneously paid as tax under section 1401, for any taxable year ending after 1954 and before 1962, with respect to remuneration for service described in sec-

tion 3121(b) (8) (other than service described in section 3121(b) (8) (A)), and such remuneration is reported as self-employment income on a return filed on or before the due date prescribed for filing such return (including any extension thereof),

(2) The individual who paid such amount (or a fiduciary acting for such individual or his estate, or his survivor (within the meaning of section 205(c) (1) (C) of the Social Security Act)) requests that such remuneration be deemed to constitute net earnings from self-employment,

(3) Such request is filed after the date of the enactment of this paragraph and on or before April 15, 1962,

(4) Such remuneration was paid to such individual for services performed in the employ of an organization which, on or before the date on which such request is filed, has filed a certificate pursuant to section 3121(k), and

(5) No credit or refund of any portion of the amount erroneously paid for such taxable year as tax under section 1401 (other than a credit or refund which would be allowable if such tax were applicable with respect to such remuneration) has been obtained before the date on which such request is filed or, if obtained, the amount credited or refunded (including any interest under section 6611) is repaid on or before such date,

then, for purposes of this chapter and chapter 21, any amount of such remuneration which is paid to such individual before the calendar quarter in which such request is filed (or before the succeeding quarter if such certificate first becomes effective with respect to services performed by such individual in such succeeding quarter), and with respect to which no tax (other than an amount erroneously paid as tax) has been paid under chapter 21, shall be deemed to constitute net earnings from self-employment and not remuneration for employment. For purposes of section 3121(b) (8) (B) (ii) and (iii), if the certificate filed by such organization pursuant to section 3121(k) is not effective with respect to services performed by such individual on or before the first day of the calendar quarter in which the request is filed, such individual shall be deemed to have become an employee of such organization (or to have become a member of a group described in section 3121(k) (1) (E)) on the first day of the succeeding quarter.

[Sec. 1402(g), as added by sec. 105(c) (1), Social Security Amendments 1960 (74 Stat. 944)]

§ 1.1402(g)-1 Treatment of certain remuneration erroneously reported as net earnings from self-employment.

(a) *General rule.* If an amount is erroneously paid as self-employment tax, for any taxable year ending after 1954 and before 1962, with respect to remuneration for service (other than service described in section 3121(b) (8) (A)) performed in the employ of an organization described in section 501(c) (3) and exempt from income tax under section 501(a), and if such remuneration is reported as self-employment income on a return filed on or before the due date prescribed for filing such return (including any extension thereof), the individual who paid such amount (or a fiduciary acting for such individual or his estate, or his survivor (within the meaning of section 205(c) (1) (C) of the Social Security Act)), may request that such remuneration be deemed to constitute net earnings from self-employment. If such request is filed during the period September 14, 1960, to April 16, 1962, inclusive, and on or after the date on

which the organization which paid such remuneration to such individual for services performed in its employ has filed, pursuant to section 3121(k), a certificate waiving exemption from taxes under the Federal Insurance Contributions Act, and if no credit or refund of any portion of the amount erroneously paid for such taxable year as self-employment tax (other than a credit or refund which would be allowable if such tax were applicable with respect to such remuneration) has been obtained before the date on which such request is filed or, if obtained, the amount credited or refunded (including any interest under section 6611) is repaid on or before such date, then, for purposes of the Self-Employment Contributions Act of 1954 and the Federal Insurance Contributions Act, any amount of such remuneration which is paid to such individual before the calendar quarter in which such request is filed (or before the succeeding quarter if such certificate first becomes effective with respect to services performed by such individual in such succeeding quarter) and with respect to which no tax (other than an amount erroneously paid as tax) has been paid under the Federal Insurance Contributions Act, shall be deemed to constitute net earnings from self-employment and not remuneration for employment. If the certificate filed by such organization pursuant to section 3121(k) is not effective with respect to services performed by such individual on or before the first day of the calendar quarter in which the request is filed, then, for purposes of section 3121(b)(8)(B)(ii) and (iii), such individual shall be deemed to have become an employee of such organization (or to have become a member of a group, described in section 3121(k)(1)(E), of employees of such organization) on the first day of the succeeding quarter.

(b) *Request for validation.* (1) No particular form is prescribed for making a request under paragraph (a) of this section. The request should be in writing, should be signed and dated by the person making the request, and should indicate clearly that it is a request that, pursuant to section 1402(g) of the Code, remuneration for service described in section 3121(b)(8) (other than service described in section 3121(b)(8)(A)) erroneously reported as self-employment income for one or more specified years be deemed to constitute net earnings from self-employment and not remuneration for employment. In addition, the following information shall be shown in connection with the request:

(i) The name, address, and social security account number of the individual with respect to whose remuneration the request is made.

(ii) The taxable year or years (ending after 1954 and before 1962) to which the request relates.

(iii) A statement that the remuneration was erroneously reported as self-employment income on the individual's return for each year specified and that

the return was filed on or before its due date (including any extension thereof).

(iv) Location of the office of the district director with whom each return was filed.

(v) A statement that no portion of the amount erroneously paid by the individual as self-employment tax with respect to the remuneration has been credited or refunded (other than a credit or refund which would have been allowable if the tax had been applicable with respect to the remuneration); or, if a credit or refund of any portion of such amount has been obtained, a statement identifying the credit or refund and showing how and when the amount credited or refunded, together with any interest received in connection therewith, was repaid.

(vi) The name and address of the organization which paid the remuneration to the individual.

(vii) The date on which the organization filed a waiver certificate on Form SS-15, and the location of the office of the district director with whom it was filed.

(viii) The date on which the certificate became effective with respect to services performed by the individual.

(ix) If the request is made by a person other than the individual to whom the remuneration was paid, the name and address of that person and evidence which shows the authority of such person to make the request.

(2) The request should be filed with the district director of internal revenue with whom the latest of the returns specified in the request pursuant to subparagraph (1)(iii) of this paragraph was filed.

(c) *Cross references.* For regulations relating to section 3121(b)(8) and (k), see §§ 31.3121(b)(8)-2 and 31.3121(k)-1 of Subpart B of Part 31 of this chapter (Employment Tax Regulations). For regulations relating to exemption from income tax of an organization described in section 501(c)(3), see § 1.501(c)(3)-1.

§ 1.1403 Statutory provisions; miscellaneous provisions.

SEC. 1403. *Miscellaneous provisions*—(a) *Title of chapter.* This chapter may be cited as the "Self-Employment Contributions Act of 1954".

(b) *Cross references.* (1) For provisions relating to returns, see section 6017.

(2) For provisions relating to collection of taxes in Virgin Islands, Guam, American Samoa, and Puerto Rico, see section 7651.

[Sec. 1403 as amended by sec. 103(m), Social Security Amendments 1960 (74 Stat. 938)]

§ 1.1403-1 Cross references.

For provisions relating to the requirement for filing returns with respect to net earnings from self-employment, see § 1.6017-1. For other administrative provisions relating to the tax on self-employment income, see the applicable sections of the regulations in this part (§ 1.6001-1 et seq.) and the applicable sections of the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

PAR. 2. Section 1.6017-1 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1.6017-1 Self-employment tax returns.

(a) *In general.* (1) Every individual, other than a nonresident alien, having net earnings from self-employment, as defined in section 1402, of \$400 or more for the taxable year shall make a return of such earnings. For purposes of this section, an individual who is a resident of the Virgin Islands, Puerto Rico, or (for any taxable year beginning after 1960) Guam or American Samoa is not to be considered a nonresident alien individual. See paragraph (d) of § 1.1402(b)-1. A return is required under this section if an individual has self-employment income, as defined in section 1402(b), even though he may not be required to make a return under section 6012 for purposes of the tax imposed by section 1 or 3. Provisions applicable to returns under section 6012(a) shall be applicable to returns under this section.

(2) Except as otherwise provided in this subparagraph, the return required by this section shall be made on Form 1040. The form to be used by residents of the Virgin Islands, Guam, or American Samoa is Form 1040SS. In the case of a resident of Puerto Rico who is not required to make a return of income under section 6012(a), the form to be used is Form 1040SS, except that Form 1040PR shall be used if it is furnished by the Internal Revenue Service to such resident for use in lieu of Form 1040SS.

* * * * *

(c) *Social security account numbers.* (1) Every individual making a return of net earnings from self-employment for any period commencing before January 1, 1962, is required to show thereon his social security account number, or, if he has no such account number, to make application therefor on Form SS-5 before filing such return. However, the failure to apply for or receive a social security account number will not excuse the individual from the requirement that he file such return on or before the due date thereof. Form SS-5 may be obtained from any district office of the Social Security Administration or from any district director. The application shall be filed with a district office of the Social Security Administration or, in the case of an individual not in the United States, with the district office of the Social Security Administration at Baltimore, Maryland. An individual who has previously secured a social security account number as an employee shall use that account number on his return of net earnings from self-employment.

(2) For provisions applicable to the securing of identifying numbers and the reporting thereof on returns and schedules for periods commencing after December 31, 1961, see § 1.6109-1.

PAR. 3 Section 1.107-1 is amended by revising paragraph (a) to read as follows:

§ 1.107-1 Rental value of parsonages.

(a) In the case of a minister of the gospel, gross income does not include (1) the rental value of a home, including utilities, furnished to him as a part of his compensation, or (2) the rental allowance paid to him as part of his compensation to the extent such allowance is used by him to rent or otherwise provide a home. In order to qualify for the exclusion, the home or rental allowance must be provided as remuneration for services which are ordinarily the duties of a minister of the gospel. In general, the rules provided in § 1.1402(c)-5 will be applicable to such determination. Examples of specific services the performance of which will be considered duties of a minister for purposes of section 107 include the performance of sacerdotal functions, the conduct of religious worship, the administration and maintenance of religious organizations and their integral agencies, and the performance of teaching and administrative duties at theological seminaries. Also, the service performed by a qualified minister as an employee of the United States (other than as a chaplain in the Armed Forces, whose service is considered to be that of a commissioned officer in his capacity as such, and not as a minister in the exercise of his ministry), or a State, Territory, or possession of the United States, or a political subdivision of any of the foregoing, or the District of Columbia, is in the exercise of his ministry provided the service performed includes such services as are ordinarily the duties of a minister.

PAR. 4. Section 1.121 is amended by revising paragraph (18) of section 121 (a), as set forth therein, and the historical note at the end thereof to read as follows:

§ 1.121 Statutory provisions; cross references to other acts.

SEC. 121. Cross references to other acts.
(a) For the exemption of—

(18) Benefits under laws administered by the Veterans' Administration, see section 8101 of title 38, United States Code.

[Sec. 121(a)(18) as added by section 501(t), Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 885); sec. 2201(25), Veterans' Benefits Act of 1957 (71 Stat. 160); sec. 13(t), Act of Sept. 2, 1958 (Pub. Law 85-857), 72 Stat. 1286.]

PAR. 5. Section 1.1361-3 is amended by revising paragraph (a)(5) to read as follows:

§ 1.1361-3 Code provisions applicable.

(a) Subtitle A. * * *

(5) In determining self-employment income for purposes of chapter 2, subtitle A of the Code, the income of a proprietor or a partner shall be determined in accordance with paragraph (f) or (h) of § 1.1402(a)-2, as the case may be, without regard to any election under section 1361.

[F.R. Doc. 63-12373; Filed, Dec. 2, 1963; 8:45 a.m.]

[T.D. 6692]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Carryover of Earnings and Profits in Certain Corporate Acquisitions

On December 31, 1960, notice of proposed rule making with respect to regulations under section 381(c)(2) and (16) of the Internal Revenue Code of 1954, relating to the carryover of earnings and profits and certain obligations of the distributor or transferor corporation in certain corporate acquisitions, was published in the FEDERAL REGISTER (25 F.R. 14039). On December 28, 1961, Treasury Decision 6586, adopting the regulations as proposed under section 381(c)(2) except for certain changes including the reservation of paragraph (c) of § 1.381(c)(2)-1 (which remained outstanding as a notice of proposed rule making), was published in the FEDERAL REGISTER (26 F.R. 12551). After consideration of all such relevant matter as was presented by interested persons regarding paragraph (c) of § 1.381(c)(2)-1 as proposed, such paragraph is hereby adopted, subject to the changes set forth below:

Paragraph (c) of § 1.381(c)(2)-1 is revised to read as follows:

§ 1.381(c)(2)-1 Earnings and profits.

* * * * *

(c) Distribution of earnings and profits pursuant to reorganization or liquidation. (1) If, in a reorganization to which section 381(a)(2) applies, the transferor corporation pursuant to the plan of reorganization distributes to its stockholders property consisting not only of property permitted by section 354 to be received without recognition of gain, but also of other property or money, then the accumulated earnings and profits of the transferor corporation as of the close of the date of transfer shall be computed by taking into account the amount of earnings and profits properly applicable to the distribution, regardless of whether such distribution occurs before or after the close of the date of transfer.

(2) If, in a distribution to which section 381(a)(1) (relating to certain liquidations of subsidiaries) applies, the acquiring corporation receives less than 100 percent of the assets distributed by the distributor corporation, then the accumulated earnings and profits of the distributor corporation as of the close of the date of distribution shall be computed by taking into account the amount of earnings and profits properly applicable to the distributions to minority stockholders, regardless of whether such distributions occur before or after the close of the date of distribution.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: November 21, 1963.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 63-12391; Filed, Dec. 2, 1963; 8:45 a.m.]

[T.D. 6693]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Gift Taxes

On October 27, 1962, notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) under sections 1015 and 1016 of the Internal Revenue Code of 1954 to conform the regulations to changes made by section 43(a) of the Technical Amendments Act of 1958 (72 Stat. 1640), was published in the FEDERAL REGISTER (27 F.R. 10491). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed are hereby adopted, subject to the following addition and changes:

PARAGRAPH 1. Paragraph (a) of § 1.1015-4 is amended.

PAR. 2. Paragraph (c) of § 1.1015-5 as set forth in paragraph 3 of the notice of proposed rule making is changed.

PAR. 3. Paragraph (n) of § 1.1016-5 as set forth in paragraph 4 of the notice of proposed rule making is redesignated paragraph (p).

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: November 22, 1963.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order that the Income Tax Regulations (26 CFR Part 1) may reflect the delegation of functions authorized by section 1015(a) of the Internal Revenue Code of 1954 and be made to conform to section 43(a) of the Technical Amendments Act of 1958 (Public Law 85-866, 72 Stat. 1640), such regulations are amended as follows:

PARAGRAPH 1. Section 1.1015 is amended by adding a new subsection (d) to section 1015 and by adding a historical note. As added, these provisions read as follows:

§ 1.1015 Statutory provisions; basis of property acquired by gifts and transfers in trust.

SEC. 1015. Basis of property acquired by gifts and transfers in trust. * * *

(d) Increased basis for gift tax paid—(1) In general. If—

(A) The property is acquired by gift on or after the date of the enactment of the Technical Amendments Act of 1958, the basis shall be the basis determined under subsection (a), increased (but not above the fair market value of the property at the time of the gift) by the amount of gift tax paid with respect to such gift, or

(B) The property was acquired by gift before the date of the enactment of the Technical Amendments Act of 1958 and has not been sold, exchanged, or otherwise disposed of before such date, the basis of the property shall be increased on such date by the amount of gift tax paid with respect to such gift, but such increase shall not exceed an amount equal to the amount by which the fair market value of the property at the time of the gift exceeded the basis of the property in the hands of the donor at the time of the gift.

(2) *Amount of tax paid with respect to gift.* For purposes of paragraph (1), the amount of gift tax paid with respect to any gift is an amount which bears the same ratio to the amount of gift tax paid under chapter 12 with respect to all gifts made by the donor for the calendar year in which such gift is made as the amount of such gift bears to the taxable gifts (as defined in section 2503(a) but computed without the deduction allowed by section 2521) made by the donor during such calendar year. For purposes of the preceding sentence, the amount of any gift shall be the amount included with respect to such gift in determining (for the purposes of section 2503(a)) the total amount of gifts made during the calendar year, reduced by the amount of any deduction allowed with respect to such gift under section 2522 (relating to charitable deduction) or under section 2523 (relating to marital deduction).

(3) *Gifts treated as made one-half by each spouse.* For purposes of paragraph (1), where the donor and his spouse elected, under section 2513 to have the gift considered as made one-half by each, the amount of gift tax paid with respect to such gift under chapter 12 shall be the sum of the amounts of tax paid with respect to each half of such gift (computed in the manner provided in paragraph (2)).

(4) *Treatment as adjustment to basis.* For purposes of section 1016(b), an increase in basis under paragraph (1) shall be treated as an adjustment under section 1016(a).

(5) *Application to gifts before 1955.* With respect to any property acquired by gift before 1955, references in this subsection to any provision of this title shall be deemed to refer to the corresponding provision of the Internal Revenue Code of 1939 or prior revenue laws which was effective for the year in which such gift was made.

[Sec. 1015(d) as added by sec. 43(a), Technical Amendments Act 1958 (Public Law 85-866, 72 Stat. 1640)]

PAR. 2. Paragraph (a) of § 1.1015-1 is amended by adding a new subparagraph (3) to read as follows:

§ 1.1015-1 Basis of property acquired by gift after December 31, 1920.

(a) *General rule.* * * *

(3) If the facts necessary to determine the basis of property in the hands of the donor or the last preceding owner by whom it was not acquired by gift are unknown to the donee, the district director shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the district director finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the district director as of the date or approximate date at which, according to the best information the district director is able to obtain, such property was acquired by such donor or last preceding owner. See paragraph (e) of this section for rules relating to fair market value.

PAR. 3. Paragraph (a) of § 1.1015-4 is amended to read as follows:

§ 1.1015-4 Transfers in part a gift and in part a sale.

(a) *General rule.* Where a transfer of property is in part a sale and in part a gift, the unadjusted basis of the property in the hands of the transferee is the sum of—

(1) Whichever of the following is the greater:

(i) The amount paid by the transferee for the property, or

(ii) The transferor's adjusted basis for the property at the time of the transfer, and

(2) The amount of increase, if any, in basis authorized by section 1015(d) for gift tax paid (see § 1.1015-5).

For determining loss, the unadjusted basis of the property in the hands of the transferee shall not be greater than the fair market value of the property at the time of such transfer. For determination of gain or loss of the transferor, see paragraph (e) of § 1.1001-1.

PAR. 4. There is inserted immediately after § 1.1015-4 the following new section.

§ 1.1015-5 Increased basis for gift tax paid.

(a) *General rule.* (1) (i) Subject to the conditions and limitations provided in section 1015(d), as added by the Technical Amendments Act of 1958, the basis (as determined under section 1015(a) and paragraph (a) of § 1.1015-1) of property acquired by gift is increased by the amount of gift tax paid with respect to the gift of such property. Under section 1015(d)(1)(A), such increase in basis applies to property acquired by gift on or after September 2, 1958 (the date of enactment of the Technical Amendments Act of 1958). Under section 1015(d)(1)(B), such increase in basis applies to property acquired by gift before September 2, 1958, and not sold, exchanged, or otherwise disposed of before such date. If section 1015(d)(1)(A) applies, the basis of the property is increased as of the date of the gift regardless of the date of payment of the gift tax. For example, if the property was acquired by gift on September 8, 1958, and sold by the donee on October 15, 1958, the basis of the property would be increased (subject to the limitation of section 1015(d)) as of September 8, 1958 (the date of the gift), by the amount of gift tax applicable to such gift even though such tax was not paid until March 1, 1959. If section 1015(d)(1)(B) applies, any increase in the basis of the property due to gift tax paid (regardless of date of payment) with respect to the gift is made as of September 2, 1958. Any increase in basis under section 1015(d) can be no greater than the amount by which the fair market value of the property at the time of the gift exceeds the basis of such property in the hands of the donor at the time of the gift. See paragraph (b) of this section for rules for determining the amount of gift tax paid in respect of property transferred by gift.

(ii) With respect to property acquired by gift before September 2, 1958, the provisions of section 1015(d) and this section do not apply if, before such date, the donee has sold, exchanged, or otherwise disposed of such property. The phrase "sold, exchanged, or otherwise disposed of" includes the surrender of a stock certificate for corporate assets in complete or partial liquidation of a corporation pursuant to section 331. It

also includes the exchange of property for property of a like kind such as the exchange of one apartment house for another. The phrase does not, however, extend to transactions which are mere changes in form. Thus, it does not include a transfer of assets to a corporation in exchange for its stock in a transaction with respect to which no gain or loss would be recognizable for income tax purposes under section 351. Nor does it include an exchange of stock or securities in a corporation for stock or securities in the same corporation or another corporation in a transaction such as a merger, recapitalization, reorganization, or other transaction described in section 368(a) or 355, with respect to which no gain or loss is recognizable for income tax purposes under section 354 or 355. If a binding contract for the sale, exchange, or other disposition of property is entered into, the property is considered as sold, exchanged, or otherwise disposed of on the effective date of the contract, unless the contract is not subsequently carried out substantially in accordance with its terms. The effective date of a contract is normally the date it is entered into (and not the date it is consummated, or the date legal title to the property passes) unless the contract specifies a different effective date. For purposes of this subdivision, in determining whether a transaction comes within the phrase "sold, exchanged, or otherwise disposed of", if a transaction would be treated as a mere change in the form of the property if it occurred in a taxable year subject to the Internal Revenue Code of 1954, it will be so treated if the transaction occurred in a taxable year subject to the Internal Revenue Code of 1939 or prior revenue law.

(2) Application of the provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). In 1938, A purchased a business building at a cost of \$120,000. On September 2, 1958, at which time the property had an adjusted basis in A's hands of \$60,000, he gave the property to his nephew, B. At the time of the gift to B, the property had a fair market value of \$65,000 with respect to which A paid a gift tax in the amount of \$7,545. The basis of the property in B's hands at the time of the gift, as determined under section 1015(a) and § 1.1015-1, would be the same as the adjusted basis in A's hands at the time of the gift, or \$60,000. Under section 1015(d) and this section, the basis of the building in B's hands as of the date of the gift would be increased by the amount of the gift tax paid with respect to such gift, limited to an amount by which the fair market value of the property at the time of the gift exceeded the basis of the property in the hands of A at the time of gift, or \$5,000. Therefore, the basis of the property in B's hands immediately after the gift, both for determining gain or loss on the sale of the property, would be \$65,000.

Example (2). C purchased property in 1938 at a cost of \$100,000. On October 1, 1952, at which time the property had an adjusted basis of \$72,000 in C's hands, he gave the property to his daughter, D. At the date of the gift to D, the property had a fair market value of \$85,000 with respect to which C paid a gift tax in the amount of \$11,745. On September 2, 1958, D still held the property which then had an adjusted basis in her hands of \$65,000. Since the

excess of the fair market value of the property at the time of the gift to D over the adjusted basis of the property in C's hands at such time is greater than the amount of gift tax paid, the basis of the property in D's hands would be increased as of September 2, 1958, by the amount of the gift tax paid, or \$11,745. The adjusted basis of the property in D's hands, both for determining gain or loss on the sale of the property, would then be \$76,745 (\$65,000 plus \$11,745).

Example (3). On December 31, 1951, E gave to his son, F, 500 shares of common stock of the X Corporation which shares had been purchased earlier by E at a cost of \$100 per share, or a total cost of \$50,000. The basis in E's hands was still \$50,000 on the date of the gift to F. On the date of the gift, the fair market value of the 500 shares was \$80,000 with respect to which E paid a gift tax in the amount of \$10,695. In 1956, the 500 shares of X Corporation stock were exchanged for 500 shares of common stock of the Y Corporation in a reorganization with respect to which no gain or loss was recognized for income tax purposes under section 354. F still held the 500 shares of Y Corporation stock on September 2, 1958. Under such circumstances, the 500 shares of X Corporation stock would not, for purposes of section 1015 (d) and this section, be considered as having been "sold, exchanged, or otherwise disposed of" by F before September 2, 1958. Therefore, the basis of the 500 shares of Y Corporation stock held by F as of such date would, by reason of section 1015(d) and this section, be increased by \$10,695, the amount of gift tax paid with respect to the gift to F of the X Corporation stock.

Example (4). On November 15, 1953, G gave H property which had a fair market value of \$53,000 and a basis in the hands of G of \$20,000. G paid gift tax of \$5,250 on the transfer. On November 16, 1956, H gave the property to J who still held it on September 2, 1958. The value of the property on the date of the gift to J was \$63,000 and H paid gift tax of \$7,125 on the transfer. Since the property was not sold, exchanged, or otherwise disposed of by J before September 2, 1958, and the gift tax paid on the transfer to J did not exceed \$43,000 (\$63,000, fair market value of property at time of gift to J, less \$20,000, basis of property in H's hands at that time), the basis of property in his hands is increased on September 2, 1958, by \$7,125, the amount of gift tax paid by H on the transfer. No increase in basis is allowed for the \$5,250 gift tax paid by G on the transfer to H, since H had sold, exchanged, or otherwise disposed of the property before September 2, 1958.

(b) *Amount of gift tax paid with respect to a gift of property.* (1) (i) If only one gift was made during a certain calendar year, the entire amount of the gift tax paid under chapter 12 or the corresponding provisions of prior revenue laws for that calendar year is the amount of the gift tax paid with respect to the gift.

(ii) If more than one gift was made during a certain calendar year, the amount of gift tax paid under chapter 12 or the corresponding provisions of prior revenue laws with respect to any specified gift made during that calendar year is an amount, A, which bears the same ratio to B (the total gift tax paid for that calendar year) as C (the "amount of the gift", computed as described in this subdivision) bears to D (the total taxable gifts for the year, computed without deduction for the gift tax specific exemption under section 2521 or the corre-

sponding provisions of prior revenue laws). Stated algebraically, the amount of the gift tax paid with respect to a gift equals:

$$\frac{\text{"Amount of the gift" (C)}}{\text{Total taxable gifts, plus specific exemption allowed (D)}} \times \text{Total gift tax paid (B)}$$

For purposes of the ratio stated in the preceding sentence, the "amount of the gift" referred to as factor "C" is the value of the gift reduced by any portion excluded or deducted under section 2503 (b) (annual exclusion), 2522 (charitable deduction), or 2523 (marital deduction) of the Code or the corresponding provisions of prior revenue laws. In making the computations described in this paragraph, the values to be used are those finally determined for purposes of the gift tax.

(iii) If a gift consists of more than one item of property, the gift tax paid with respect to each item shall be computed by allocating to each item a proportionate part of the gift tax paid with respect to the gift, computed in accordance with the provisions of this paragraph.

(2) For purposes of this paragraph, it is immaterial whether the gift tax is paid by the donor or the donee. Where more than one gift of a present interest in property is made to the same donee during a calendar year, the annual exclusion shall apply to the earliest of such gifts in point of time.

(3) Where the donor and his spouse elect under section 2513 or the corresponding provisions of prior law to have any gifts made by either of them considered as made one-half by each, the amount of gift tax paid with respect to such a gift is the sum of the amounts of tax (computed separately) paid with respect to each half of the gift by the donor and his spouse.

(4) The method described in section 1015(d) (2) and this paragraph for computing the amount of gift tax paid in respect of a gift may be illustrated by the following examples:

Example (1). Prior to 1959 H made no taxable gifts. On July 1, 1959, he made a gift to his wife, W, of land having a value for gift tax purposes of \$60,000 and gave to his son, S, certain securities valued at \$60,000. During the year 1959, H also contributed \$5,000 in cash to a charitable organization described in section 2522. H filed a timely gift tax return for 1959 with respect to which he paid gift tax in the amount of \$6,000, computed as follows:

Value of land given to W	\$60,000	
Less: Annual exclusion	3,000	
Marital deduction	30,000	33,000
Included amount of gift		\$27,000
Value of securities given to S	60,000	
Less: Annual exclusion	3,000	
Included amount of gift		57,000
Gift to charitable organization	5,000	
Less: Annual exclusion	3,000	
Charitable deduction	2,000	5,000
Included amount of gift		None
Total included gifts		84,000
Less: Specific exemption allowed		30,000
Taxable gifts for 1959		54,000
Gift tax on \$54,000		6,000

In determining the gift tax paid with respect to the land given to W, amount C of the

ratio set forth in subparagraph (1) (ii) of this paragraph is \$60,000, value of property given to W, less \$33,000 (the sum of \$3,000, the amount excluded under section 2503 (b), and \$30,000, the amount deducted under section 2523), or \$27,000. Amount D of the ratio is \$84,000 (the amount of taxable gifts, \$54,000, plus the gift tax specific exemption, \$30,000). The gift tax paid with respect to the land given to W is \$1,928.57, computed as follows:

$$\frac{\$27,000 (C)}{\$84,000 (D)} \times \$6,000 (B)$$

Example (2). On January 15, 1956, A made a gift to his nephew, N, of land valued at \$86,000, and on June 30, 1956, gave N securities valued at \$40,000. On July 1, 1956, A gave to his sister, S, \$46,000 in cash. A and his wife, B, were married during the entire calendar year 1956. The amount of A's taxable gifts for prior years was zero although in arriving at that amount A had used in full the specific exemption authorized by section 2521. B did not make any gifts before 1956. A and B elected under section 2513 to have all gifts made by either during 1956 treated as made one-half by A and one-half by B. Pursuant to that election, A and B each filed a gift tax return for 1956. A paid gift tax of \$11,325 and B paid gift tax of \$5,250, computed as follows:

	A	B
Value of land given to N	\$43,000	\$43,000
Less: exclusion	3,000	3,000
Included amount of gift	40,000	40,000
Value of securities given to N	20,000	20,000
Less: exclusion	None	None
Included amount of gift	20,000	20,000
Cash gift to S	23,000	23,000
Less: exclusion	3,000	3,000
Included amount of gift	20,000	20,000
Total included gifts	80,000	80,000
Less: specific exemption	None	30,000
Taxable gifts for 1956	80,000	50,000
Gift tax for 1956	11,325	5,250

The amount of the gift tax paid by A with respect to the land given to N is computed as follows:

$$\frac{\$40,000 (C)}{\$80,000 (D)} \times \$11,325 (B) = \$5,662.50$$

The amount of the gift tax paid by B with respect to the land given to N is computed as follows:

$$\frac{\$40,000 (C)}{\$80,000 (D)} \times \$5,250 (B) = \$2,625$$

The amount of the gift tax paid with respect to the land is \$5,662.50 plus \$2,625, or \$8,287.50. Computed in a similar manner, the amount of gift tax paid by A with respect to the securities given to N is \$2,831.25, and the amount of gift tax paid by B with respect thereto is \$1,312.50, or a total of \$4,143.75.

(c) *Treatment as adjustment to basis.* Any increase in basis under section 1015(d) and this section shall, for purposes of section 1016(b) (relating to adjustments to a substituted basis), be treated as an adjustment under section 1016(a) to the basis of the donee's property to which such increase applies. See paragraph (p) of § 1.1016-5.

PAR. 5. Section 1.1016-5 is amended by adding a new paragraph at the end thereof to read as follows:

§ 1.1016-5 Miscellaneous adjustments to basis.

(p) *Gift tax paid on certain property acquired by gift.* Basis shall be adjusted by that amount of the gift tax paid in respect of property acquired by gift which, under section 1015(d), is an increase in the basis of such property.

[F.R. Doc. 63-12495; Filed, Dec. 2, 1963; 8:50 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER N—DANGEROUS CARGOES¹

[CGFR 63-80]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES, AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

Miscellaneous Amendments

Pursuant to the notice of proposed rulemaking published in the FEDERAL REGISTER of February 2, 1963 (28 F.R. 1052-1058), and February 16, 1963 (28 F.R. 1510-1511) and the Merchant Marine Council Public Hearing Agenda dated March 25, 1963 (CG-249), the Merchant Marine Council held a public hearing on March 25, 1963 for the purpose of receiving comments, views and data. Item VIII f. contained proposed changes regarding dangerous cargoes and included a proposal designated "Detailed Regulations Governing Poisonous Articles—Radioactive Materials" (CG-249, pages 220-246). It was announced at the public hearing and in the Federal Register document published in the FEDERAL REGISTER of May 30, 1963 (28 F.R. 5378), that final actions with respect to these proposals were deferred so that the requirements of the Interstate Commerce Commission and the Coast Guard will be in agreement when published. The ICC notice of proposed rulemaking on this subject was published in the FEDERAL REGISTER on April 19, 1963 (28 F.R. 3876-3888), ICC Change Notice No. 58, Docket No. 3666, service date July 12, 1963. All comments, views and data that have been received are now being evaluated and it may be some time before agreement may be reached regarding these proposals. However, it is deemed necessary to recognize and prescribe requirements regarding fissile materials and a new section, designated 46 CFR 146.25-21, is added by this document. This proposal was originally set forth in the Public Hearing Agenda (CG-249, pages 222, 227) as 46 CFR 146.25-20(b), and 146.25-27. No comments were received by the Coast Guard or ICC pertaining to these requirements for fissile material. In view of the fact that fissile materials present a criticality hazard that is not recognized by the present regulations and a serious potential hazard exists as

more of these materials are being transported by water, it is deemed necessary and vital to safety to publish these fissile material regulations which recognize this hazard and contain requirements designed to prevent accidental criticality.

The other changes contained in this document are editorial in nature. The title for the subchapter is changed to indicate the character of the regulations in 46 CFR Parts 146 and 147. Subpart numbers are assigned to the various subparts in order to conform to the format used in this chapter of the Code of Federal Regulations. Chart "A" in 46 CFR 126.29-99 is changed to correct a typographical error. This document contains no material based on ICC Change Orders.

By virtue of the authority vested in me as Commandant United States Coast Guard, by Treasury Department Orders 120 dated July 31, 1950 (15 F.R. 6521), 167-14 dated November 26, 1954 (19 F.R. 8026), and CGFR 56-28 dated July 24, 1956 (21 F.R. 5659), to promulgate regulations in accordance with the statutes cited with the regulations below, the following amendments are prescribed and shall become effective on and after the date of publication of this document in the FEDERAL REGISTER:

1. The heading for Subchapter N is changed to "Subchapter N—Dangerous Cargoes," as set forth above.

2. The subpart headings are amended by assigning numbers as follows:

Subpart 146.01—Preface.

Subpart 146.02—General Regulations.

Subpart 146.03—Definitions of Words and Terms Contained Within the Regulations in This Subchapter.

Subpart 146.04—List of Explosives or Other Dangerous Articles Containing the Shipping Name or Description of Articles Subject to the Regulations in This Subchapter.

Subpart 146.05—Shipper's Requirements Re: Packing, Marking, Labeling and Shipping Papers.

Subpart 146.06—Vessel's Requirements Re: Acceptance, Handling, Stowage, Etc.

Subpart 146.07—Railroad Vehicles, Highway Vehicles, Vans or Portable Containers Loaded With Explosives or Other Dangerous Articles and Transported on Board Ocean Vessels.

Subpart 146.08—Railroad or Highway Vehicles Loaded With Dangerous Substances and Transported on Board Vessels.

Subpart 146.09—Cargo Handling and Stowage Devices, U.S. Coast Guard Container Specifications.

Subpart 146.10—Barges.

Subpart 146.20—Detailed Regulations Governing Explosives.

Subpart 146.21—Detailed Regulations Governing Inflammable Liquids.

Subpart 146.22—Detailed Regulations Governing Inflammable Solids and Oxidizing Materials.

Subpart 146.23—Detailed Regulations Governing Corrosive Liquids.

Subpart 146.24—Detailed Regulations Governing Compressed Gases.

Subpart 146.25—Detailed Regulations Governing Poisonous Articles.

Subpart 146.26—Detailed Regulations Governing Combustible Liquids.

Subpart 146.27—Detailed Regulations Governing Hazardous Articles.

Subpart 146.28—Temporary Amendments to Regulations.

Subpart 146.29—Detailed Regulations Governing the Transportation of Military Explosives and Hazardous Munitions on Board Vessels.

3. Subpart 146.25—Detailed Regulations Governing Poisonous Articles, is amended by inserting after § 146.25-20 a new § 146.25-21 reading as follows:

§ 146.25-21 Fissile materials.

(a) For the purpose of the regulations in this part "fissile materials" shall mean Plutonium 239, Plutonium 241, Uranium 233, Uranium 235 and any material artificially enriched with any of these four nuclides.

(b) When more than 15 grams of Plutonium 239, Plutonium 241, Uranium 233, Uranium 235 or any combination of these four nuclides are packed in a single container the shipment shall be made in containers authorized by the Commandant, U.S. Coast Guard and the packaging shall also be approved by and each shipment shall be made in accordance with procedures approved by the U.S. Atomic Energy Commission.

(c) For each shipment of fissile materials in excess of the quantities given in paragraph (b) of this section, the shipper shall supply the vessel with a certificate issued and signed by the shipper or his duly authorized representative as follows:

This is to certify that this package contains fissile (special nuclear) material and has been prepared for shipment in accordance with the packaging requirements and limitations established by the U.S. Atomic Energy Commission as conditions of AEC License SNM No. _____ (or the terms of Contract No. _____). This type of packaging and the contents thereof have been approved as (insert the appropriate class according to those listed below) and is safe for transport subject to the following conditions:

(List all conditions. If none, insert "None.")

Class I package— Safe from neutron interaction in any arrangement.

Class II package— Nuclearly safe in any arrangement in limited numbers.

Class III package— Nuclearly safe under special arrangement.

(d) For Class II shipments, not more than 40 radiation units may be stowed in any one hold. Not more than two Class II shipments may be carried at any one time unless authorized by the Commandant, U.S. Coast Guard.

(e) For Class III shipments, special authority must be obtained from the Commandant, U.S. Coast Guard.

(f) Each outside container, unless exempt, must be labeled with a properly executed label as described in § 146.05-17(q), except that the number of radiation units to be entered on the label shall be determined in accordance with procedures approved by the Atomic Energy Commission.

(R.S. 4405, as amended, 4462, as amended, 4472, as amended; 46 U.S.C. 375, 416, 170. Interpret or apply sec. 3, 68 Stat. 675; 50 U.S.C. 198, E.O. 10402, 17 F.R. 9917, 3 CFR 1952 Supp.)

§ 146.29-99 [Amended]

4. In Subpart 146.29—Detailed Regulations Governing the Transportation of Military Explosives and Hazardous Munitions on Board Vessels, § 146.29-99 *Explosives admixture charts*, Chart "A" in § 146.29-99 is amended by changing

¹ Title as amended by this document.

the circular symbol to the letter "D" in the II-J horizontal row opposite II-G, vertical column.

(R.S. 4405, as amended, 4462, as amended, 4472, as amended; 46 U.S.C. 375, 416, 170. Interpret or apply sec. 3, 68 Stat. 675; 50 U.S.C. 198, E.O. 10402, 17 F.R. 9917, 3 CFR 1952 Supp.)

Dated: November 27, 1963.

[SEAL] D. McG. MORRISON,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 63-12497; Filed, Dec. 2, 1963;
8:51 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 3275]

[Anchorage 032306]

ALASKA

Reserving Public Lands for Protection and Preservation of Their Archeological and Historical Values; Revoking Public Land Order No. 1459 of August 6, 1957

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

1. Subject to valid existing rights, the following described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, and reserved under the jurisdiction of the Department of the Interior for protection and preservation of their archeological and historical values:

KACHEMAK BAY AREA

Yukon Island

Containing approximately 700 acres.
2. Public Land Order No. 1459 of August 6, 1957, which withdrew a part of the lands described in paragraph 1, hereof, for protection and preservation of archeological and historical values, is hereby revoked.

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

NOVEMBER 26, 1963.

[F.R. Doc. 63-12478; Filed, Dec. 2, 1963;
8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 0—COMMISSION ORGANIZATION

Office of the Bureau Chief

The Commission, having under consideration the amendment of § 0.94(c) of its rules; and

It appearing, that the Field Office in St. Louis, Missouri, has been relocated from its former address to Room 906, 114 Market Street, and

It further appearing, that the amendment adopted herein pertains to Commission management and organization and that such amendment is editorial in nature, and hence that compliance with the requirements of section 4 of the Administrative Procedure Act is unnecessary; and

It further appearing, that the amendment adopted herein is issued pursuant to authority contained in section 4(i), 5(b), and 303(r) of the Communications Act of 1934, as amended, and § 0.261(a) of the Commission's rules.

It is ordered, This 25th day of November 1963, that effective November 25, 1963, § 0.94 of the Commission's rules is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Released: November 27, 1963.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

Section 0.94(c) is amended to read as follows:

§ 0.94 Office of the Bureau Chief.

* * * * *
(c) Office of Field Coordinator, which is responsible for coordinating the work of the Common Carrier Bureau Field Offices. The field offices are located at 90 Church Street, New York, New York, 10007; 180 New Montgomery Street, San Francisco, California, 94105; and Room 906, 114 Market Street, St. Louis, Missouri, 63101. These offices are responsible for conducting investigations and studies, as assigned by the Office of the Chief of the Bureau, to assure that there is adherence to the Communications Act and the Commission's rules and regulations. These offices also represent the Commission in contacts with the public and the carriers.

* * * * *
[F.R. Doc. 63-12501; Filed, Dec. 2, 1963;
8:51 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1—GENERAL RULES OF PRACTICE

Motor Carriers, Brokers, and Freight Forwarders; Filing of Applications

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 29th day of November A.D. 1963:

It appearing, that the matter of special rules governing notice of filing of applications by motor carriers of property or passengers under sections 206 (except section 206(a)(6) relating to

Certificates of Registration) and 209, by brokers of motor transportation under section 211, by water carriers under sections 302(e), 303, and 309, and by freight forwarders under section 410 of the Interstate Commerce Act, and certain other procedural matters with respect thereto being under consideration:

It is ordered, That the following special rules be, and they are hereby, prescribed:

§ 1.247 Special rules governing notice of filing of applications by motor carriers of property or passengers and brokers under sections 206 (except section 206(a)(6) relating to Certificates of Registration), 209, and 211, by water carriers under sections 302(e), 303, and 309, and by freight forwarders under section 410 of the Interstate Commerce Act, and certain other procedural matters with respect thereto.

(a) *Scope and applicability of special rules*—(1) *Scope*. These special rules govern the filing and handling pursuant to the provisions of the Interstate Commerce Act of (i) applications for certificates, permits, and licenses respecting the transportation of property or passengers under sections 206 (except section 206(a)(6) relating to Certificates of Registration), 209, and 211, (ii) applications respecting the water transportation of property or passengers under sections 302(e), 303, and 309, and (iii) applications for permits to operate as freight forwarders and for certificates of abandonment under section 410. Except as otherwise herein provided, the General Rules of Practice shall apply.

(2) *Applicability*. These special rules shall apply to all applications enumerated in subparagraph (1) of this paragraph and filed with the Commission on and after January 1, 1964, and to such of those applications filed prior to that time as the Commission may designate by appropriate publication in the FEDERAL REGISTER.

(b) *Applications*—(1) *Form and content*. An application filed with the Commission under these special rules shall be prepared in accord with and contain the information called for in the form of application prescribed by the Commission or in instructions which may have been issued by the Commission with respect to the filing of such an application.

(2) *Copies and service*. Copies of an application filed under these special rules shall be furnished in such number and shall be filed and served in the manner and upon the persons specified in the form or instructions, except that service thereof need not be made upon competing carriers.

(3) *Requests for handling applications without oral hearing*. An applicant who believes its application is susceptible of handling without oral hearing may request such handling when the application is filed. If such a request is made at that time, the applicant shall submit with its application original verified statements of the facts to which its witnesses would testify at an oral hearing if one were held, together with six copies

thereof which need not be verified. Applicant shall furnish copies of its verified statements to interested persons upon request from such interested persons.

(c) *Notice to interested persons.* (1) Notice of the filing of applications to competitors and other interested persons will be given by the publication of a summary of the authority sought in the FEDERAL REGISTER. Such summaries will be prepared by the Commission, and it shall be the responsibility of applicant promptly to advise the Commission if the summary does not properly describe the authority sought. No other notice by applicants to interested persons is required, except that applicants are not relieved from the obligation to file copies of applications with Governors, State Boards, and District Directors of the Commission's Bureau of Motor Carriers as may be required by the prescribed form of application.

(2) *Amendments:* Except for good cause shown, amendments to applications which broaden the scope of the proposed operations will not be allowed if tendered after notice of the filing of an application has been published in the FEDERAL REGISTER. Restrictive amendments acceptable to the Commission may be submitted at any time, but if tendered after such publication, they may be allowed only in the discretion of the Commission or by the hearing officer if the matter is assigned for hearing or prehearing conference.

(d) *Protests and requests for hearing.*

(1) Protests to the granting of an application shall be filed with the Commission within 30 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. A protest filed under these rules should comply with § 1.40 of the General Rules of Practice, and shall be served upon applicants' representative (or applicant, if no practitioner representing him is named in the notice of filing published in the FEDERAL REGISTER). The original and six copies of the protest shall be filed with the Commission. Protests not in reasonable compliance with the requirements of these rules may be rejected in the discretion of the Commission.

(2) Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding.

(3) A protest against any application shall set forth specifically the grounds upon which it is made and the protestant's interest in the proceeding, shall request an oral hearing if one is desired, and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally.

(4) Any request for an oral hearing shall be supported by a specific explanation as to why the evidence to be presented cannot reasonably be submitted in the form of affidavits, and shall set forth the number of witnesses which would be presented by the protestant and an estimate of the hearing time required for such presentation; and protestant shall certify in its protest that, if an oral

hearing is held, it will appear and present evidence.

(5) Where a person has a limited interest in an application, which possibly could be eliminated by a restrictive amendment thereof, acceptable to the Commission, it may also include in a protest filed in conformity with this paragraph an offer to withdraw the protest in the event of acceptance by applicant of such amendment.

(6) Except as provided in subparagraph (5) of this paragraph or for good cause shown, the failure of any person filing a protest to an application to appear at a hearing scheduled thereon shall be construed as a waiver of its right to participate further in the proceeding; such person shall no longer be considered as a party to the proceeding, and it and any representative responsible for its participation in the proceeding may be subject to censure for failure to appear.

(7) Any interested person, not a protestant, desiring to receive notice of the time and place of any hearing, conference, or other proceedings shall notify the Commission by telegram or letter (original and one copy) within 30 days from the date of the publication of the notice of the filing of the application in the FEDERAL REGISTER.

(e) *Hearing or other procedures to be followed—*(1) *Determination.* The Commission will determine whether an assignment for oral hearing should be made, after notice to interested persons of the filing of the application has been published in the FEDERAL REGISTER and the period for filing protests has expired. At or prior to such time, any applicant who does not intend to prosecute its application should promptly request dismissal thereof.

(2) *Uncontested proceedings.* Proceedings in which no protests are filed within 30 days after publication of notice in the FEDERAL REGISTER, and which are not assigned for oral hearing, will be determined on the basis of verified statements submitted by applicant. Where not submitted previously along with the application as provided for in paragraph (b) (3) of this section, such statements, by order, will be required to be filed by the applicant with the Commission within the time prescribed in said order, failing which the application may be summarily dismissed for want of prosecution.

(3) *Contested proceedings.* In those contested proceedings which the Commission determines that assignment of an application for oral hearing is unnecessary, thereafter the procedure shall be in accordance with §§ 1.45(b), 1.46(b) and 1.47-1.54, inclusive, of the General Rules of Practice. All other contested proceedings which are subject to these rules will be assigned for oral hearing, unless other procedures are ordered.

(f) *Notice of hearing, conference or other proceedings—*(1) *Initial assignment.* Notice of the time and place of any hearing, conference, or other proceedings will be given to applicant's representative, applicant, protestants, and other interested parties by mailing to them the order or notice assigning the

application for hearing, conference, or other procedure.

(2) *Assignment of an application for hearing concurrently with notice of its filing.* For the convenience of the Commission in handling applications related to one or more applications which already have been noticed in the FEDERAL REGISTER, when, in the Commission's discretion, the public interest would be served, an application may be concurrently noticed and assigned for hearing provided appropriate publication in the FEDERAL REGISTER can be made at least one week prior to the assigned date of hearing. Where such action is taken, any interested person may, without filing a protest prior to the assigned hearing, appear at the hearing in opposition to the application so assigned and become a party and be entitled to participate in that proceeding.

(3) *Requests for change.* A request by any party for a change in the time or place of an assigned hearing must set forth good and sufficient cause for the action requested, must be in writing and filed with the Commission not less than 10 days before the assigned hearing date, except in emergency circumstances, and must be served on all known parties of record at the same time and by the same method of communication as service is made on the Commission. Where such requests are filed less than 10 days before the date of hearing, the petitioning party shall state the reasons for his failure to make such request within the prescribed 10 days.

(4) *Notice of changes.* The applicant's representative (or applicant if it has no representative), protestants, and those who request notice of changes in time or place of hearing, conference, or other proceeding will be informed of such changes if notice is given by mail. If telegraphic notice becomes necessary, notice of such changes will be given by telegram only to those who request telegraphic notice at their expense.

(5) *Withdrawal or dismissal of application.* Upon receipt of an order or notice of a hearing assignment, an applicant who no longer intends to proceed to hearing shall immediately request dismissal of its application, with appropriate notification to all protestants, failing in which such applicant or its representative, or both, may be subject to censure. Withdrawal or dismissal of applications which are not made earlier than 7 days prior to the assigned hearing date likewise may subject an applicant or its representative or both, to censure.

(g) *Intervention.* Section 1.73 relating to participation without intervention is inapplicable to applications subject to this section, except with respect to those persons seeking to intervene in support. No person who fails to file a protest as provided in these rules will be permitted to intervene in opposition in a proceeding except upon a showing of substantial reasons in a petition submitted in accordance with § 1.72.

(h) *Drafting of recommended order and report by prevailing party.* Applications in which oral hearings are held

and in which the hearing officer can announce his decision on the record after the close of the taking of testimony may be made the subject of a recommended order and report, prepared by the party or parties in whose favor the hearing officer decides, within a period specified by the hearing officer. The hearing officer will make such changes as he considers appropriate in the draft prepared for him.

It is further ordered, That paragraph (a) of § 1.241 be amended to read as follows:

§ 1.241 Special rules governing notice of filing of applications by motor carriers of property or passengers and by brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other procedural matters with respect thereto.

(a) *Scope of special rules.* These special rules govern the filing and handling of applications for certificates, permits, and licenses respecting the transportation of property or passengers under sections 206, 209, and 211 of the Interstate Commerce Act. Except as otherwise herein provided, and except as provided in § 1.247, the general rules of

practice shall apply. Amendments to applications which broaden the scope of proposed operations will not be allowed if tendered after notice of the filing of an application has been published in the FEDERAL REGISTER.

* * * * *

It is further ordered, That this order shall become effective on January 1, 1964.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register.

(Secs. 12, 17, 24 Stat. 383, as amended, 385, as amended; secs. 204, 205, 206, 209, 211, 49 Stat. 546, as amended, 548, as amended, 551, as amended, 552, as amended, 554, as amended; secs. 302, 303, 304, 309, 54 Stat. 929, 931, as amended, 933, 941; secs. 403, and 410, 56 Stat. 285, 291, as amended; 49 U.S.C. 12, 17, 304, 305, 306, 309, 311, 902, 903, 904, 909, 1003, and 1010)

By the Commission.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 63-12550; Filed, Dec. 2, 1963; 8:54 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington, D.C., 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL]

HAROLD T. SWARTZ,
Acting Commissioner
of Internal Revenue.

The Income Tax Regulations (26 CFR Part 1) under sections 165, 167, 179, 611, 642, 652, and 1014 of the Internal Revenue Code of 1954 are hereby amended to reflect the amendments made to such Code by section 13 (c) and (g) of the Revenue Act of 1962 (76 Stat. 1034). Such regulations are amended as follows:

PARAGRAPH 1. Paragraph (a)(5) of § 1.165-7 is amended to read as follows:

§ 1.165-7 Casualty losses.

(a) *In general*— * * *

(5) *Property converted from personal use.* In the case of property which originally was not used in the trade or business or for income-producing purposes and which is thereafter converted to either of such uses, the fair market value of the property on the date of conversion, if less than the adjusted basis of the property at such time, shall be used, after making proper adjustments in respect of basis, as the basis for determining the amount of loss under paragraph (b)(1) of this section. See paragraph (b) of § 1.165-9, and § 1.167(g)-1.

PAR. 2. Paragraphs (b)(3) and (c) of § 1.165-9 are amended to read as follows:

§ 1.165-9 Sale of residential property.

* * * * *

(b) *Property converted from personal use.* * * *

(3) For rules relating to casualty losses of property converted from personal use, see paragraph (a)(5) of § 1.165-7. To determine the basis for depreciation in the case of such property, see § 1.167(g)-1. For limitations on the loss from the sale of a capital asset, see paragraph (c)(3) of § 1.165-1.

(c) *Examples.* The application of paragraph (b) of this section may be illustrated by the following examples:

Example (1). Residential property is purchased by the taxpayer in 1943 for use as his personal residence at a cost of \$25,000, of which \$15,000 is allocable to the building. The taxpayer uses the property as his personal residence until January 1, 1952, at which time its fair market value is \$22,000, of which \$12,000 is allocable to the building. The taxpayer rents the property from January 1, 1952, until January 1, 1955, at which time it is sold for \$16,000. On January 1, 1952, the building has an estimated useful life of 20 years. It is assumed that the building has no estimated salvage value and that there are no adjustments in respect of basis other than depreciation, which is computed on the straight-line method. The loss to be taken into account for purposes of section 165(a) for the taxable year 1955 is \$4,200, computed as follows:

Basis of property at time of conversion for purposes of this section (that is, the lesser of \$25,000 cost or \$22,000 fair market value)-----	\$22,000
Less: Depreciation allowable from January 1, 1952, to January 1, 1955 (3 years at 5 percent based on \$12,000, the value of the building at time of conversion, as prescribed by § 1.167(g)-1)-----	1,800
Adjusted basis prescribed in § 1.1011-1 for determining loss on sale of the property-----	20,200
Less: Amount realized on sale-----	16,000
Loss to be taken into account for purposes of section 165(a)-----	4,200

In this example the value of the building at the time of conversion is used as the basis for computing depreciation. See example (2) of this paragraph wherein the adjusted basis of the building is required to be used for such purpose.

Example (2). Residential property is purchased by the taxpayer in 1940 for use as his personal residence at a cost of \$23,000, of which \$10,000 is allocable to the building. The taxpayer uses the property as his personal residence until January 1, 1953, at which time its fair market value is \$20,000, of which \$12,000 is allocable to the building. The taxpayer rents the property from January 1, 1953, until January 1, 1957, at which time it is sold for \$17,000. On January 1, 1953, the building has an estimated useful life of 20 years. It is assumed that the building has no estimated salvage value and that there are no adjustments in respect of basis other than depreciation, which is computed on the straight-line method. The loss to be taken into account for purposes of section 165(a) for the taxable year 1957 is \$1,000, computed as follows:

Basis of property at time of conversion for purposes of this section (that is, the lesser of \$23,000 cost or \$20,000 fair market value)-----	\$20,000
Less: Depreciation allowable from January 1, 1953, to January 1, 1957 (4 years at 5 percent based on \$10,000, the cost of the building, as prescribed by § 1.167(g)-1)-----	2,000
Adjusted basis prescribed in § 1.1011-1 for determining loss on sale of the property-----	18,000
Less: Amount realized on sale-----	17,000
Loss to be taken into account for purposes of section 165(a)-----	1,000

PAR. 3. Paragraphs (a) and (c) of § 1.167(a)-1 are amended to read as follows:

§ 1.167(a)-1 Depreciation in general.

(a) *Reasonable allowance.* Section 167(a) provides that a reasonable allowance for the exhaustion, wear and tear, and obsolescence of property used in the trade or business or of property held by the taxpayer for the production of income shall be allowed as a depreciation deduction. The allowance is that amount which should be set aside for the taxable year in accordance with a reasonably consistent plan (not necessarily at a uniform rate), so that the aggregate of the amounts set aside, plus the salvage value, will, at the end of the estimated useful life of the depreciable property, equal the cost or other basis of the property as provided in section 167(g) and § 1.167(g)-1. An asset shall not be depreciated below a reasonable salvage value under any method of computing depreciation. However, see section 167(f) and § 1.167(f)-1 for rules which permit a reduction in the amount of salvage value to be taken into account for certain personal property acquired after October 16, 1962. See also paragraph (c) of this section for definition of salvage. The allowance shall not reflect amounts representing a mere reduction in market value. See section 179 and § 1.179-1 for further description of the term "reasonable allowance."

* * * * *

(c) *Salvage.* (1) Salvage value is the amount (determined at the time of acquisition) which is estimated will be realizable upon sale or other disposition of an asset when it is no longer useful in the taxpayer's trade or business or in the production of his income and is to be retired from service by the taxpayer. Salvage value shall not be changed at any time after the determination made at the time of acquisition merely because of changes in price levels. However, if there is a redetermination of useful life under the rules of paragraph (b) of this section, salvage value may be redetermined based upon facts known at the time of such redetermination of useful life. Salvage, when reduced by the cost of removal, is referred to as net salvage. The time at which an asset is retired from service may vary according to the policy of the taxpayer.

If the taxpayer's policy is to dispose of assets which are still in good operating condition, the salvage value may represent a relatively large proportion of the original basis of the asset. However, if the taxpayer customarily uses an asset until its inherent useful life has been substantially exhausted, salvage value may represent no more than junk value. Salvage value must be taken into account in determining the depreciation deduction either by a reduction of the amount subject to depreciation or by a reduction in the rate of depreciation, but in no event shall an asset (or an account) be depreciated below a reasonable salvage value. See, however, paragraph (a) of § 1.167(b)-2 for the treatment of salvage under the declining balance method, and § 1.179-1 for the treatment of salvage in computing the additional first-year depreciation allowance. The taxpayer may use either salvage or net salvage in determining depreciation allowances but such practice must be consistently followed and the treatment of the costs of removal must be consistent with the practice adopted. For specific treatment of salvage value, see §§ 1.167(b)-1, 1.167(b)-2, and 1.167(b)-3. When an asset is retired or disposed of, appropriate adjustments shall be made in the asset and depreciation reserve accounts. For example, the amount of the salvage adjusted for the costs of removal may be credited to the depreciation reserve.

(2) For taxable years beginning after December 31, 1961, and ending after October 16, 1962, see section 167(f) and § 1.167(f)-1 for rules applicable to the reduction of salvage value taken into account for certain personal property acquired after October 16, 1962.

PAR. 4. Paragraph (a) of § 1.167(b)-2 is amended to read as follows:

§ 1.167(b)-2 Declining balance method.

(a) *Application of Method.* Under the declining balance method a uniform rate is applied each year to the unrecovered cost or other basis of the property. The unrecovered cost or other basis is the basis provided by section 167(g), adjusted for depreciation previously allowed or allowable, and for all other adjustments provided by section 1016 and other applicable provisions of law. The declining balance rate may be determined without resort to formula. Such rate determined under section 167(b)(2) shall not exceed twice the appropriate straight line rate computed without adjustment for salvage. While salvage is not taken into account in determining the annual allowances under this method, in no event shall an asset (or an account) be depreciated below a reasonable salvage value. However, see section 167(f) and § 1.167(f)-1 for rules which permit a reduction in the amount of salvage value to be taken into account for certain personal property acquired after October 16, 1962. Also, see section 167(c) and § 1.167(c)-1 for restrictions on the use of the declining balance method.

PAR. 5. Section 1.167(f) is redesignated as § 1.167(g) and a historical note

is added at the end thereof. The section reads as follows:

§ 1.167(g) Statutory provisions; depreciation; basis for depreciation.

Sec. 167. *Depreciation.* * * *

(g) *Basis for depreciation.* The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011 for the purpose of determining the gain on the sale or other disposition of such property.

[Sec. 167(g) as relettered by sec. 13(c), Rev. Act 1962 (76 Stat 1034)]

PAR. 6. Section 1.167(f)-1 is redesignated as § 1.167(g)-1. The section headline reads as follows:

§ 1.167(g)-1 Basis for depreciation.

PAR. 7. Section 1.167(g) is redesignated as § 1.167(h), and a historical note is added at the end thereof. The section reads as follows:

§ 1.167(h) Statutory provisions; depreciation; life tenants and beneficiaries of trusts and estates.

Sec. 167. *Depreciation.* * * *

(h) *Life tenants and beneficiaries of trusts and estates.* In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust, the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. In the case of an estate, the allowable deduction shall be apportioned between the estate and the heirs, legatees and devisees on the basis of the income of the estate allocable to each.

[Sec. 167(h) as relettered by sec. 13(c), Rev. Act 1962 (76 Stat. 1034)]

PAR. 8. Section 1.167(g)-1 is redesignated as § 1.167(h)-1. The section headline reads as follows:

§ 1.167(h)-1 Life tenants and beneficiaries of trusts and estates.

PAR. 9. Section 1.167(h) is redesignated as § 1.167(i) and a historical note is added at the end thereof. The section reads as follows:

§ 1.167(i) Statutory provisions; depreciation; depreciation of improvements in the case of mines, etc.

Sec. 167. *Depreciation.* * * *

(i) *Depreciation of improvements in the case of mines, etc.* For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

[Sec. 167(i) as relettered by sec. 13(c), Rev. Act 1962 (76 Stat. 1034)]

PAR. 10. Section 1.167(h)-1 is redesignated as § 1.167(i)-1. The section headline reads as follows:

§ 1.167(i)-1 Depreciation of improvements in the case of mines, etc.

PAR. 11. There are inserted immediately after § 1.167(e)-1 the following new sections:

§ 1.167(f) Statutory provisions; depreciation; salvage value.

Sec. 167. *Depreciation.* * * *

(f) *Salvage value—(1) General rule.* Under regulations prescribed by the Secretary or his delegate, a taxpayer may, for purposes of computing the allowance under subsection (a) with respect to personal property, reduce the amount taken into account as salvage value by an amount which does not exceed 10 percent of the basis of such property (as determined under subsection (g) as of the time as of which such salvage value is required to be determined).

(2) *Personal property defined.* For purposes of this subsection, the term "personal property" means depreciable personal property (other than livestock) with a useful life of 3 years or more acquired after the date of the enactment of the Revenue Act of 1962.

[Sec. 167(f) as added by sec. 13(c), Rev. Act 1962 (76 Stat. 1034)]

§ 1.167(f)-1 Reduction of salvage value taken into account for certain personal property.

(a) *In general.* For taxable years beginning after December 31, 1961, and ending after October 16, 1962, a taxpayer may reduce the amount taken into account as salvage value in computing the allowance for depreciation under section 167(a) with respect to "personal property" as defined in section 167(f)(2) and paragraph (b) of this section. The reduction may be made in an amount which does not exceed 10 percent of the basis of the property for determining depreciation, as of the time as of which salvage value is required to be determined (or when salvage value is redetermined), taking into account all adjustments under section 1016 other than (1) the adjustment under section 1016(a)(2) for depreciation allowed or allowable to the taxpayer, and (2) the adjustment under section 1016(a)(19) for a credit earned by the taxpayer under section 38, to the extent such adjustment is reflected in the basis for depreciation. See paragraph (c) of § 1.167(a)-1 for the definition of salvage value, the time for making the determination, the redetermination of salvage value, and the general rules with respect to the treatment of salvage value. See also section 167(g) and § 1.167(g)-1 for basis for depreciation. A reduction of the amount taken into account as salvage value with respect to any property shall not be binding with respect to other property. In no event shall an asset (or an account) be depreciated below a reasonable salvage value after taking into account the reduction in salvage value permitted by section 167(f) and this section.

(b) *Definitions and special rules.* The following definitions and special rules apply for purposes of section 167(f) and this section.

(1) *Personal property.* The term "personal property" shall include only depreciable—

(i) Tangible personal property (as defined in section 48 and the regulations thereunder) and

(ii) Intangible personal property which has an estimated useful life (determined at the time of acquisition) of 3 years or more and which is acquired after October 16, 1962. Such term shall not include livestock. The term "livestock" includes horses, cattle, hogs,

PROPOSED RULE MAKING

sheep, goats, and mink and other fur-bearing animals, irrespective of the use to which they are put or the purpose for which they are held. The original use of the property need not commence with the taxpayer so long as he acquired it after October 16, 1962; thus, the property may be new or used. For purposes of determining the estimated useful life, the provisions of paragraph (b) of § 1.167(a)-1 shall be applied. For rules determining when property is acquired, see subparagraph (2) of this paragraph. For purposes of determining the types of intangible personal property which are subject to the allowance for depreciation, see § 1.167(a)-3.

(2) *Acquired.* In determining whether property is acquired after October 16, 1962, property shall be deemed to be acquired when reduced to physical possession, or control. Property which has not been used in the taxpayer's trade or business or held for the production of income and which is thereafter converted by the taxpayer to such use shall be deemed to be acquired on the date of such conversion. In addition, property shall be deemed to be acquired if constructed, reconstructed, or erected by the taxpayer. If construction, reconstruction, or erection by the taxpayer began before October 17, 1962, and was completed after October 16, 1962, section 167(f) and this section apply only to that portion of the basis of the property which is properly attributable to such construction, reconstruction, or erection after October 16, 1962. Property is considered as constructed, reconstructed, or erected by the taxpayer if the work is done for him in accordance with his specifications. The portion of the basis of such property attributable to construction, reconstruction, or erection after October 16, 1962, consists of all costs of the property allocable to the period after October 16, 1962, including the cost or other basis of materials entering into such work. It is not necessary that such materials be acquired after October 16, 1962, or that they be new in use. If construction or erection by the taxpayer began after October 16, 1962, the entire cost or other basis of such construction or erection qualifies for the reduction provided for by section 167(f) and this section. In the case of reconstruction of property, section 167(f) and this section do not apply to any part of the adjusted basis of such property on October 16, 1962. For purposes of this section, construction, reconstruction, or erection by the taxpayer begins when physical work is started on such construction, reconstruction, or erection.

(c) *Illustrations.* The provisions of paragraphs (a) and (b) of this section may be illustrated by the following examples:

Example (1). Taxpayer A purchases a new asset for use in his business on January 1, 1963, for \$10,000. The asset qualifies for the investment credit under section 38 and for the additional first-year depreciation allowance under section 179. A is entitled to an investment credit of \$700 ($7\% \times \$10,000$) and elects to take an additional first-year depreciation allowance of \$2,000 ($20\% \times \$10,000$). The basis for de-

preciation (determined in accordance with the provisions of section 167(g) and § 1.167(g)-1) is computed as follows:

Purchase price-----	\$10,000
Less:	
Adjustment required under section 1016(a)(19) for the investment credit----	\$700
Adjustment required under section 1016(a)(2) for the additional first-year depreciation allowance-----	2,000
	2,700
Basis for depreciation-----	7,300

However, the basis of the property for determining depreciation as of the time as of which salvage value is required to be determined is \$10,000, the purchase price of the property. A files his income tax returns on a calendar year basis and uses the straight line method of depreciation. A estimates that he will use the asset in his business for 10 years after which it will have a salvage value of \$500, which is less than \$1,000 ($10\% \times \$10,000$, the basis of the property for determining depreciation as of the time as of which salvage value is required to be determined). Thus, in computing his depreciation allowance on the asset, A may reduce the amount taken into account as salvage value to zero and may deduct \$730 ($\$7,300 \div 10$) for each year of the useful life of the property. Accordingly, A may claim depreciation deductions (including the additional first-year depreciation allowance) totaling \$9,300, i.e., the purchase price of the property (\$10,000) less the adjustment for the investment credit (\$700).

Example (2). Assume the same facts as in example (1) except that A in a subsequent taxable year redetermines the estimate of the useful life of the asset and at the same time also redetermines the estimate of salvage value. Assume also that at such time there are no adjustments to basis other than for depreciation allowed or allowable and for the investment credit under section 38. Accordingly, the reduction under section 167(f) and this section will be computed with regard to the purchase price and not the unrecovered basis for depreciation at the time of the redetermination.

Example (3). Assume the same facts as in example (1) except that A estimates that the asset will have a salvage value of \$1,200 at the end of its useful life. In computing his depreciation for the asset, A may reduce the amount taken into account as salvage value to \$200 ($\$1,200 - \$1,000$) and may deduct \$710 ($\$7,300 - \$200 \div 10$) for each year of the useful life of the property. Accordingly, A may claim depreciation deductions (including the additional first-year depreciation allowance) totaling \$9,100, i.e., the purchase price of the property (\$10,000) less the adjustment for the investment credit (\$700) and the amount taken into account as salvage value (\$200).

Example (4). Assume the same facts as in example (1) except that the taxpayer had taken into account salvage value of only \$200 but that the estimated salvage value had actually been \$700. The amount of salvage value taken into account by the taxpayer is permissible since the reduction of salvage value by \$500 ($\$700 - \200) would be within the limit provided for in section 167(f), i.e., \$1,000 ($10\% \times \$10,000$).

Example (5). On January 1, 1963, taxpayer B, a taxicab operator, traded his old taxicab plus cash for a new one, which had an estimated useful life of three years, in a transaction qualifying as a nontaxable exchange. The old taxicab had an adjusted basis of \$2,500. B was allowed \$3,000 for his old taxicab and paid \$1,000 in cash. The basis of the new taxicab for determining depreciation (as determined under section 167

(g) and § 1.167(g)-1) is the adjusted basis of the old taxicab at the time of trade-in (\$2,500) plus the additional cash paid out (\$1,000), or \$3,500. In computing his depreciation allowance on the new taxicab, B may reduce the amount taken into account as salvage value by \$350 ($10\% \text{ of } \$3,500$).

Example (6). Taxpayer C purchases a new asset for use in his business on January 1, 1963, for \$10,000. At the time of purchase, the asset has an estimated useful life of 10 years and an estimated salvage value of \$1,500. C elects to compute his depreciation allowance for the asset by the declining balance method of depreciation, using a rate of 20% which is twice the normal straight line rate of 10% (without adjustment for salvage value). C files his income tax returns on a calendar year basis. In computing his depreciation allowance for the year 1966, C changes his method of determining the depreciation allowance for the asset from the declining balance method to the straight line method (in which salvage value is accounted for in determining the annual depreciation allowances) in accordance with the provisions of section 167(e) and paragraph (b) of § 1.167(e)-1. He also wishes to reduce the amount of salvage value taken into account in accordance with the provisions of section 167(f) and this section. At the close of the year 1966, the only adjustments which had been made to the basis of the asset were for depreciation allowances and for the investment credit under section 38. Thus, C may reduce the amount of salvage value taken into account by \$1,000 ($10\% \text{ of } \$10,000$, the basis of the asset when it was acquired), and, therefore, will account for salvage value of only \$500 in computing his depreciation allowance for the asset in 1966 and subsequent years.

Example (7). Taxpayer D purchases a station wagon for his personal use on January 1, 1962, for \$4,500. On January 1, 1963, D converts the use of the station wagon to his business, and at that time it has an estimated useful life of 4 years, an estimated salvage value of \$500, and a basis of \$3,000 (as determined under section 167(g) and § 1.167(g)-1). Thus, for purposes of section 167(f) and this section, D is deemed to have acquired the station wagon on January 1, 1963. D elects the straight line method of depreciation in computing the depreciation allowance for the station wagon and also wishes to reduce the amount of salvage value taken into account in accordance with the provisions of section 167(f) and this section. Accordingly, D may reduce the amount of salvage value taken into account by \$300 ($10\% \text{ of } \$3,000$). D files his income tax returns on a calendar year basis. His depreciation allowance for the year 1963 would be computed as follows:

Basis for depreciation-----	\$3,000
Less:	
Salvage value-----	\$500
Reduction permitted by section 167(f)-----	300
	200
Amount to be depreciated over the useful life-----	2,800

D's depreciation allowance on the station wagon for the year 1963 would be \$700 ($\$2,800 \text{ divided by } 4$, the remaining useful life).

PAR. 12. Section 1.179 is amended by revising section 179(d) (5) and (8) and by revising the historical note. These amended provisions read as follows:

§ 1.179 Statutory provisions; additional first-year depreciation allowance.

Sec. 179. *Additional first-year depreciation allowance for small business*—* * *

(d) *Definitions and special rules*—* * *
 (5) *Estates*. In the case of an estate, any amount apportioned to an heir, legatee, or devisee under section 167(h) shall not be taken into account in applying subsection (b) of this section to section 179 property of such heir, legatee, or devisee not held by such estate.

(8) *Adjustment to basis; when made*. In applying section 167(g), the adjustment under section 1016(a)(2) resulting by reason of an election made under this section with respect to any section 179 property shall be made before any other deduction allowed by section 167(a) is computed.

[Sec. 179 as added by sec. 204, Small Business Tax Revision Act 1958, 72 Stat. 1679; as amended by sec. 13(c), Rev. Act 1962 (76 Stat. 1034)]

PAR. 13. Paragraph (d) of § 1.179-1 is amended to read as follows:

§ 1.179-1 **Additional first-year depreciation allowance.**

(d) *Salvage*. The allowance under section 179 is computed without regard to any salvage value which is estimated will be realizable upon the sale or other disposition of the section 179 property when it is no longer useful in the taxpayer's trade or business or in the production of his income and is to be retired from service by the taxpayer. But see paragraphs (a) and (c) of § 1.167(a)-1 and § 1.167(f)-1 for rules relating to salvage in computing the depreciation allowance under section 167 on the unrecovered cost of the section 179 property after the allowance of the deduction under section 179.

PAR. 14. Paragraph (b) (1) of § 1.611-5 is amended to read as follows:

§ 1.611-5 **Depreciation of improvements.**

(b) *Special rules for mines, oil and gas wells, other natural deposits and timber*. (1) For principles governing the apportioning of depreciation allowances under sections 611 and 167 in the case of property held by one person for life with remainder to another or in the case of property held in trust or by an estate, see § 1.167(h)-1.

PAR. 15. Section 1.642(e) is amended and a historical note is added at the end thereof. These amended and added provisions read as follows:

§ 1.642(e) **Statutory provisions; estates and trusts; special rules for credits and deductions; deduction for depreciation and depletion.**

Sec. 642. *Special rules for credits and deductions*. * * *

(e) *Deduction for depreciation and depletion*. An estate or trust shall be allowed the deduction for depreciation and depletion only to the extent not allowable to beneficiaries under sections 167(h) and 611(b).

[Sec. 642 (e) as amended by sec. 13(c), Rev. Act 1962 (76 Stat. 1034)]

PAR. 16. Section 1.642(e)-1 is amended to read as follows:

§ 1.642(e)-1 **Depreciation and depletion.**

An estate or trust is allowed the deductions for depreciation and depletion, but

only to the extent the deductions are not apportioned to beneficiaries under sections 167(h) and 611(b). For purposes of sections 167(h) and 611(b), the term "beneficiaries" includes charitable beneficiaries. See the regulations under those sections.

PAR. 17. Section 1.642(f)-1 is amended to read as follows:

§ 1.642(f)-1 **Amortization of emergency or grain storage facilities.**

An estate or trust is allowed amortization deductions with respect to an emergency facility as defined in section 168(d) and with respect to a grain storage facility as defined in section 169(d) in the same manner and to the same extent as in the case of an individual. However, the principles governing the apportionment of the deductions for depreciation and depletion between the fiduciaries and the beneficiaries of an estate or trust (see sections 167(h) and 611(b) and the regulations thereunder) shall be applicable with respect to such amortization deductions.

PAR. 18. Example (c) of § 1.652(c)-4 is amended to read as follows:

§ 1.652(c)-4 **Illustration of the provisions of sections 651 and 652.**

(c) The distributable net income of the trust computed under section 643 (a) is \$91,100, determined as follows (cents are disregarded in the computation):

Rents	\$25,000
Dividends	50,000
Tax-exempt interest	\$25,000
Less: Expenses allocable thereto (25,000/100,000 × \$3,900)	975
	<hr/> 24,025
Total	99,025
Deductions:	
Expenses directly attributable to rental income	\$5,000
Trustee's commissions (\$3,900 less \$975 allocable to tax-exempt interest) ..	2,925
	<hr/> 7,925
Distributable net income	91,100

In computing the distributable net income of \$91,100, the taxable income of the trust was computed with the following modifications: No deductions were allowed for distributions to the beneficiaries and for personal exemption of the trust (section 643(a) (1) and (2)); capital gains were excluded and no deduction under section 1202 (relating to the 50 percent deduction for long-term capital gains) was taken into account (section 643(a) (3)); the tax-exempt interest (as adjusted for expenses) and the dividend exclusion of \$50 were included (section 643(a) (5) and (7)). Since all of the income of the trust is required to be currently distributed, no deduction is allowable for depreciation in the absence of specific provisions in the governing instrument providing for the keeping of the trust corpus intact. See section 167 (h) and the regulations thereunder.

PAR. 19. Paragraph (b) (3) (iii) (a) of § 1.1014-6 is amended to read as follows:

§ 1.1014-6 **Special rule for adjustments to basis where property is acquired from a decedent prior to his death.**

(b) *Multiple interests in property described in section 1014(b)(9) and acquired from a decedent prior to his death*. * * *

(3) * * *
 (iii) * * *

(a) In cases where the value of the life interest is not included in the decedent's gross estate, the amount of such allowance to the life tenant under section 167(h) (or section 611(b)) shall not exceed (or be less than) the amount which would have been allowable to the life tenant if no portion of the basis of the property was determined under section 1014(a). Proper adjustment shall be made for the amount allowable to the life tenant, as required by section 1016. Thus, an appropriate adjustment shall be made to the uniform basis of the property in the hands of the trustee, to the basis of the life interest in the hands of the life tenant, and to the basis of the remainder in the hands of the remainderman.

[F.R. Doc. 63-12490; Filed, Dec. 2, 1963; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 999]

IMPORTS OF WALNUTS

Notice of Proposed Rule Making

Notice is hereby given that there is under consideration a proposal to amend 7 CFR § 999.100, regulation governing imports of walnuts, which is effective pursuant to section 8e (7 U.S.C. 608e-1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The regulation as herein proposed to be amended would simplify administration and generally provide more economic inspection service to importers by requiring that inspection be performed at the port of arrival on all walnuts, including those that may subsequently be released for consumption from a warehouse in another area. It would also require each person importing walnuts to provide the inspector with the entry number as well as other identifying information.

Consideration will be given to written data, views, and arguments pertaining to the proposal which are received by the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C., 20250, not later than 30 days after publication of this notice in the FEDERAL REGISTER.

The proposed amended regulation is as follows:

§ 999.100 **Regulation governing imports of walnuts.**

(a) *Definitions*. (1) "Walnuts" means all walnuts commonly known as English or Persian walnuts (*Juglans regia*).

(2) "Inshell walnuts" means walnuts, the kernels or edible portions of which are contained in the shell.

(3) "Shelled walnuts" means the kernels of walnuts after the shells are removed.

(4) "Person" means any individual, partnership, corporation, association, or other business unit.

(5) "USDA Inspector" means any Federal or Federal-State inspector of the Fresh Products Standardization and Inspection Branch of the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture.

(6) "Importation of walnuts" means the release of walnuts at the port of arrival by the unloading inspector of the United States Bureau of Customs for movement under either an immediate transportation without appraisement, a warehouse, or a consumption entry.

(b) *Grade and size regulations.* No person may import walnuts (*Juglans regia*) into the United States unless such walnuts have been inspected and certified by a USDA inspector as meeting the following requirements:

(1) *Inshell walnuts.* All inshell walnuts shall be of a quality equal to or better than the requirements for U.S. No. 3 and "baby" size as prescribed in the United States Standards for Walnuts (*Juglans regia*) in the Shell (7 CFR 51.2945-51.2966); or

(2) *Shelled walnuts.* All shelled walnuts shall be of a quality equal to or better than the requirements for U.S. Commercial Grade as prescribed in the United States Standards for Shelled Walnuts (*Juglans regia*) (7 CFR 51.2275-51.2294 excluding 51.2278(b), 51.2284 and 51.2285) effective January 25, 1959, except that the minimum size shall be pieces not more than five percent of which will pass through a round opening $\frac{3}{4}$ inch in diameter and no other size requirements shall apply.

(c) *Inspection and certification.* (1) All inspections and certifications required by paragraph (b) of this section shall be made by USDA inspectors in accordance with the regulations governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of inspection and certification shall be borne by the applicant.

(2) Each inspection certificate shall set forth among other things the following:

- (i) The date and place of inspection;
- (ii) The name of the applicant;
- (iii) The name of the importer;
- (iv) The quantity and identifying marks of the container; and
- (v) The statement, if applicable, "Meets U.S. import requirements under Section 8e of the A.M.A. Act of 1937".

(3) Whenever walnuts are offered for inspection, the applicant shall furnish any labor and pay any costs incurred in moving and opening containers as may be necessary for proper sampling and inspection. The applicant shall also furnish the USDA inspector the entry number and such other identifying information for each lot as he may request.

(4) Inspection must be completed at the port of arrival prior to the importation of walnuts. To avoid delay the applicant should make advance arrangements with the USDA inspection office nearest the port of arrival.

(d) *Reconditioning prior to importation.* Nothing contained in this section shall be deemed to preclude reconditioning walnuts at the port of arrival, in order that such walnuts may be made eligible to meet the grade and size regulations prescribed in paragraph (b) of this section, prior to importation.

(e) *Minimum quantity.* Notwithstanding any other provision of this section, the importation of any lot of walnuts which does not exceed, in net weight, 60 pounds of shelled walnuts or 115 pounds of inshell walnuts shall be exempt from the requirements of this section.

(f) *Other import requirements.* The provisions of this section do not supersede any restrictions or prohibitions on walnuts under the Federal Plant Quarantine Act of 1912, or any other applicable laws or regulations of city, county, State, or Federal Agencies including the Federal Food, Drug and Cosmetic Act.

(g) *Compliance.* Any person violating any of the provisions of this regulation is subject to a forfeiture in the amount prescribed in section 608a(5) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), or, upon conviction, a penalty in the amount prescribed in section 608c(14) of said act, or to both such forfeiture and penalty. False representations in any matter within the jurisdiction of any agency of the United States, knowing it to be false, is a violation of 18 U.S.C. 1001 which provides for a fine or imprisonment or both.

Dated: November 27, 1963.

FLOYD F. HEDLUND,
Director,
Fruit and Vegetable Division.

[F.R. Doc. 63-12502; Filed, Dec. 2, 1963;
8:51 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 77 [New]]

[Airspace Docket No. 62-WE-155]

ANTENNA FARM AREA, PORTLAND, OREGON

Proposed Establishment

The Federal Aviation Agency has under consideration a proposal to amend Part 77 [New] of the Federal Aviation Regulations by the establishment of an antenna farm area at Portland, Oregon.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles, California, 90009. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered be-

fore action is taken or 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 any time at the Docket Section, Federal Aviation Agency, 800 Independence Avenue SW., Washington, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed antenna farm area would extend upward from the surface to 2,049 feet above mean sea level in a circle with a radius of 6,500 feet in the southwest metropolitan area of Portland, excluding the portion south of Sunset Highway. This area is a modification of the one originally considered. The exclusion of the portion south of Sunset Highway was made as a result of a regional informal airspace meeting where the designation of this farm area was discussed.

The proposed farm area would be located approximately 8.0 miles southwest of the Portland International Airport and approximately 3 miles northeast of the Bernard Airport. It would not be within any control zone. However, it would be within the boundaries of VOR Federal airways Nos. 23-23W-287-287E-500, and Amber 1. The existing minimum en route altitude on the segments of the VOR airways involved, from the Newberg VORTAC to Portland VORTAC, and from Oswego intersection to Portland VORTAC, is 4,000 feet and would not be affected by the establishment of the farm area. Similarly, the segment of Amber 1 involved, from the Eugene Radio Range to the Portland Radio Range, has a MEA of 3,000 feet and would not be affected. Establishment of the area would raise radar vector altitudes from 2,800 feet to 3,000 feet MSL for aircraft: (1) Over the farm area and within three miles of it, (2) on the direct route from the Willamette Fan Marker to the Sauvie Island Radio Beacon until the aircraft were observed northwest of the farm area, and (3) on the radar transition route south of and parallel to the ILS course to Portland International until the aircraft were observed west of the antenna farm area. At the present time, these vectors are only occasionally used. The additional 200 feet of descent after passing the farm area would not adversely affect the normal descent rate of an aircraft for vectoring into the ILS approach course.

It might be noted in connection with these IFR effects that the Agency issued determinations, on April 12, 1963, that two television antenna towers proposed to be constructed 2,049 feet above

mean sea level at locations within the proposed farm area would not be hazards to air navigation. The revisions of the minimum radar vector altitudes cited above would be required if either one of these towers is erected.

The proposed farm area would be located over high terrain, known as the West Hills. At the present time, there are two towers of substantial height in this area, the taller being 1,773 feet MSL. A third was at 1,811 feet MSL but had been destroyed in a storm. Its proposed replacement at 2,049 feet MSL was the subject of one of the determinations mentioned. Due principally to the nature of the terrain, and the tall towers already there, the effects of the establishment of the farm area on Visual Flight Rule traffic should not be substantial. VFR operations are generally conducted either north or south of the area to take advantage of the lower terrain. In addition, during poor weather conditions, this higher terrain is usually the first to be obscured by clouds, causing VFR pilots to detour around the area in order to maintain VFR flight conditions.

If the farm area is established, it would be charted utilizing appropriate symbology. The location and height of the tallest structure within the area would be depicted; if practicable the location and height of additional towers within the area would also be depicted. No additional air traffic rule restricting aeronautical operations through the area would be imposed. The minimum safe altitudes of flight presently required in Part 91 [New] of the Federal Aviation Regulations appear to be adequate limitations. Additional restrictions will be provided, however, in the event subsequent operations disclose a need.

The Agency advised the Federal Communications Commission of this proposal and requested advice on whether the establishment of this area would interfere with the statutory responsibility of the Commission. The latter has advised that it has no objection to the publication of this proposal. The Commission also advises that there are seven television channel allocations to Portland. With one exception, the channel separation requirements of the Commission could be satisfied by sites within the proposed farm area. With respect to the one exception, the owner has applied for a site within the proposed farm area and has requested a waiver from the Commission.

In consideration of the foregoing, it is proposed to amend Part 77 of the Federal Aviation Regulations by adding § 77.811 as follows:

§ 77.811 Portland, Oregon.

The Airspace extending upward to 2,049 feet MSL within a radius of 6,500 feet of latitude 45°31'00" N., longitude 122°44'15" W., excluding the portion south of Sunset Highway.

This amendment is proposed under sections 104, 307, 313 and 1101 of the Federal Aviation Act of 1958 (72 Stat. 740, 749, 752, 797; 49 U.S.C. 1304, 1348, 1354, 1501).

Issued in Washington, D.C. on November 21, 1963.

LEE E. WARREN,
Director, Air Traffic Service.

[F.R. Doc. 63-12459; Filed, Dec. 2, 1963;
8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release 34-7172]

PROXY STATEMENTS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration certain proposed amendments to § 240.14a-3 (Rule 14a-3 under the Securities Exchange Act of 1934). This rule specifies the information to be furnished to security holders in connection with the solicitation of proxies by issuers having securities listed and registered on a national securities exchange.

Section 240.14a-3 provides, among other things, that where the management of an issuer solicits proxies for an annual meeting of security holders for the purpose of electing directors, its proxy statement shall be accompanied or preceded by an annual report containing such financial statements for the last fiscal year as will in the opinion of management adequately reflect the financial position and operations of the issuer. It is proposed to amend this provision to require expressly that such financial statements shall not be misleading in any material respect in the light of the financial statements included in annual reports filed with the Commission and shall be certified by independent public or certified public accountants, unless certification would not be required in annual reports filed with the Commission.

The Commission has noted that most issuers in the preparation of their annual reports to security holders follow accounting principles and practices which are generally consistent with those required for financial statements filed with the Commission in annual reports pursuant to section 13 of the Act. In some instances, however, it has been noted that the financial statements contained in annual reports to security holders have been so presented as to give a misleading impression in regard to the financial position and operations of the issuer for its last fiscal year. The proposed amendment is directed at the practices of these few issuers and it is not contemplated that it will necessitate any change in the presentation of financial data for the great majority of issuers. This proposed amendment implements recommendation 7(a) of Chapter IX of the Special Study of Securities Markets.

Similarly, the requirement for certification by independent public accountants will affect only a limited number of companies, since the great majority of issuers follow the practice of having the

financial statements included in their annual reports to security holders certified by such accountants as is generally required by the listing agreements of the principal securities exchanges. It should be noted that certification would not be required in any instance where it is not required for the corresponding financial statements included in reports filed with the Commission. Thus, for example, statements of insurance companies (other than title insurance companies) would not have to be certified. The proposed amendment also provides for waiver of certification where the Commission finds in a particular case that it would involve undue effort or expense.

The proposed amendment would be adopted pursuant to sections 14(a) and 23(a) of the Act. The amended rule would read as follows:

§ 240.14a-3 Information to be furnished security holders.

(a) No solicitation subject to §§ 240.10a-1 to 240.14a-11 shall be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in Schedule 14A.

(b) If the solicitation is made on behalf of the management of the issuer and relates to an annual meeting of security holders at which directors are to be elected, each proxy statement furnished pursuant to paragraph (a) of this section shall be accompanied or preceded by an annual report to such security holders containing such financial statements for the last fiscal year as will in the opinion of the management adequately reflect the financial position and operations of the issuer and its subsidiaries as an enterprise. Such financial statements shall not be misleading in any material respect in the light of the financial statements included in the issuer's annual report for the same fiscal year filed or to be filed pursuant to section 13 of the Act (or in the case of a registered investment company, pursuant to section 30(a) of the Investment Company Act of 1940) and shall be certified by independent public or certified public accountants, unless (1) the corresponding statements included in the issuer's annual report filed or to be filed with the Commission for the same fiscal year are not required to be certified, or (2) the Commission finds in a particular case that such certification would be impracticable or would involve undue effort or expense. Subject to the foregoing requirements with respect to financial statements, the annual report to security holders may be in any form deemed suitable by the management. This paragraph shall not apply, however, to solicitations made on behalf of the management before the financial statements are available if solicitation is being made at the time in opposition to the management and if the management's proxy statement includes an undertaking in bold-face type to furnish such annual report to all persons being solicited, at least twenty days before the date of the meeting.

PROPOSED RULE MAKING

(c) Four copies of each annual report sent to security holders pursuant to this section shall be mailed to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of solicitation material are filed with the Commission pursuant to § 240.14a-6(a) (Rule 14a-6(a)), whichever date is later. The annual report is not deemed to be "soliciting material" or to be "filed" with the Commission or otherwise subject to the other rules of this regulation or to the liabilities of section 18 of the Act, except to the extent that the issuer specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement by reference.

(Secs. 14(a), 23(a); 48 Stat. 895, 901, as amended; 15 U.S.C. 78n, 78w)

All interested persons are invited to submit their views and comments on the above proposal, in writing, to the Securities and Exchange Commission, Washington, D.C., 20549, on or before December 16, 1963. Except where it is requested that such communications not be disclosed, they will be considered available for public inspection.

By the Commission.

NELLYE A. THORSEN,
Assistant Secretary.

NOVEMBER 18, 1963.

[F.R. Doc. 63-12481; Filed, Dec. 2, 1963;
8:48 a.m.]

Notices

DEPARTMENT OF STATE

Agency for International Development

AMERICAN INSTITUTE FOR FREE
LABOR DEVELOPMENT, INC.

Registration as Voluntary Foreign Aid
Agency

In accordance with the regulations of the Agency for International Development concerning registration of agencies for voluntary foreign aid (A.I.D. Regulation 3) 22 CFR Part 203, promulgated pursuant to section 621 of the Foreign Assistance Act of 1961, as amended, notice is hereby given that a certificate of registration as a voluntary foreign aid agency has been issued by the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development to the following agency: American Institute for Free Labor Development, Inc., 1925 K Street NW., Washington, D.C.

Dated: November 1, 1963.

DAVID E. BELL,
Administrator.

[F.R. Doc. 63-12489; Filed, Dec. 2, 1963;
8:49 a.m.]

DEPARTMENT OF THE TREASURY

Coast Guard

[CGFR 63-78]

EQUIPMENT, INSTALLATIONS, OR
MATERIALS

Approval Notice

1. Various items of lifesaving, fire-fighting, and miscellaneous equipment, installations, and materials used on merchant vessels subject to Coast Guard inspection or on certain motorboats and other pleasure craft are required by law and various regulations in 46 CFR Chapter I to be of types approved by the Commandant, United States Coast Guard. The procedures governing the granting of approvals, and the cancellation, termination or withdrawal of approvals are set forth in 46 CFR 2.75-1 to 2.75-50, inclusive. For certain types of equipment, installations, and materials, specific specifications have been prescribed by the Commandant and are published in 46 CFR Parts 160 to 164, inclusive (Subchapter Q—Specifications), and detailed procedures for obtaining approvals are also described therein.

2. The Commandant's approval of a specific item is intended to provide a control over its quality. Therefore, such approval applies only to the item constructed or installed in accordance with the applicable requirements and the details described in the specific approval. If a specific item when manufactured does not comply with the details in the approval, then such item is not consid-

ered to have the Commandant's approval, and the certificate of approval issued to the manufacturer does not apply to such modified item. For example, if an item is manufactured with changes in design or material not previously approved, the approval does not apply to such modified item.

3. After a manufacturer has submitted satisfactory evidence that a particular item complies with the applicable laws and regulations, a Certificate of Approval (Form CGHQ-10030) will be issued to the manufacturer certifying that the item specified complies with the applicable laws and regulations and approval is given, which will be in effect for a period of 5 years from the date given unless sooner canceled or suspended by proper authority.

4. The purpose of this document is to notify all concerned that certain approvals were granted, as described in this document, during the period from September 24, 1963 to October 4, 1963 (List No. 22-63). These actions were taken in accordance with procedures set forth in 46 CFR 2.75-1 to 2.75-50, inclusive.

5. The delegations of authority for the Coast Guard's actions with respect to approvals may be found in section 632 of Title 14, U.S. Code, and Treasury Department Orders 120 dated July 31, 1950 (15 F.R. 6521), 167-14 dated November 26, 1954 (19 F.R. 8026), 167-15 dated January 3, 1955 (20 F.R. 840), 167-20 dated June 18, 1956 (21 F.R. 4894), CGFR 56-28 dated July 24, 1956 (21 F.R. 5659), or 167-38 dated October 26, 1959 (24 F.R. 8857), and the statutory authority may be found in R.S. 4405, as amended, 4462, as amended, 4488, as amended, 4491, as amended, secs. 1, 2, 49 Stat. 1544, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 346, as amended, sec. 3, 70 Stat. 152 (46 U.S.C. 375, 416, 481, 489, 367, 526p, 1333, 390b), sec. 4(e), 67 Stat. 462 (43 U.S.C. 1333(e)), or sec. 3(c), 68 Stat. 675 (50 U.S.C. 198), and implementing regulations in 46 CFR Chapter I or 33 CFR Chapter I.

6. In Part I of this document are listed the approvals granted which shall be in effect for a period of 5 years from the dates granted, unless sooner canceled or suspended by proper authority.

PART I—APPROVALS OF EQUIPMENT, INSTALLATIONS, OR MATERIALS

LIFE PRESERVERS, KAPOK, ADULT AND CHILD (JACKET TYPE) MODELS 3 AND 5

Approval No. 160.002/6/1, Model 3, adult kapok life preserver, U.S.C.G. Specification Subpart 160.002, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn 1, New York, effective September 27, 1963. (It is an extension of Approval No. 160.002/6/1 dated September 27, 1958.)

BUOYANT APPARATUS

Approval No. 160.010/37/0, 6.0' x 2.83' (8½' by 8½' body section), rectangular

aluminum buoyant apparatus with unicellular plastic foam core, 10-person capacity, dwg. No. 60070, Rev. A dated June 2, 1958, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, New Jersey, effective September 27, 1963. (It is an extension of Approval No. 160.010/37/0 dated September 27, 1958.)

Approval No. 160.010/49/0, 2.75' x 2.75' x 0.67' buoyant apparatus, fibrous glass reinforced plastic shell with unicellular plastic foam core, 7-person capacity, dwg. No. 8-1, Rev. 1 dated July 1, 1958, and specification dated July 11, 1958, manufactured by Portland Industrial Plastics Co., 6536 Southwest Macadam Avenue, Portland 1, Oregon, effective September 27, 1963. (It is an extension of Approval No. 160.010/49/0 dated September 27, 1958.)

Approval No. 160.010/50/0, 4.0' x 4.0' x 0.75' buoyant apparatus, fibrous glass reinforced plastic shell with unicellular plastic foam core, 16-person capacity, dwg. No. 16-1, Rev. 1 dated July 11, 1958, and specification dated July 11, 1958, manufactured by Portland Industrial Plastics Co., 6536 Southwest Macadam Avenue, Portland 1, Oregon, effective September 27, 1963. (It is an extension of Approval No. 160.010/50/0 dated September 27, 1958.)

WINCHES, LIFEBOAT

Approval No. 160.015/65/0, Type GW, size 40 lifeboat winch, approval limited to mechanical components only, for a maximum working load of 6,000 pounds pull at the drums (3,000 pounds per fall), identified by general arrangement dwg. No. 1500-1 dated December 31, 1952, and revised March 31, 1953, manufactured by C. C. Galbraith & Son, Inc., 99 Park Place, New York 7, New York, effective October 4, 1963. (It is an extension of Approval No. 160.015/65/0 dated October 6, 1958.)

Approval No. 160.015/77/0, Type HMG, size 4 lifeboat winch for use with mechanical davits, fitted with wire rope of ¾-inch diameter only and with not more than 4 wraps of the falls on the drums, approved for a maximum working load of 3,600 pounds pull at the drums (1,800 pounds per fall), identified by general arrangement dwg. No. 1506 dated September 1957, and revised January 2, 1958, manufactured by C. C. Galbraith & Son, Inc., 99 Park Place, New York 7, New York, effective September 27, 1963. (It is an extension of Approval No. 160.015/77/0 dated September 27, 1958.)

SIGNALS, DISTRESS, HAND RED FLARE

Approval No. 160.021/4/2, Bristol Marine hand red flare distress signal, 500 candlepower, 2 minutes burning time, dwg. No. 506 revised May 14, 1958, formerly named "Samuel Jackson's Sons, Inc.," manufactured by Bristol Flare Corp., State Road, Bristol, Pennsylvania, effective September 27, 1963. (It is an extension of Approval No. 160.021/4/2 dated September 27, 1958.)

WATER, EMERGENCY DRINKING (IN HERMETICALLY SEALED CONTAINERS)

Approval No. 160.026/31/0, Container for emergency drinking water, dwg. No. R-0620-T and specification dated July 2, 1958, manufactured by Pennsylvania Processors, Inc., 26 North Sixth Street, Lewisburg, Pennsylvania, effective September 27, 1963. (It supersedes Approval No. 160.026/31/0 dated September 27, 1958.)

MECHANICAL DISENGAGING APPARATUS,
LIFEBOAT

Approval No. 160.033/24/2, Mills Type Size "B" releasing gear, approved for a maximum working load of 23,400 pounds per set (11,700 pounds per hook), identified by general arrangement dwg. No. 1862-B dated May 25, 1953, revised July 16, 1958, for lifeboats fitted on all vessels operating on waters other than ocean, coastwise and Great Lakes, or for vessels 3000 gross tons and under operating in ocean, coastwise, and Great Lakes Service, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, New Jersey, effective September 27, 1963. (It is an extension of Approval No. 160.033/24/2 dated September 27, 1958.)

Approval No. 160.033/25/2, Mills Type size "C" releasing gear, approved for a maximum working load of 35,800 pounds per set (17,000 pounds per hook), identified by general arrangement dwg. No. 1862-C dated May 25, 1953, revised July 16, 1958, for lifeboats fitted on all vessels operating on waters other than ocean, coastwise and Great Lakes, or for vessels 3000 gross tons and under operating in ocean, coastwise and Great Lakes Service, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, New Jersey, effective September 27, 1963. (It is an extension of Approval No. 160.033/25/2 dated September 27, 1958.)

Approval No. 160.033/47/1, Rottmer type size 298-C releasing gear, approved for maximum working load of 25,000 pounds per set (12,500 pounds per hook), identified by arrangement dwg. No. 3372-4C dated November 1, 1951, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, New Jersey, effective September 27, 1963. (It is an extension of Approval No. 160.033/47/1 dated September 27, 1958.)

LIFEBOATS

Approval No. 160.035/8/2, 12.0' x 4.5' x 1.92' steel, oar-propelled lifeboat, 6-person capacity, identified by general arrangement dwg. No. G-1206 dated April 2, 1952, and revised May 8, 1958, manufactured by C. C. Galbraith & Son, Inc., 99 Park Place, New York 7, New York, effective September 27, 1963. Use limited to river service. If mechanical disengaging apparatus is fitted, it shall be of an approved type and installed in accordance with drawings approved by the Commandant. (It is an extension of Approval No. 160.035/8/2 dated September 27, 1958.)

Approval No. 160.035/19/2, 24.0' x 7.0' x 3.0' steel, oar-propelled lifeboat, 30-person capacity, identified by general

arrangement dwg. No. G-2430 dated February 16, 1953, and revised July 17, 1958, manufactured by C. C. Galbraith & Son, Inc., 99 Park Place, New York 7, New York, effective September 27, 1963. (It is an extension of Approval No. 160.035/19/2 dated September 27, 1958.)

Approval No. 160.035/64/2, 31.0' x 11.25' x 4.5' steel, hand-propelled lifeboat, 90-person capacity, identified by construction and arrangement dwg. No. 2665 dated December 2, 1952, and revised June 23, 1958, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, New Jersey, effective September 27, 1963. (It is an extension of Approval No. 160.035/64/2 dated September 27, 1958.)

Approval No. 160.035/92/1, 18.0' x 6.0' x 2.6' aluminum, oar-propelled lifeboat, 18-person capacity, identified by general arrangement and construction dwg. No. 49R-1816 dated November 6, 1951, and revised April 24, 1958, manufactured by Lane Lifeboat and Davit Corp., 8920 26th Avenue, Brooklyn 14, New York, effective September 27, 1963. (It is an extension of Approval No. 160.035/92/1 dated September 27, 1958.)

Approval No. 160.035/148/2, 16.0' x 5.5' x 2.38' steel, oar-propelled lifeboat, 12-person capacity, identified by construction and arrangement dwg. No. 408, revision C dated June 11, 1958, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, New Jersey, effective September 27, 1963. (It is an extension of Approval No. 160.035/148/2 dated September 27, 1958.)

Approval No. 160.035/181/2, 22.0' x 7.5' x 3.17' steel, oar-propelled lifeboat, 31-person capacity, identified by arrangement and construction dwg. No. 3196 dated August 25, 1952, and revised July 14, 1958, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, New Jersey, effective September 27, 1963. (It is an extension of Approval No. 160.035/181/2 dated September 27, 1958.)

Approval No. 160.035/254/2, 16.0' x 6.25' x 2.5' steel, oar-propelled lifeboat, 15-person capacity, identified by general arrangement and construction dwg. No. 1618 dated June 14, 1949, and revised July 18, 1958, manufactured by Lane Lifeboat and Davit Corp., 8920 26th Avenue, Brooklyn 14, New York, effective September 27, 1963. Approved for service other than Ocean and Coastwise. If mechanical disengaging apparatus is fitted, it shall be of an approved type and installed in accordance with drawings approved by the Commandant. (It is an extension of Approval No. 160.035/254/2 dated September 27, 1958.)

Approval No. 160.035/264/1, 28.0' x 9.0' x 3.96' aluminum, oar-propelled lifeboat, 59-person capacity, identified by construction and arrangement dwg. No. 3323 dated January 7, 1957, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, New Jersey, effective September 27, 1963. (It is an extension of Approval No. 160.035/264/1 dated September 27, 1958.)

Approval No. 160.035/303/1, 24.0' x 7.75' x 3.33' aluminum, hand-propelled lifeboat, 37-person capacity, identified by construction and arrangement dwg. No. 3406, revision B dated June 25, 1958, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, New Jersey, effective September 27, 1963. (It is an extension of Approval No. 160.035/303/1 dated September 27, 1958.)

Approval No. 160.035/305/1, 26.0' x 7.75' x 3.33' steel, oar-propelled lifeboat, 40-person capacity, identified by general arrangement dwg. No. G-2640 dated March 13, 1953, and revised July 18, 1958, manufactured by C. C. Galbraith & Son, Inc., 99 Park Place, New York 7, New York, effective September 27, 1963. (It is an extension of Approval No. 160.035/305/1 dated September 27, 1958.)

Approval No. 160.035/308/1, 22.0' x 7.5' x 3.17' steel, hand-propelled lifeboat, 31-person capacity, identified by construction and arrangement dwg. No. 3477 dated June 19, 1958, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, New Jersey, effective September 27, 1963. (It is an extension of Approval No. 160.035/308/1 dated September 27, 1958.)

Approval No. 160.035/309/1, 24.0' x 7.75' x 3.33' steel, hand-propelled lifeboat, 37-person capacity, identified by construction and arrangement dwg. No. 24-100, revision A dated July 24, 1958, manufactured by Marine Safety Equipment Corp., Foot of Paynter's Road, Farmingdale, New Jersey, effective September 27, 1963. (It is an extension of Approval No. 160.035/309/1 dated September 27, 1958, and change of address of manufacturer.)

Approval No. 160.035/386/0, 26.0' x 8.25' x 3.5' aluminum, oar-propelled lifeboat, 50-person capacity, identified by general arrangement dwg. No. 26-14, revision A dated July 11, 1958, manufactured by Marine Safety Equipment Corp., Foot of Paynter's Road, Farmingdale, New Jersey, effective September 27, 1963. Approved for service other than Ocean and Coastwise. (It is an extension of Approval No. 160.035/386/0 dated September 27, 1958, and change of address of manufacturer.)

Approval No. 160.035/431/0, 24.0' x 8.0' x 3.5' fibrous glass reinforced plastic, oar-propelled lifeboat, 40-person capacity, identified by general arrangement dwg. No. 57-2448 dated December 30, 1958, and revised September 18, 1963, manufactured by Lunn Laminates, Inc., Straight Path Road, Wyandanch, Long Island, New York, effective October 4, 1963.

SIGNALS, DISTRESS, HAND ORANGE SMOKE

Approval No. 160.037/1/2, Coston's hand orange smoke distress signal, dwg. Nos. CXC-117, Rev. 4 dated June 17, 1957, and CXC-118, Rev. 5 dated October 5, 1961, manufactured by Harvell-Kilgore Sales Corp., Bolivar, Tennessee, for Coston Supply Co., Inc., 31 Water Street, New York 4, New York, effective September 27, 1963. (It is an extension of Approval No. 160.037/1/2 dated September 27, 1958, and change of name and address of manufacturer.)

PUMPS, BILGE, LIFEBOAT

Approval No. 160.044/3/1, Size No. 1 lifeboat bilge pump, identified by assembly dwg. No. 270, revision A dated June 10, 1958, manufactured by Allied Marine Equipment Corp., Division of Tap-Rite Products, 204 Railroad Avenue, Hackensack, New Jersey, effective September 27, 1963. (It is an extension of Approval No. 160.044/3/1 dated September 27, 1958.)

BUOYANT VESTS, KAPOK OR FIBROUS GLASS, ADULT AND CHILD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.047/556/0, Type I, Model AK-1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Buddy Schoellkopf Products, Inc., 8200 Sovereign Row, Dallas 7, Texas, for Belknap Hardware and Manufacturing Co., 111 East Main Street, Louisville 2, Kentucky, effective September 24, 1963.

Approval No. 160.047/557/0, Type I, Model CKM-1, child medium kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Buddy Schoellkopf Products, Inc., 8200 Sovereign Row, Dallas 7, Texas, for Belknap Hardware and Manufacturing Co., 111 East Main Street, Louisville 2, Kentucky, effective September 24, 1963.

Approval No. 160.047/558/0, Type I, Model CKS-1, child small kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Buddy Schoellkopf Products, Inc., 8200 Sovereign Row, Dallas 7, Texas, for Belknap Hardware and Manufacturing Co., 111 East Main Street, Louisville 2, Kentucky, effective September 24, 1963.

BUOYANT CUSHIONS, KAPOK OR FIBROUS GLASS

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.048/225/0, Group approval for rectangular and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048-4(c)(1)(i), manufactured by Buddy Schoellkopf Products, Inc., 8200 Sovereign Row, Dallas 7, Texas, for Belknap Hardware and Manufacturing Co., 111 East Main Street, Louisville 2, Kentucky, effective September 24, 1963.

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.049/22/0, Group approval for rectangular and trapezoidal unicellular plastic foam buoyant cushions, U.S.C.G. Specification Subpart 160.049, sizes to be as per Table 160.049-4(c)(1), manufactured by Liberty Cork Co., Inc., 123 Whitehead Avenue, South River, New Jersey, effective September 27, 1963. (It is an extension of Approval No. 160.049/22/0 dated September 27, 1958.)

Approval No. 160.049/54/0, Group approval for rectangular and trapezoidal

unicellular plastic foam buoyant cushions, U.S.C.G. Specification Subpart 160.049, sizes to be as per Table 160.049-4(c)(1), manufactured by Buddy Schoellkopf Products, Inc., 8200 Sovereign Row, Dallas 7, Texas, for Belknap Hardware and Manufacturing Co., 111 East Main Street, Louisville 2, Kentucky, effective September 24, 1963.

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM, ADULT AND CHILD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.052/1/0, Type I, Model AP, adult unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Iowa Fibre Products, Inc., 2425 Dean Avenue, Des Moines 17, Iowa, effective September 27, 1963. (It is an extension of Approval No. 160.052/1/0 dated September 27, 1958.)

Approval No. 160.052/2/0, Type I, Model CPM, child unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Iowa Fibre Products, Inc., 2425 Dean Avenue, Des Moines 17, Iowa, effective September 27, 1963. (It is an extension of Approval No. 160.052/2/0 dated September 27, 1958.)

Approval No. 160.052/3/0, Type I, Model CPS, child unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Iowa Fibre Products, Inc., 2425 Dean Avenue, Des Moines 17, Iowa, effective September 27, 1963. (It is an extension of Approval No. 160.052/3/0 dated September 27, 1958.)

Approval No. 160.052/4/0, Type I, Model AP, adult unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Iowa Fibre Products, Inc., 2425 Dean Avenue, Des Moines 17, Iowa, for Hawkeye Sporting Goods Co., P.O. Box 613, Des Moines, Iowa, effective September 27, 1963. (It is an extension of Approval No. 160.052/4/0 dated September 27, 1958.)

Approval No. 160.052/5/0, Type I, Model CPM, child unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Iowa Fibre Products, Inc., 2425 Dean Avenue, Des Moines 17, Iowa, for Hawkeye Sporting Goods Co., P.O. Box 613, Des Moines, Iowa, effective September 27, 1963. (It is an extension of Approval No. 160.052/5/0 dated September 27, 1958.)

Approval No. 160.052/6/0, Type I, Model CPS, child unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Iowa Fibre Products, Inc., 2425 Dean Avenue, Des Moines 17, Iowa, for Hawkeye Sporting Goods Co., P.O. Box 613, Des Moines, Iowa, effective September 27, 1963. (It is an extension of Approval No. 160.052/6/0 dated September 27, 1958.)

Approval No. 160.052/7/0, Type I, Model AP, adult unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Stearns Manufacturing Co., West Division Street at 30th, St. Cloud, Minnesota, effective September 27, 1963. (It is an extension of Approval No. 160.052/7/0 dated September 27, 1958.)

Approval No. 160.052/8/0, Type I, Model CPM, child unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Stearns Manufacturing Co., West Division Street at 30th, St. Cloud, Minnesota, effective September 27, 1963. (It is an extension of Approval No. 160.052/8/0 dated September 27, 1958.)

Approval No. 160.052/9/0, Type I, Model CPS, child unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Stearns Manufacturing Co., West Division Street at 30th, St. Cloud, Minnesota, effective September 27, 1963. (It is an extension of Approval No. 160.052/9/0 dated September 27, 1958.)

Approval No. 160.052/257/0, Type II, Model No. 100, adult unicellular plastic foam buoyant vest, Schoellkopf dwg. Nos. 1 and 4 dated January 4, 1963, Rev. 1 dated March 8, 1963, and Bill of Materials dated February 15, 1963, manufactured by Buddy Schoellkopf Products, Inc., 8200 Sovereign Row, Dallas 7, Texas, for Belknap Hardware and Manufacturing Co., 111 East Main Street, Louisville 2, Kentucky, effective September 24, 1963.

Approval No. 160.052/258/0, Type II, Model No. 200, child medium unicellular plastic foam buoyant vest, Schoellkopf dwg. Nos. 2 and 4 dated January 4, 1963, Rev. 1 dated March 8, 1963, and Bill of Materials dated February 15, 1963, manufactured by Buddy Schoellkopf Products, Inc., 8200 Sovereign Row, Dallas 7, Texas, for Belknap Hardware and Manufacturing Co., 111 East Main Street, Louisville 2, Kentucky, effective September 24, 1963.

Approval No. 160.052/259/0, Type II, Model No. 300, child small unicellular plastic foam buoyant vest, Schoellkopf dwg. Nos. 3 and 4 dated January 4, 1963, Rev. 1 dated March 8, 1963, and Bill of Materials dated February 15, 1963, manufactured by Buddy Schoellkopf Products, Inc., 8200 Sovereign Row, Dallas 7, Texas, for Belknap Hardware and Manufacturing Co., 111 East Main Street, Louisville 2, Kentucky, effective September 24, 1963.

Approval No. 160.052/260/0, Type II, Model No. AU, adult unicellular plastic foam buoyant vest, dwg. Nos. 16 and 17, Rev. 1 dated June 24, 1963, manufactured by Miltco Products Corporation, 139 Emerson Place, Brooklyn 5, New York, effective October 2, 1963.

Approval No. 160.052/261/0, Type II, Model No. CUM, child medium unicellular plastic foam buoyant vest, dwg. Nos. 16 and 18, Rev. 1 dated June 24, 1963, manufactured by Miltco Products Corporation, 139 Emerson Place, Brooklyn 5, New York, effective October 2, 1963.

Approval No. 160.052/262/0, Type II, Model CUS, child small unicellular plastic foam buoyant vest, dwg. Nos. 16 and 19, Rev. 1 dated June 24, 1963, manufactured by Miltco Products Corporation, 139 Emerson Place, Brooklyn 5, New York, effective October 2, 1963.

SAFETY RELIEF VALVES, LIQUEFIED COMPRESSED GAS

Approval No. 162.018/31/0, Series W-300 safety relief valve for liquefied petroleum gas and anhydrous ammonia service, full nozzle type metal-to-metal

seat, 300 p.s.i. maximum allowable pressure; maximum set pressure 250 p.s.i.g., dwg. No. A-1034-S dated February 1, 1948, and National Board of Boiler & Pressure Vessel Inspectors' Report with attached chart "Capacity—Air—Lonergeran V & W Series Nozzle Valves" dated February 27, 1953, approved for the following model numbers and corresponding inlet and orifice sizes:

Model Nos.	Inlet sizes (inches)	Orifice sizes
W-301	1½	F
W-302	1½	G
W-303	2	H
W-304	2½	J
W-305	3	K
W-306	4	L
W-307	4	N
W-308	4	P
W-309	6	Q

manufactured by J. E. Lonergan Co., Second and Race Streets, Philadelphia 6, Pennsylvania, effective October 4, 1963. (It is an extension of Approval No. 162.-018/31/0 dated October 6, 1958.)

DECK COVERINGS

Approval No. 164.006/36/0, "Kompo-flex" magnesite terrazzo type deck covering identical to that described in National Bureau of Standards Test Report No. TP 367-88; FR 1978 dated July 1, 1942, and modified in accordance with letter from Kompolite Co., Inc., dated May 28, 1948, approved for use without other insulating material as meeting Class A-60 requirements in a 1¼-inch thickness, manufactured by Kompolite Co., Inc., 55 Webster Avenue, New Rochelle, New York, effective September 24, 1963. (It is a reinstatement and an extension of Approval No. 164.006/36/0 dated August 6, 1958.)

INCOMBUSTIBLE MATERIALS

Approval No. 164.009/54/0, "Thermafiber Glass Fiber," fibrous insulation type incombustible material identical to that described in National Bureau of Standards Report No. TG10210-2028:FP 3461 dated August 1, 1958, approved in a density of 3 pounds per cubic foot, manufactured by United States Gypsum Co., 300 West Adams Street, Chicago 6, Illinois, effective September 27, 1963. (It is an extension of Approval No. 164.009/54/0 dated September 27, 1958.)

Dated: November 27, 1963.

[SEAL] D. McG. MORRISON,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 63-12496; Filed, Dec. 2, 1963;
8:50 a.m.]

Foreign Assets Control

IMPORTATION OF CERTAIN MERCHANDISE DIRECTLY FROM TAIWAN (FORMOSA)

Available Certification by Government of the Republic of China

Notice is hereby given that the commodity, "Hair, human, nets and netting", on the list of commodities for which certificates of origin are available has

been modified to "Hair, human: nets and netting, other products."

[SEAL] MARGARET W. SCHWARTZ,
Director,
Foreign Assets Control.

[F.R. Doc. 63-12547; Filed, Dec. 2, 1963;
8:54 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

REGIONAL DIRECTORS AND FIELD PERSONNEL

Delegations of Authority

Chapter 4, Part 4, of the Administrative Manual of the Bureau of Sport Fisheries and Wildlife is amended to delegate additional authority to regional directors and refuge managers by deleting existing restrictions on authority.

1. Section 4 AM 4.9C is revised to read as follows:

4.9 Wildlife matters.

C. *Development and management of national wildlife refuges and game ranges.* This authority does not include:

(1) Final approval of proposals for acquisition of lands for wildlife refuge purposes and the naming of refuges.

(2) Approval of agreements between the Bureau and other Federal or State agencies involving the Bureau's vested rights in the title or dedication of the lands and waters of wildlife refuge areas.

(3) Issuance of permits for archaeological investigations.

(4) Approval of proposals for any non-conforming use.

(5) Approval of the annual disposal program for surplus "range animals."

(6) Approval, pursuant to 50 CFR 32.1 and 33.1, of the opening of refuge areas to public hunting and fishing.

(7) Approval of master plans, soil and moisture conservation plans and hunting and fishing management plans.

2. Section 4 AM 4.9D is revised to read as follows:

D. *Development and management of national wildlife refuges and game ranges—project leaders.* Wildlife refuge managers may exercise all of the authority of the Secretary set forth in 50 CFR Parts 25-33, except those authorities withheld from regional directors in section 4.9C above, and the following authorities:

(1) Approval of activities for the soliciting of funds for the support or assistance of any cause or organization.

(2) Approval of motion or sound pictures needing a script, cast, schedule, or "props."

(3) Approval of search for buried treasure or treasure trove.

(4) Approval of the donation, loan, or sale of surplus wildlife species.

DANIEL H. JANZEN,
Director.

NOVEMBER 26, 1963.

[F.R. Doc. 63-12477; Filed, Dec. 2, 1963;
8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

CERTAIN STOCKYARDS AND LIVESTOCK MARKETS

Notice of Specific Approval and of Withdrawal of Specific Approval

On August 9, 1963, August 27, 1963, and October 8, 1963, notices were published in the FEDERAL REGISTER (28 FR. 8220, 9401, and 10801), which contained lists of all stockyards and livestock markets approved under § 76.16 of the regulations in Part 76, as amended, Title 9, Code of Federal Regulations, containing restrictions on the movement of swine because of hog cholera, under the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126; 75 Stat. 481; 76 Stat. 129).

I. Pursuant to such authority, notice is hereby given that the following additional stockyards and livestock markets are approved under said regulations as indicated below:

STOCKYARDS AND LIVESTOCK MARKETS APPROVED TO HANDLE ALL CLASSES OF SWINE

ALABAMA

Roanoke Stockyards, Inc., Roanoke.

COLORADO

Basin Livestock Auction, Denver.

GEORGIA

Turner County Stockyard, Ashburn.

ILLINOIS

McLean Company Hog Service, Arrowsmith.
Galesburg Order Buyers, Inc., Earlville.
Rude Smith Barn, Fairfield.
Bohannon, Kenneth, Forest.
Cochran, Theodore, Good Hope.
Leo Witheft, Herscher.
Kawanee Order Buyers, Kawanee.
Ruder Feeder Pig Sales, Manteno.
Graft, H. G., Feeder Pig Station, Minier.
Galesburg Order Buyers, Inc., Rock Falls.

IOWA

Mac's Feeder Supply, Belmond.
Waite Feeder Pigs, Fenton.
La Porte City Feeder Pig Sales, La Porte City.

KANSAS

Holton Community Sale, Holton.

MARYLAND

Farmers Livestock Exchange, Inc., Boonsboro.
Cumberland Stock Yards, Inc., Cumberland.
Frederick Livestock Auction, Inc., Frederick.
Grantsville Community Sale, Grantsville.
Four State's Livestock Sales, Inc., Hagers-town.
Woodsboro Livestock Sales, Inc., Walkersville.
Western Maryland Stock Yards, Inc., Westminster.

MISSISSIPPI

Dixie Stock Yards, Meridian.
Tri-State Stockyards, Inc., Greenville.
Meridian Stock Yards, Inc., Meridan.

MISSOURI

Doniphan Auction Co., Doniphan.
Lewis Dawes, Doniphan.
Land and Livestock Co., Farmington.

NEBRASKA

Pawnee Livestock Co., Pawnee City.

WEST VIRGINIA

South Branch Stockyards, Inc., Moorefield.

WISCONSIN

Nolan Livestock Auction Market, Marion.
Wisconsin Feeder Pig Cooperation, Sun Prairie.

STOCKYARDS AND LIVESTOCK MARKETS APPROVED TO HANDLE SLAUGHTER SWINE ONLY

ILLINOIS

Farmers Stock Yards, Inc., Coatsburg.

IOWA

Swift & Company Hog Buying Station, Marquette.

KANSAS

Zima Livestock Sales Co., Emmett.

MISSISSIPPI

Ballew's Stockyards, Liberty.

STOCKYARDS AND LIVESTOCK MARKETS APPROVED TO HANDLE FEEDING AND BREEDING SWINE ONLY

INDIANA

J. C. Pegg, Lynn.
Herman F. Myers, North Manchester.
Jack Milholli, Parker.

II. Notice is hereby given also that the following stockyards and livestock markets have been deleted from the list of approved stockyards and livestock markets:

ILLINOIS

George Riley, Harrisburg.

INDIANA

Burket Elevator, Burket.
L. S. Talbert, Greenville.
E. R. Smith, Monon.

IOWA

Leeper-Harlan Feeder Pig Market, Nevada.

NEVADA

Midwest Livestock Commission Co., Fallon.

Effective date. The foregoing notice shall become effective upon publication in the FEDERAL REGISTER.

Certain additional stockyards and livestock markets have been added to the list of those heretofore approved under the regulations in 9 CFR Part 76. It has been determined that the inspection and handling of swine at such stockyards and livestock markets are adequate to effectuate the purposes of the regulations. Certain stockyards and livestock markets have been removed from the list of those heretofore specifically approved under said regulations, because it has been determined that such stockyards and livestock markets no longer qualify for specific approval under the regulations. This action, therefore, imposes certain restrictions necessary to prevent the spread of hog cholera and relieves certain restrictions presently imposed. It should become effective promptly in order to accomplish its purpose in the public interest and to the maximum benefit to persons subject to the restrictions which are relieved thereby. 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 this action are impracticable and contrary to the public interest, and good cause is found for making this notice effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of November 1963.

F. J. MULHERN,
Director, Animal Disease Eradication Division, Agricultural Research Service.

[F.R. Doc. 63-12504; Filed, Dec. 2, 1963; 8:52 a.m.]

CERTAIN STOCKYARDS AND SLAUGHTERING ESTABLISHMENTS

Notice of Specific Approval and of Withdrawal of Specific Approval

On September 19, 1962, February 1, 1963, March 19, 1963, April 26, 1963, May 28, 1963, July 11, 1963, July 26, 1963, August 15, 1963, and October 4, 1963, notices were published in the FEDERAL REGISTER (27 F.R. 9266; 28 F.R. 990, 2690, 4146, 5276, 7102, 7615, 8380, and 10721), which contained lists of all stockyards and slaughtering establishments approved under §§ 78.14(b), 78.15(b), and 78.16(b) of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of certain animals because of brucellosis, under the Acts of May 29, 1884, as amended, February 2, 1903, as amended, and March 3, 1905, as amended (21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125).

I. Pursuant to such authority, notice is hereby given that the following additional stockyards and slaughtering establishments are specifically approved under said regulations as indicated below:

Specifically approved stockyards. The following additional stockyards preceded by an asterisk are specifically approved for the purposes of § 78.5, Title 9, Code of Federal Regulations, concerning brucellosis reactors and of paragraphs (b) and (c) of § 78.12 of said Title 9, concerning cattle not known to be affected with brucellosis. The following stockyards not preceded by an asterisk are specifically approved for the purposes of paragraphs (b) and (c) of § 78.12 only.

FLORIDA

Interstate Livestock Auction Market, Inc., Seffner.

GEORGIA

*Tifton Stockyards, Tifton.

IOWA

Iowa City Sales Co., Iowa City.

MISSISSIPPI

*Tri-State Stockyards, Inc., Greenville.

*Ballew's Stockyards, Liberty.

OHIO

*Scioto Livestock Sales Co., Chillicothe.

TEXAS

*Nocona Livestock Commission Co., Nocona.

*West Texas Livestock Sales Co., Plainview.

Specifically approved slaughtering establishments. The following additional

slaughtering establishments preceded by an asterisk are specifically approved for the purposes of § 78.5 of Title 9, Code of Federal Regulations, concerning brucellosis reactors and of paragraphs (b) and (c) of § 78.12 of said Title 9, concerning cattle not known to be affected with brucellosis, and those not preceded by an asterisk are specifically approved for the purposes of paragraphs (b) and (c) of § 78.12 only.

ALABAMA

Brock-Mosley Packing Co., Robertsdale.

ARKANSAS

*Oliver Slaughtering House, Stuttgart.

LOUISIANA

*Ed Green Packing House, Bastrop.

*Lloyd's Slaughtering Plant, Des Allemands.

OKLAHOMA

Klein's Meats, Perry.

PENNSYLVANIA

Center Valley Packing Co., Center Valley.

WEST VIRGINIA

Glen L. Spitznogle Slaughtering Establishment, Blacksville.

II. Notice is hereby given also that the following stockyards and slaughtering establishments have been deleted from the list of specifically approved stockyards and slaughtering establishments, respectively, as follows:

STOCKYARDS

ARKANSAS

C. A. Linaker Co., McGehee.

INDIANA

Wayne L. Clawson, Delphi.
L. S. Talbert, Greentown.

IOWA

Roman & Liebbe Co., Muscatine.

MICHIGAN

Hanchett Livestock Yards, Inc., Leslie.

MISSISSIPPI

Hodges, W. H. & Co. of Mississippi, Liberty.

NEBRASKA

Zimmerman Stockyards, Blair.

NEVADA

Midwest Livestock Commission Co., Fallon.

OKLAHOMA

Hominy Sales, Hominy.
Owen Brothers Livestock Auction Co., Idabel.

SLAUGHTERING ESTABLISHMENTS

ALABAMA

Brock-Mosley Packing Co., Loxley.
Hansen Slaughter House, Prichard.

ARKANSAS

Hughes Sausage Co., North Little Rock.

CALIFORNIA

Brennan Meat Co., Tulare.

MICHIGAN

Peet Packing Co., Chensaning.
Christie Packing Co., Schoolcraft.

MISSISSIPPI

Happy Acres, Petal.

MISSOURI

Roseville Packing Co., Springfield.

SOUTH DAKOTA

Sioux Falls Livestock Auction Co., Pierre.

Effective date. The foregoing notice shall become effective upon publication in the FEDERAL REGISTER.

Certain additional stockyards and slaughtering establishments have been added to the list of those heretofore specifically approved under the regulations in 9 CFR Part 78. It has been determined that the inspections and handling of livestock or carcasses or products thereof at such stockyards or establishments are adequate to effectuate the purposes of such regulations. Certain stockyards and slaughtering establishments have been removed from the list of those heretofore specifically approved under said regulations, because it has been determined that such stockyards and establishments no longer qualify for specific approval under the regulations. This action, therefore, imposes certain restrictions necessary to prevent the spread of brucellosis and relieves certain restrictions presently imposed. It should become effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved thereby. 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 this action are impracticable and, good cause is found for making this notice effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of November 1963.

F. J. MULHERN,
Director, Animal Disease Eradication Division, Agricultural Research Service.

[F.R. Doc. 63-12505; Filed, Dec. 2, 1963; 8:53 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

GEORGE A. SANDS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months:

- A. Deletions: No change.
B. Additions: No change.

This statement is made as of November 8, 1963.

GEORGE A. SANDS.

NOVEMBER 8, 1963.

[F.R. Doc. 63-12457; Filed, Dec. 2, 1963; 8:45 a.m.]

WILLIAM E. VAUGHN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months:

- A. Deletions: No change.
B. Additions: No change.

This statement is made as of November 18, 1963.

WILLIAM E. VAUGHN.

NOVEMBER 18, 1963.

[F.R. Doc. 63-12458; Filed, Dec. 2, 1963; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 14838]

HONOLULU AND CALIFORNIA POINTS

Coach Service; Order of Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 26th day of November, 1963.

By Order E-20137, adopted October 29, 1963, the Board instituted an investigation of third-class fares offered by Pan American World Airways, Inc. and United Air Lines, Inc. between Honolulu and Los Angeles/San Francisco, California.

The one-way third-class fare of \$100 represents a \$33 (or 25 percent) fare reduction from standard coach service. The basic difference between coach and third-class service is that a meal is not provided in third-class service. As the Board noted in its order of investigation of the third-class fare, the differences between the two classes of service (a meal) may not support the difference between the fares charged for these services (\$33), and questions are raised concerning unjust discrimination, undue preference and undue prejudice as well as unjustness and unreasonableness.

The Board deems it appropriate to investigate the existing coach fares in these markets as well as the new third-class services in order that a lawful fare may be determined and prescribed for either or both of these services if the effective fares are found unlawful. The Board will therefore institute an investigation of the coach fares between Hawaii and California points and will consolidate the investigation into the third-class fare investigation in Docket 14838.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof: *It is ordered*, That

1. An investigation be instituted to determine whether the Economy fares and provisions between Honolulu, on the one hand, and Los Angeles and San Francisco, on the other, appearing on 2d Re-

vised Page 224-G, and the Jet coach fares and provisions between Honolulu, on the one hand, and Los Angeles, Oakland, and San Francisco, on the other, appearing on 41st Revised Page 290-C, of Agent C. C. Squire's C.A.B. No. 44, including subsequent revisions and reissues of such fares and provisions, are 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 fares and provisions;

2. This investigation be consolidated into the investigation ordered in Docket 14838 of third-class service between Honolulu and California points.

The investigation in Docket 14838 has been assigned for prehearing conference before Examiner Leslie G. Donahue to be held on December 6, 1963, at 10:00 a.m. (eastern standard time) in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 63-12493; Filed, Dec. 2, 1963; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15193; FCC 63M-1257]

LAKE VALLEY BROADCASTERS, INC.

Statement and Order After Conference

In re application of Lake Valley Broadcasters, Inc., Crystal Lake, Illinois, Docket No. 15193, File No. BP-15509; for construction permit.

At today's conference it was

(1) Agreed that the applicant's direct case would be prepared with a view to presentation entirely in writing, and that to be useable by any party for any purpose in this proceeding signal strength measurements would have to be taken no later than January 6, 1964;

(2) Directed that the following schedule govern the course of this proceeding:

Exchange of applicant's written material—December 11, 1963.

Notification to applicant of sponsors of exhibits desired for cross-examination—January 6, 1964.

Hearing—rescheduled from December 9, 1963 to January 13, 1964 at 10:00 a.m. in the offices of the Commission, Washington, D.C.

So ordered, This 20th day of November 1963.

Released: November 21, 1963.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 63-12498; Filed, Dec. 2, 1963; 8:51 a.m.]

[Docket No. 15223; FCC 63-1072]

NORTH CADDO BROADCASTING CO.

Order Designating Application for Hearing on Stated Issues

In re application of David A. Wommack and Herman H. Wommack, Jr., d/b as North Caddo Broadcasting Company, Vivian, Louisiana, requests 1600 kc, 500 w, Day, Docket No. 15223, File No. BP-15424; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 20th day of November 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 the proposed station but that David A. Wommack and Herman H. Wommack, Jr., d/b as Ark-La-Tex Broadcasting Company is the licensee of standard broadcast station KALT, Atlanta, Texas (900 kc, 1 kw, Day) located approximately seventeen miles from the proposed site, and that the portion of the proposed primary service area which is presently served by KALT appears to be substantial within the meaning of § 3.35(a) of the Commission's rules on multiple ownership; and

It further appearing, that, in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the application would serve the public interest, convenience and necessity, and is of the opinion that the application must be designated for hearing to consider the size, extent and location of the areas served and to be served; the extent of the overlap involved; the number of persons residing within the overlap area; the classes of stations involved; the extent of other competitive service to such areas in question; the extent to which the stations will rely on the same revenue and program sources; the nature of the programming that the stations will present with particular reference to the needs of the communities they are designed to serve; the advertising practices of the stations; the source of program material and talent for each station; and such other factors as will tend to demonstrate that the overlap involved will or will not be in contravention of § 3.35(a) of the Commission's rules;

It further appearing, that the site photograph submitted by the applicant shows a drive-in theatre motion picture screen within the proposed blanket contour; that said structure is a possible source of reradiation; and that any grant of the present application should be subject to an appropriate condition;

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 proposed operation and

the availability of other primary service to such areas and populations.

2. To determine whether the proposal would be in contravention of the provisions of section 3.35(a) of the Commission's rules with respect to multiple ownership of standard broadcast stations.

3. 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, in the event of a grant of the application, the construction permit shall be subject to the following conditions:

Before program tests are authorized, permittee shall submit field intensity measurements to insure that the proposed nondirectional radiation pattern has not been adversely distorted due to proximity with man-made structures.

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's rules are not extended to this authorization, and such operation is precluded.

It is further ordered, That, to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall, within twenty (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: November 27, 1963.

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

[F.R. Doc. 63-12499; Filed, Dec. 2, 1963; 8:51 a.m.]

[Docket Nos. 15204-15207; FCC 63M-1263]

WHDH, INC. (WHDH-TV) ET AL.

Order Following Prehearing Conference

In re applications of WHDH, Inc. (WHDH-TV), Boston, Massachusetts, Docket No. 15204, File No. BRCT-530, for renewal of license; Charles River Civic Television, Inc., Boston, Massachusetts, Docket No. 15205, File No. BPCT-3164; Boston Broadcasters, Inc., Boston, Massachusetts, Docket No. 15206, File No. BPCT-3170; Greater Boston TV Co., Inc., Boston, Massachusetts, Docket No. 15207, File No. BPCT-3171; for construction permits for new VHF television broadcast stations.

A prehearing conference in the above-entitled proceeding having been held November 21, 1963;

It is ordered, This 22d day of November 1963:

(1) That the hearing which is presently scheduled to commence December 16, 1963, on the request of three of the five parties and without objection of the remaining two, is hereby rescheduled to commence 10 a.m., Monday, March 23, 1964, at the Commission's offices, Washington, D.C.;

(2) That the written direct presentations, in exhibit form and under oath of the person or persons having knowledge of the facts, will be exchanged among all counsel with one copy of each exhibit provided the Hearing Examiner, by no later than the close of business, March 2;

(3) That a further prehearing conference to discuss the matter of stipulations is hereby scheduled for 10 a.m., Thursday, March 12 at the Commission's offices, Washington, D.C.;

(4) That the procedural ground rules for the conduct of the hearing as proposed in the "Notice on Points to be Considered at Prehearing Conference" released by the Examiner on November 5, 1963 (FCC 63M-1215) are hereby approved and adopted to the extent modified as shown in the transcript of the November 21 prehearing conference;

(5) That the transcript of the November 21 prehearing conference is hereby incorporated by reference herein and shall serve as a guide reflecting such understandings and agreements counsel, with the Examiner's approval, have been able to reach as of that date, and to the Examiner's rulings and directives;¹ and

(6) That trial memoranda are to be exchanged and filed, with copies to the Examiner, on difficult or unusual points of law, procedures or evidence likely to arise during the hearing by no later than the close of business, March 16.

Released: November 26, 1963.

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

[F.R. Doc. 63-12500; Filed, Dec. 2, 1963; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Project No. 2419]

ALPENA POWER CO.

Notice of Application for License

NOVEMBER 21, 1963.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Alpena Power Company (correspondence to: Orville Murch, Alpena Power Company, 307 S. Third Avenue, Alpena, Michigan), for license for constructed Project No. 2419, known as Hillman Dam located on Thunder Bay River, in Montmorency County in the Village of Hillman, State of Michigan.

The project consists of: A reinforced concrete and earth fill dam comprised of

¹ It is hoped that further agreements narrowing the scope of the proof will be possible after the direct cases are exchanged.

a concrete portion 127 feet long and 15 feet high with concrete wing walls extending upstream; a pond comprising 160 acres with a 13-foot head; a powerhouse with an installed capacity of 250 kilowatts; and other necessary appurtenances.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is January 13, 1964. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12460; Filed, Dec. 2, 1963; 8:45 a.m.]

[Docket No. G-10143 etc.]

ATLANTIC REFINING CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service, Petitions To Amend Certificates and Notice of Severance ¹

NOVEMBER 21, 1963.

Take notice that each of the above Applicants has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

The Atlantic Refining Company, Docket No. G-10143; Marathon Oil Company, Docket No. G-12578; Skelly Oil Company (Operator), et al., Docket No. G-15463; Humble Oil & Refining Company, Docket No. G-17349; Nafco Oil and Gas Inc., Docket No. G-18432; The British-American Oil Producing Company (Successor to Weston Drilling Company, et al.), Docket No. G-19380; Sunray DX Oil Company, Docket No. CI60-205; W. L. Cotton (Operator), et al., Docket No. CI61-1572*; Frederick V. Biodgett (Successor to ABC Drilling Co., Inc., et al.), Docket No. CI63-1500; Sam Sklar, Docket No. CI64-562; Natural Gas of West Virginia, Inc., Docket No. CI64-563; Willard E. Ferrell, et al., Docket No. CI64-564; Falcon Seaboard Drilling Company (Operator), et al., Docket No. CI64-565; F. A. Gillespie and Sons Company (Operator), et al., Docket No. CI64-566; Glenn F. Thomas and George W. Brewer, Jr., d/b/a Thomas & Brewer, Docket No. CI64-567; F. A. Gillespie and Sons Company, Docket No. CI64-568; Gulf Coast

Minerals Management Corp., Docket No. CI64-569; H. L. Hutton, Docket No. CI64-570; Edwin L. Cox, Docket No. CI64-571; Wardie Barnett, Docket No. CI64-572; The British-American Oil Producing Company, Docket No. CI64-573; Victor Hale, Docket No. CI64-574; Anadarko Production Company, Docket No. CI64-575; Perry R. Bass (Operator), et al., Docket No. CI64-576; Hassie Hunt Trust, Docket No. CI64-577; Hunt Oil Company, Docket No. CI64-578; Vincent & Welch, Inc. (Operator), et al., Docket No. CI64-579; Texas Gas Producing Company, Docket No. CI64-580; Hassie

Hunt Trust, Docket No. CI64-581; Hunt Oil Company, Docket No. CI64-582; M. J. Mitchell (Operator), et al., Docket No. CI64-583; Reed Starcher, Docket No. CI64-584; Tidewater Oil Company, Docket No. CI64-585; Falcon Seaboard Drilling Company (Operator), et al., Docket No. CI64-586; Felmont Oil Corporation, Docket No. CI64-587; Northern Natural Gas Producing Company, Docket No. CI64-588; Liberty Fuel Corporation of W. Va., Docket No. CI64-589; Bradley Leggett Well No. 1, Docket No. CI64-590; Martha Featherstone, Docket No. CI64-591.

Docket No. and date filed	Purchaser	Field and location	Price per Mcf	Pressure base
G-10143	Tennessee Gas Transmission Co.	West Delta Area, Offshore Jefferson and Plaquemines Parishes, La.	19.0	15.025
C 11-8-63				
G-12578	Colorado Interstate Gas Co.	Acreage in Beaver County, Okla.	Assigned	
D 11-12-63				
G-15463	El Paso Natural Gas Co.	East Bisti Unit, San Juan County, N. Mex.	13.053625	15.025
C 11-13-63 ¹				
G-17349	United Gas Pipe Line Co.	Garden City Field, St. Mary Parish, La.	(2)	
D 10-25-63				
G-18032	Tennessee Gas Transmission Co.	Pelican, Lick Branch, McCoy and North Cleveland Fields, Liberty and San Jacinto Counties, Tex.	* 16.16947	14.65
C & D 11-4-63				
G-19380	United Gas Pipe Line Co.	Bolton Field, Hinds County, Miss.	14.0	15.025
E 11-12-63				
CI60-205	Arkansas Louisiana Gas Co.	East Kremlin Field, Garfield County, Okla.	12.0	14.65
C 11-13-63				
CI61-1572*	South Texas Natural Gas Gathering Co.	Nicholson Field, Webb County, Tex.	Depleted	
B 8-15-63	Hope Natural Gas Co.	Greenbrier District, Doddridge County, W. Va.	25.0	15.325
E 11-12-63				
CI64-562	Southern Natural Gas Co.	Spider Field, DeSoto Parish, La.	Depleted	
B 11-7-63				
CI64-563	Hope Natural Gas Co.	Church District, Wetzel County, W. Va.	(9)	15.325
A 11-8-63				
CI64-564	do	Murphy District, Ritchie County, W. Va.	Uneconomical	
B 11-8-63				
CI64-565	Northern Natural Gas Co.	Kiowa Creek Field, Lipscomb County, Tex.	17.0	14.65
A 11-8-63				
CI64-566	Lone Star Gas Co.	East Panhandle Field, Wheeler County, Tex.	(9)	
B 11-1-63				
CI64-567	Panhandle Eastern Pipe Line Co.	Acreage in Meade County, Kans.	14.0	14.65
A 11-5-63				
CI64-568	Warren Petroleum Corp.	East Panhandle Field, Wheeler County, Tex.	6.25	14.65
A 11-1-63				
CI64-569	Coastal States Gas Producing Co.	Robinson Field Area, DuVal County, Tex.	(7)	
B 11-8-63				
CI64-570	Wunderlich Development Co.	Acreage in Kay County, Okla.	6.2	14.65
A 11-8-63				
CI64-571	Cimarron Transmission Co.	Acreage in Love County, Okla.	15.0	14.65
A 11-8-63				
CI64-572	United Fuel Gas Co.	Acreage in Knott County, Ky.	23.0	15.325
A 11-8-63				
CI64-573	do	Deep Lake Field, Cameron Parish, La.	(8)	15.025
A 11-8-63				
CI64-574	Kentucky-West Virginia Gas Co.	Middle Creek Field, Floyd County, Ky.	20.0	15.225
A 11-12-63				
CI64-575	Kansas-Nebraska Natural Gas Co., Inc.	Bradshaw Field Area, Hamilton County, Kans.	12.5	14.65
A 11-12-63				
CI64-576	United Fuel Gas Co.	Second Bayou Field, Cameron Parish, La.	Depleted	
B 11-12-63				
CI64-577	Texas Gas Transmission Corp.	Cotton Valley Field, Webster Parish, La.	(9)	15.025
A 11-12-63				
CI64-578	do	do	(9)	15.025
A 11-12-63				
CI64-579	do	North Elton Field, Allen and Evangeline Parishes, La.	Depleted	
B 11-12-63				
CI64-580	Panhandle Eastern Pipe Line Co.	Valley Center West Field, Dewey County, Okla.	17.0	14.65
A 11-12-63				
CI64-581	Texas Gas Transmission Corp.	Cotton Valley Field, Webster Parish, La.	(10)	15.025
A 11-12-63				
CI64-582	do	do	(10)	15.025
A 11-12-63				
CI64-583	Northern Natural Gas Co.	Clayton Ranch Lease, Crockett County, Tex.	Depleted	
B 11-12-63				
CI64-584	Hope Natural Gas Co.	Washington District, Calhoun County, W. Va.	Uneconomical	
B 11-12-63				
CI64-585	Transwestern Pipeline Co.	South Halley Field, Winkler County, Tex.	16.0	14.65
A 11-12-63				
CI64-586	Northern Natural Gas Co.	Kiowa Creek Field, Lipscomb County, Tex.	17.0	14.65
A 11-12-63				
CI64-587	The Manufacturers Light and Heat Co., and New York State Natural Gas Corp.	Five Forks Field, Bedford County, Pa.	27.5	15.325
A 11-12-63				
CI64-588	Panhandle Eastern Pipe Line Co.	Trail Northeast Field, Dewey County, Okla.	17.0	14.65
A 11-13-63				

Filing code: A-Initial Service
B-Abandonment
C-Amendment to add acreage
D-Amendment to delete acreage
E-Succession

See footnotes at end of table.

¹ This notice does not provide for consolidation for hearing of the several matters covered herein nor should it be so construed.

*Presently consolidated with Docket Nos. CI62-1544, et al. by order issued August 30, 1962 and published in the FEDERAL REGISTER on September 11, 1962 (27 F.R. 9012).

Docket No. and date filed	Purchaser	Field and location	Price per Mcf	Pressure base
CI64-589 B 11-13-63	Hope Natural Gas Co.	Freemans Creek District, Lewis County, W. Va.	Uneconomical	
CI64-590 A 11-13-63	do.	Southwest District, Doddridge County, W. Va.	25.0	15.325
CI64-591 A 11-14-63	Colorado Interstate Gas Co.	Patrick Draw Area, Sweetwater County, Wyo.	16.0	14.65

¹ In addition to adding acreage said amendment is also to include the interest of nonsignatory parties and redesignate rate schedule to read "Skelly Oil Company (Operator), et al".
² Applicant has been authorized in Docket No. CI64-5 to sell subject gas to United Fuel Gas Co.
³ By agreements dated June 20, 1957 and Aug. 29, 1958 parties agreed to delete from contract all expired leases.
⁴ Original application in Docket No. CI61-1572 sought certificate of public convenience and necessity. Applicant now proposes to abandon the subject service previously commenced pursuant to temporary authority.
⁵ Price is 22.5 cents for first 12,000 Mcf and 25.0 cents all over 12,000 Mcf.
⁶ Buyer has assigned its portion of the gathering system covered under existing contract to Warren Petroleum Corp.
⁷ Applicant states that wells have turned to water.
⁸ Price is 19.6 cents plus 1.5 cents tax reimbursement.
⁹ Price is 16.5 cents plus 1.75 cents tax reimbursement.
¹⁰ Price is 12.0 cents plus 1.75 cents tax reimbursement.

The proceeding in Docket No. CI61-1572 is hereby severed from the consolidated proceedings in Docket Nos. CI62-1544, et al.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 17, 1963.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12461; Filed, Dec. 2, 1963; 8:45 a.m.]

[Docket No. RI64-334]

H. N. BURNETT

Order Providing for Hearing on and Suspension of Proposed Change in Rate

NOVEMBER 22, 1963.

On October 23, 1963, H. N. Burnett (Burnett)¹ tendered for filing a proposed change in his presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

¹ Address is: c/o F. J. Corbin, First National Bank Building, Amarillo, Texas.

Description: Notice of change, dated October 21, 1963.

Purchaser and producing area: Panhandle Producing Company, et al.² (West Panhandle Field, Hutchinson County, Texas) (R.R. District No. 10).

Rate schedule designation: Supplement No. 2 to Burnett's FPC Gas Rate Schedule No. 4.

Effective date: November 23, 1963.³

Amount of annual increase: \$5,220.

Effective rate: 10.0 cents per Mcf.⁴

Proposed rate: 11.0 cents per Mcf.⁴

Pressure base: 14.65 psia.

Burnett requests an effective date of September 17, 1963, for his proposed renegotiated price increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Burnett's rate filing and such request is denied.

Burnett's proposed rate increase (from 10.0 cents to 11.0 cents per Mcf), relates to sweet gas being sold at the wellhead to a gasoline plant owned and operated by Panhandle Producing Company, et al. (Panhandle) successors in interest to Frank C. Henderson Trust No. 2 and Elizabeth P. Henderson Trust No. 2. The residue gas, after processing, is re-sold at the plant outlet to Colorado Interstate Gas Company in the West Panhandle Field, Hutchinson County, Texas. We consider the area ceiling to be applicable to the sales of residue gas by Panhandle after processing. Accordingly, Burnett's proposed increased rate, although not in excess of the increased ceiling for pipeline quality gas for Texas Railroad District No. 10 as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR, Chapter I, Part 2, § 2.56), should be suspended because the sale related thereto is considered to be for nonpipeline quality gas.

The increased rate and charge so proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

² Successors in interest to Frank C. Henderson Trust No. 2 and Elizabeth P. Henderson Trust No. 2.

³ The stated effective date is the first day after expiration of the required thirty days' notice.

⁴ Subject to a downward Btu adjustment.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 2 to Burnett's FPC Gas Rate Schedule No. 4 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to Burnett's FPC Gas Rate Schedule No. 4.

(B) Pending such hearing and decision thereon, Supplement No. 2 to Burnett's FPC Gas Rate Schedule No. 4 is hereby suspended and the use thereof deferred until April 23, 1964, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37 (f)) on or before January 8, 1964.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12462; Filed, Dec. 2, 1963; 8:45 a.m.]

[Project No. 2414]

CENTRAL POWER AND LIGHT CO.

Notice of Application for License

NOVEMBER 21, 1963.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Central Power and Light Company (correspondence to: E. S. Joslin, Box 2121, Corpus Christi, Texas) for license for constructed Project No. 2414, known as the Gonzales Hydro Plant, located on Guadalupe River, in Gonzales County, near the town of Gonzales, State of Texas.

The project consists of: A concrete and earth dam, a forebay, trash racks, a powerhouse, three turbines with a total capacity of 1,599 horsepower, three generating units totalling 1,500 kva, a substation, and appurtenant mechanical and electrical facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission.

sion, Washington, D.C., 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is January 15, 1964. The Application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12463; Filed, Dec. 2, 1963;
8:46 a.m.]

[Docket No. RP64-9]

CITIES SERVICE GAS CO.

Order Providing for Hearing and Suspending Proposed Tariff Sheets

NOVEMBER 22, 1963.

On October 21, 1963, Cities Service Gas Company (Cities Service), tendered for filing certain tariff sheets¹ to become effective November 23, 1963, amending its FPC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, and reflecting a general increase of jurisdictional rates. The proposed rates would increase charges by \$5,296,571 annually or by 8.1 percent over charges computed under the presently effective rates, based upon sales for the year ended June 30, 1963.

In support of the proposed increase, and pursuant to § 154.63 of the regulations under the Natural Gas Act, Cities Service has submitted studies, cost data, and prepared testimony. The Company points particularly to increases in (1) cost of purchased gas, (2) salaries and wages, and (3) taxes, and to the need for a higher rate of return. Review of the filing indicates that the rates proposed reflect certain questionable items in Cities Service's presentation, including, inter alia, level of sales, cost of gas produced by affiliates, depreciation accruals, rate of return, federal income tax allowance, and various methods of cost allocation.

The increased rates and charges contained in Cities Service's FPC Gas Tariff, as proposed to be amended herein, have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Cities Service's FPC Gas Tariff, as proposed to be amended herein, and that the tariff sheets designated in the footnote on page 1, supra, be suspended, and the use thereof be deferred as herein provided.

¹ Eighth Revised Sheets Nos. 4, 5, 7, 8, 10, and 19, Ninth Revised Sheet No. 12, Tenth Revised Sheet No. 14, Eleventh Revised Sheet No. 16, Third Revised Sheets Nos. 43, 44, 45, and 46, Second Revised Sheet No. 47, and Original Sheet No. 48, all to Cities Service's FPC Gas Tariff, Second Revised Volume No. 1, and Eighth Revised Sheet No. 27 to Cities Service's FPC Gas Tariff, Original Volume No. 2.

(2) The public interest, and, more specifically, § 2.59 of Part 2 of the Commission's rules of practice and procedure require that this proceeding be expedited to whatever extent is reasonably possible.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held on a date to be fixed by notice from the Presiding Examiner concerning the lawfulness of the rates, charges, classifications, and services contained in Cities Service's FPC Gas Tariff as proposed to be amended herein.

(B) Pending such hearing and decision thereon, Cities Service's proposed tariff sheets designated in Finding Paragraph (1), supra, are hereby suspended and the use thereof is deferred until April 23, 1963, and until such further time as they may be made effective in the manner prescribed by the Natural Gas Act.

(C) The Commission staff and all interveners proposing to present evidence in this proceeding shall serve their testimony and exhibits upon the Presiding Examiner and all parties as follows: Staff, on or before February 6, 1964, Interveners, on or before February 17, 1964.

(D) Pursuant to § 1.18 of the Commission's rules of practice and procedure, a prehearing conference before the Presiding Examiner shall commence at 10:00 a.m., e.s.t., on February 25, 1964, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., for the purpose of reaching such agreements as will expedite the determination to be made herein, including, but not limited to, stipulation of facts, narrowing and defining of issues, and establishment of dates for the service of rebuttal testimony and for the cross-examination of all testimony.

(E) The cross-examination, when commenced, shall be continuous unless the Presiding Examiner finds that extraordinary circumstances preclude such procedure.

(F) Presiding Examiner Samuel Binder, or any other officer designated by the Chief Examiner for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall prescribe other relevant procedural matters not herein provided, shall preside at the prehearing conferences and at the hearing in this matter, and shall control this proceeding until the completed record is certified to the Commission, pursuant to the Commission's rules of practice and procedure.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12464; Filed, Dec. 2, 1963;
8:46 a.m.]

[Docket No. G-16398]

CITY OF CHESTER, ILL.

Notice of Application To Amend

NOVEMBER 20, 1963.

Take notice that on November 1, 1963, Mississippi River Fuel Corporation

(Mississippi), 9900 Clayton Road, St. Louis 24, Missouri, filed in Docket No. G-16398 (Docket No. G-14857, et al.) an application to amend the Commission's order, issued February 9, 1959, to delete therefrom the maximum volume limitation of 1,518 Mcf at 14.73 psia on daily deliveries of natural gas to the City of Chester, Illinois (Chester), all as more fully set forth in the application to amend on file with the Commission and open to public inspection.

The order of February 9, 1959, adopted the decision of the presiding examiner wherein Mississippi was directed, pursuant to section 7(a) of the Natural Gas Act, to establish physical connection of its transportation facilities with the therein proposed facilities of Chester and to sell and deliver to Chester a maximum volume of 1,518 Mcf of natural gas per day at 14.73 psia (1,501 Mcf at 14.9 psia). Mississippi requests that this limitation on Chester's stated demand be deleted so that Chester will be on an equal basis with Mississippi's other resale customers in regard to stated demand increases. Mississippi's other resale customers can increase their stated demands pursuant to section 11(b) of the General Terms and Conditions of Mississippi's applicable FPC Gas Tariff.

Protests, petitions to intervene or requests for hearing in this proceeding may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 12, 1963.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12465; Filed, Dec. 2, 1963;
8:46 a.m.]

[Docket No. CP64-52]

GAS SERVICE CO.

Notice of Application

NOVEMBER 21, 1963.

Take notice that on August 26, 1963, as supplemented on October 2 and October 31, 1963, The Gas Service Company (Applicant), 700 Scarritt Building, Kansas City, Missouri, 64142, filed in Docket No. CP64-52 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Panhandle Eastern Pipeline Company (Panhandle) to establish physical connection of its transmission facilities with the proposed facilities of and to sell natural gas to Applicant for resale and distribution in Drexel, Missouri, and environs, and to customers along the connecting pipeline which Applicant proposes to construct and operate, all as more fully set forth in the application, as supplemented, on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 10 miles of 4-inch lateral pipeline from the proposed point of delivery by Panhandle extending to Drexel, as well as a distribution system in Drexel. The application shows Applicant's estimated third year peak day and annual natural gas requirements to be 525 Mcf and 52,500 Mcf, respectively.

The total estimated cost of transmission and distribution facilities for the proposed project is \$206,798, which cost will be financed by treasury cash.

On October 30, 1963, Panhandle filed an answer to the subject application stating that it had no objection to the issuance of an order directing the proposed sale and physical connection of facilities.

Protests, petitions to intervene or requests for hearing in this proceeding may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 16, 1963.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12468; Filed, Dec. 2, 1963; 8:46 a.m.]

[Project No. 1971]

IDAHO POWER CO.

Notice of Application for Clarification or Amendment of License

NOVEMBER 20, 1963.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Idaho Power Company (correspondence to: T. E. Roach, President, Idaho Power Company, Boise, Idaho), for clarification or amendment of the license for Project No. 1971, located on the Snake River, State of Idaho.

The application seeks to clarify Article 39 of the license for Project No. 1971 by way of amendment or otherwise, to read substantially as follows:

Article 39. The Licensee shall operate the project and its system in coordination with the Northwest Power Pool, so as to achieve maximum coordination benefits which shall be shared equitably by the participants in such coordination. In the event the participants cannot agree thereon, the Commission shall equitably apportion the benefits after notice and opportunity for hearing upon the Commission's own motion or upon motion of any party.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is January 13, 1964. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12469; Filed, Dec. 2, 1963; 8:46 a.m.]

[Docket No. CP64-86]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Application

NOVEMBER 21, 1963.

Take notice that on October 3, 1963, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), Hastings, Nebraska, filed in Docket No. CP64-86 an applica-

tion pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction during the 12-month period commencing November 28, 1963, and the operation of routine pipeline, measuring and compression facilities on Applicant's existing gathering and transmission systems to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed hereunder will not exceed a maximum of \$1,450,000, with no single project to exceed a cost of \$360,000.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that preliminary staff analysis has indicated that there are no problems which would warrant a recommendation that the Commission designate this application for formal hearing before an examiner and that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing may be held without further notice before the Commission on this application provided no protest or petition to intervene is filed within the time required herein. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 16, 1963.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12470; Filed, Dec. 2, 1963; 8:47 a.m.]

[Docket No. G-15910 etc.]

MARATHON OIL CO. ET AL.

Notice of Applications¹

NOVEMBER 22, 1963.

Marathon Oil Company, Docket No. G-15910; Cities Service Production Company (Operator), et al., Docket No. G-16854; Sinclair Oil & Gas Company, Docket No. G-17979; Cities Service Oil Company, Docket No. G-18235; Cities Service Oil Company, Docket No. G-18236; Cities Service Oil Company, Docket No. G-19549; Hunt Oil Company, Docket No. CI60-11; Cities Service Production Company (Operator), et al., Docket No. CI60-20; Cities Service Oil Company, Docket No. CI60-418; Hunt Oil Company, Docket No. CI60-457; Cities Service Oil Company, Docket No. CI60-830; Cities Service Oil Company, Docket No. CI61-1055; Cities Service Oil Company, Docket No. CI61-1100; The Pure Oil Company, Docket No. CI61-1791; The Pure Oil Company, Docket No. CI62-634; The Pure Oil Company, Docket No. CI62-1224.

Take notice that each of the above Applicants has filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas in interstate commerce subject to the jurisdiction of the Commission, all as more fully set forth in the respective applications which are on file with the Commission and open to public inspection.

Docket No. and filing date	Field and location	Purchaser	Initial price per Mcf and pressure base	Related rate schedule No.
G-15910 ¹ ----- 8/8/58 G-16854 ----- 11/3/58	Marathon Oil Co., North Dubberly Area, Webster Parish, La.	Texas Gas Transmission Corp...	18.25 cents at 15.025 psia.	72
	Cities Service Production Co. (operator), et al. Chegby Area, St. James and LaFourche Parishes, La.	Transcontinental Gas Pipe Line Corp.	20.625 cents at 15.025 psia.	7
G-17979 ----- 3/4/59	Sinclair Oil & Gas Co., Ellis County, Oklahoma and Lipscomb County, Tex.	Transwestern Pipeline Co.....	17.0 cents at 14.65 psia.	193
G-18235 ² ----- 4/6/59	Cities Service Oil Co., West Panhandle Field, Roberts County, Tex.do.....	17.0 cents at 14.65 psia.	137
G-18236 ² ----- 4/6/59	Cities Service Oil Co., Ellis and Beaver Counties, Okla.do.....	17.0 cents at 14.65 psia.	142
G-19549 ² ----- 9/25/59	Cities Service Oil Co., Eubanks Field, Haskell County, Kans.	Colorado Interstate Gas Co.....	15.0 cents at 14.65 psia.	133
CI61-11 ----- 1/4/60	Hunt Oil Co., Southwest Speaks Field, Lavaca County, Tex.	Texas Eastern Transmission Corp.	13.8733 cents at 14.65 psia.	52
CI60-20 ----- 1/8/60	Cities Service Production Co. (Operator), et al., Fausse Point Field, Iberia and St. Martin Parishes, La.	Southern Natural Gas Co.....	20.625 cents at 15.025 psia.	11
CI60-418 ² ----- 4/1/60	Cities Service Oil Co., Murdock Area, Texas County, Okla.	Panhandle Eastern Pipeline Co.	17.0 cents at 14.65 psia.	138
CI60-457 ----- 4/11/60	Hunt Oil Co., Hico-Knowles Houston Field, Lincoln Parish, La.	Texas Eastern Transmission Corp.	18.25 cents at 15.025 psia.	53

See footnotes at end of table.

¹ This notice does not provide for consolidation for hearing of the several matters involved herein, nor should it be so construed.

Docket No. and filing date	Field and location	Purchaser	Initial price per Mcf and pressure base	Related rate schedule No.
CI60-830 ² 6/30/60	Cities Service Oil Co., Beaver County, Okla.	Northern Natural Gas Co.....	15.0 cents at 14.65 psia.	140
CI61-1055 ² 1/16/61	Cities Service Oil Co., Morton County, Kans.	Anadarko Production Co.....	5.0 cents at 14.65 psia.	143
CI61-1100 ² 1/23/61	Cities Service Oil Co., Beaver County, Okla.	Transwestern Pipeline Co.....	17.0 cents at 14.65 psia.	147
CI61-1791 ² 6/22/61	The Pure Oil Co., Vienna Field, Lavaca County, Tex.	Texas Eastern Transmission Corp.	14.6 cents at 14.65 psia.	70
CI62-634 ² 12/11/61	The Pure Oil Co., Bryans Mill Field, Cass County, Tex.	Natural Gas Pipeline Co., of America.	15.0 cents at 14.65 psia.	73
CI62-1224 ² 4/16/62	The Pure Oil Co., Lake Pelto Field, Terrebonne Parish, La.	Tennessee Gas Transmission Co.	20.625 cents at 15.025 psia.	75

¹ This application was filed by Plymouth Oil Co. (Operator). The Ohio Oil Co. assumed the rights and obligations of Plymouth Oil Co. effective Apr. 2, 1962, by instruments dated Dec. 28, 1961, and Feb. 16, 1962. By amendment to its certificate of incorporation dated June 4, 1962, The Ohio Oil Co. changed its name to Marathon Oil Co. effective Aug. 1, 1962.

² This application was filed by Cities Service Oil Co. Applicant changed its name to Cities Service Petroleum Co. by amendment to its certificate of incorporation dated Dec. 27, 1960. By amendment to its certificate of incorporation dated Dec. 31, 1962, Applicant changed its name to Cities Service Oil Co. effective Jan. 2, 1963.

³ This application was filed by Cities Service Petroleum Co. Applicant changed its name to Cities Service Oil Co. effective Jan. 2, 1963, by amendment to its certificate of incorporation on Dec. 31, 1962.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 20, 1963.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12471; Filed, Dec. 2, 1963;
8:47 a.m.]

[Docket Nos. CP61-30, CP64-71]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Applications

NOVEMBER 22, 1963.

Take notice that on September 23, 1963, as amended on October 18, 1963, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois, 60603, filed in Docket No. CP64-71 (Phase I)¹ an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of

¹ The application in Docket No. CP64-71 is divided into two Phases. This notice pertains exclusively to Phase I of said application.

certain facilities in order to enable Applicant to purchase and receive from Texaco Inc. (Texaco)² natural gas produced from the Kelsey and Encinitas Fields, Brooks County, Texas, all as more fully set forth in the application, as amended (Phase I), on file with the Commission and open to public inspection.

The facilities proposed in both Phase I and Phase II of the application are ultimately to enable Applicant to receive gas from four fields in Willacy and Hidalgo Counties, Texas, as well as from the Kelsey-Encinitas Fields. However, since the producer certificate proceedings involving the Willacy and Hidalgo Counties fields are still pending before the Commission, Applicant requests that the Phase I facilities be considered and authorized separately.

Specifically, in Phase I, Applicant proposes to construct and operate in Jim Wells and Brooks Counties, Texas, approximately 24.15 miles of 16-inch and 19.43 miles of 8-inch pipeline, metering facilities, tap connection and other miscellaneous appurtenant facilities in order to receive the Kelsey-Encinitas Fields gas.

The application shows the estimated cost of Phase I facilities to be \$1,500,000, which cost will be financed by short-term borrowing pending permanent financing.

Take further notice that on September 23, 1963, Applicant filed in Docket No. CP61-30 an application to amend further the Commission's order, issued July 11, 1961, as amended on December 12, 1962, to delete therefrom authorization to construct and operate 30 miles of 10-inch pipeline to have been constructed in order to enable Applicant to receive gas from the Kelsey-Encinitas Fields, all as more fully set forth in the application to amend on file with the Commission and open to public inspection.

Applicant states that, since construction has not commenced, it requests the deletion of the authorization for the 30 miles of 10-inch line because the Kelsey-Encinitas gas can be more economically attached in conjunction with Applicant's

² Texaco was authorized to sell gas to Applicant by the Commission's orders, issued March 27 and August 27, 1963, in Docket Nos. CI61-118 and CI61-119.

proposals in both phases in Docket No. CP64-71.

These matters are ones that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that preliminary staff analysis has indicated that there are no problems which would warrant a recommendation that the Commission designate these applications for formal hearing before an examiner and that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing may be held without further notice before the Commission on these applications provided no protest or petition to intervene is filed within the time required herein. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 16, 1963.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12472; Filed, Dec. 2, 1963;
8:47 a.m.]

[Docket No. CP64-38]

SOUTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 26, 1963.

Take notice that on August 9, 1963, Southern Natural Gas Company (Applicant), filed in Docket No. CP64-38 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of line taps, metering and regulating stations as integral parts of its gas transportation system, so as to enable the delivery and sale of additional volumes of natural gas to South Carolina Natural Gas Company, an existing customer.

The estimated cost of the facilities proposed to be constructed is \$29,800 and said cost is to be financed from funds on hand.

The additional volumes of natural-gas to be transported through the facilities are to be resold to the Communities of Bath and Graniteville, Aiken County, South Carolina. The estimated third year peak day volume is 1,249 Mcf and the annual volume is 159,000 Mcf.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that preliminary staff analysis has indicated that there

are no problems which would warrant a recommendation that the Commission designate this application for formal hearing before an examiner and that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing may be held without further notice before the Commission on this application provided no protest or petition to intervene is filed within the time required herein. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 13, 1963.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12473; Filed, Dec. 2, 1963;
8:47 a.m.]

[Docket No. CP63-204 etc.]

TRANSWESTERN PIPELINE CO. ET AL.

Notice of Amendment to Application

NOVEMBER 21, 1963.

Transwestern Pipeline Company, Docket No. CP63-204, CP64-91; Gulf Pacific Pipeline Company, Docket No. CP63-223; El Paso Natural Gas Company, Docket No. CP64-76.

On November 12, 1963, El Paso Natural Gas Company (El Paso) filed, pursuant to § 1.11 of the Commission's rules of practice and procedure, a first amendment to its original application for a certificate of public convenience and necessity in Docket No. CP64-76. By "Order Consolidating Proceedings, Fixing Date of Hearing Conference and Denying Motion to Consolidate and for Time to Amend" issued October 21, 1963, the Commission noted that any applicant in the above-entitled consolidated proceeding could amend its application at any time up to and including November 14, 1963. El Paso's amendment was filed in accordance with that order. No other amendment was received.

By the present amendment El Paso proposes to deliver to Southern California Gas Company and Southern Counties Gas Company of California (jointly, Southern Companies) up to 325,000 Mcf of natural gas per day (at 14.9 psia) in addition to the 250,000 Mcf per day (at 14.9 psia) authorization for which was sought in the original Docket No. CP64-76 application. El Paso proposes to obtain this gas from two general sources of supply in the San Juan and Delaware Basins. Of the total of 575,000 Mcf² of natural gas it is expected that approximately 365,000 Mcf per day will be obtained from the San Juan Basin and approximately 210,000 Mcf per day will be obtained from the Delaware Basin.

El Paso alleges that pipeline facilities needed to deliver, at a point near Needles, California, an additional quantity of up to 575,000 Mcf of natural gas per day consist generally of 583.3 miles of 30-inch mainline pipeline, 149.8 miles of various sized pipeline ranging from 8 $\frac{3}{8}$ -inch through 30-inch field lateral and transmission lines, 72,900 horsepower of compression, 213,000 Mcf/d of purification capacity, 665,000 Mcf/d of dehydration capacity, 450,000 Mcf/d of gasoline absorption capacity, 350,000 gallons per day of fractionating capacity and miscellaneous gathering, metering, general structures, liquid handling, and communications for facilities.² The total estimated construction costs of these facilities is \$134,207,000. The project would be financed through the issuance of common stock, sinking fund debentures, and first mortgage pipeline bonds.

El Paso asserts that this amended application, bringing El Paso's total capacity to 575,000 Mcf, would, in combination with the 290,000 Mcf (at 14.73 psia) proposed to be delivered to Pacific Lighting Gas Supply Company (Pacific Lighting) by Transwestern Pipeline Company (Transwestern) in Docket No. CP64-91, compare favorably with the 865,095 Mcf proposed to be delivered to Southern California Edison Company (Edison) by Gulf Pacific Pipeline Company (Gulf Pacific) in Docket No. CP63-223 if the Commission were to decide that such quantities were necessary to adequately serve Southern California. El Paso states that this supplemental proposal is not intended to supersede its initial proposal but is intended to provide up to an additional 325,000 Mcf of gas per day to satisfy the requirement of the California market should the Commission find that the delivery of such additional quantity is required by the public interest. In addition, El Paso states that if the Commission were to decide that a direct boiler fuel pipeline to Edison and the Los Angeles Department of Water and Power was desirable, it would build such a pipeline (if the Southern Companies were not interested in constructing such a pipeline) from the California border to a Los Angeles delivery point for an estimated total cost of \$63,948,000. El Paso alleges that, as a result of the delivery of the additional 575,000 Mcf per day at Needles, its rate would be reduced. El Paso also estimates that the additional charge for transporting the 575,000 Mcf of gas per day proposed by this amendment, plus the 290,000 Mcf proposed by Transwestern from the California border to Los Angeles via the proposed pipeline, based on a 6 $\frac{1}{2}$ percent rate of return, would be an average of 3.12 cents per Mcf for the first three full years of operation.

Petitions to intervene and notices of intervention in this proceeding will be considered applicable to the amended application. Further protests, petitions to intervene, or notices of intervention may be filed with the Federal Power Commission.

² The facilities are more fully described in the First Amendment which is on file with the Commission and open to public inspection.

sion, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 13, 1963.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-12474; Filed, Dec. 2, 1963;
8:47 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PORTUGAL

Limitation on Entry or Withdrawal From Warehouse

NOVEMBER 27, 1963.

The United States Government, in furtherance of the objectives of, and under the terms of, the long term arrangement regarding international trade in cotton textiles done at Geneva on February 9, 1962, has informed the Government of Portugal that it is renewing, pending the conclusion of discussions with the Government of Portugal on trade in all 64 categories, for an additional twelve-month period the arrangements presently in effect between the two governments on the exports of cotton textiles and cotton textile products to the United States in categories 15, 22, and 41, produced or manufactured in Portugal, at the levels in effect for the year ending November 30, 1963.

There is published below a letter of November 26, 1963, from the Chairman, President's Cabinet Textile Advisory Committee, to the Commissioner of Customs, directing that the amounts in categories 15, 22, and 41 of cotton textiles and cotton textile products produced or manufactured in Portugal which may be entered, or withdrawn from warehouse, for consumption in the United States from December 1, 1963, through November 30, 1964, be limited to certain designated levels.

THOMAS JEFF DAVIS,
Acting Chairman, Interagency
Textile Administrative Com-
mittee, and Acting Deputy to
the Secretary of Commerce
for Textile Programs.

THE SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY
COMMITTEE

Washington 25, D.C.,
November 26, 1963.

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the long term arrangement regarding international trade in cotton textiles done at Geneva on February 9, 1962, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, you are directed to prohibit, effective December 1, 1963, and for the period extending through November 30, 1964, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products

¹ Equivalent to 581,613 Mcf at 14.73 psia.

in categories 15, 22, and 41, produced or manufactured in Portugal, in excess of the following levels of restraint:

Category:	Level of restraint
15-----	500,000 square yards
22-----	150,000 square yards
41-----	20,000 dozen

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on October 1, 1963 (28 F.R. 10551).

In carrying out this directive, entries of cotton textiles and cotton textile products in categories 15, 22, and 41, produced or manufactured in Portugal, which have been exported to the United States from Portugal prior to December 1, 1963, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period December 1, 1962, through November 30, 1963. In the event that the levels of restraint established for the period December 1, 1962, through November 30, 1963, have been exhausted by previous entries, such goods shall be subject to the directives set forth in this letter.

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 Portugal and with respect to imports of cotton textiles and cotton textile products from Portugal 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. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

LUTHER H. HODGES,
Secretary of Commerce, and Chair-
man, President's Cabinet Textile
Advisory Committee.

[F.R. Doc. 63-12494; Filed, Dec. 2, 1963;
8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1623]

INVESTORS DIVERSIFIED SERVICES, INC., AND INVESTORS SYNDICATE OF AMERICA, INC.

Notice of Filing of Application for Order Exempting Transactions Be- tween Affiliates

NOVEMBER 26, 1963.

Notice is hereby given that Investors Diversified Services, Inc. ("Diversified"), Investors Building, Minneapolis, Minnesota, a registered face-amount certificate company, and Investors Syndicate of America, Inc. ("Syndicate"), Investors Building, Minneapolis, Minnesota, a registered face-amount certificate company have filed a joint application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 17(a) of the Act the sale by Diversified to Syndicate of the first mortgage loan on the Baker Block Land Trust ("Land Trust"). All interested persons are referred to the

application, which is on file with the Commission, for a full statement of applicants' representations which are summarized below.

Diversified owns all of the outstanding capital stock of Syndicate. Accordingly, each of the two companies is an affiliated person of the other within the meaning of the Act. Diversified and Baker Properties, Inc. respectively own 49 percent and 51 percent of Land Trust. Neither Diversified nor Baker Properties, Inc., controls or is under common control with the other although they have business interests in common.

Land Trust owns the entire block (except for one 45' x 165.7' tract) bounded by Marquette Avenue, Second Avenue South, Seventh Street South and Eighth Street South in Minneapolis, Minnesota. The ground area (excluding the 90' x 165.7' tract occupied by the Investors Service building at the northwest corner of Second Avenue and Eighth Street) consists of 94,445 square feet of which 17,478 square feet at the northeast corner of Marquette Avenue and Seventh Street South is leased by the trust to the Roanoke Building Company ("Roanoke") until October 31, 2026 at an annual rental of \$36,001. Improvements to the land comprising the Land Trust (excluding the Roanoke Building which is owned by Roanoke and excluding the Investors Service Building which is subject to a separate mortgage owned by Diversified) consists of three buildings, the Investors Building and the Baker Building containing about 484,000 square feet of rentable area, and the Baker Garage Building containing in addition to office space a 200-car parking ramp and a steam heating plant.

Diversified proposes to sell and Syndicate proposes to purchase the first mortgage loan on the Land Trust at 100 percent of the principal amount thereof plus accrued interest to the date of purchase payable in cash at the closing. This loan is dated December 29, 1961; was made at par; carries a 5% percent interest rate; matures February 1, 1982; is not prepayable before April 30, 1972; and provides for level quarterly payments of principal and interest of \$167,912 to pay off the loan during its term. As of September 24, 1963, the outstanding principal balance on the loan was \$7,347,213.40; and additional \$558,209.38 is to be loaned on the mortgage between now and January 1, 1965 to finance the completion of improvements.

Diversified and Syndicate represent that said loan balance plus the unfunded portion of the loan is 52 percent of an appraised value made by Dewey Newcombe and Howard Lawrence of Minneapolis, Minnesota, members of the American Institute of Real Estate Appraisers, in October 1961; that current net earnings of Land Trust before depreciation and interest cover debt service on this loan approximately 1.66 times and cover total trust debt service 1.53 times (including the separate mortgage on the Investors Service Building) as shown by the income statement of Land Trust for the year 1962; that the mortgage loan is well secured by downtown office buildings virtually 100 percent occupied and

fully competitive with other first-class offices because of their modernization program; and that the loan is in good standing and not delinquent or in default as to any payment of principal or interest or any term or provision thereof.

Diversified has not issued face-amount certificates since 1940 and its face-amount certificate liabilities are now declining quite rapidly. Real estate mortgages are a very appropriate and desirable investment for face-amount certificate reserves. However, as the certificate liabilities of Diversified run-off, other types of investment become more appropriate and attractive to it. Diversified is willing to sell the subject loan because it believes that it can more advantageously use the proceeds for construction loan activities and other general corporate purposes.

The investment of a substantial part of its funds in real estate mortgage loans is a basic policy of Syndicate as recited in its registration statement and reports filed under the Investment Company Act. Syndicate represents that it has funds allocated for real estate mortgages available and that the subject loan is an attractive placement for a portion of these funds.

The transaction keeps within the corporate family an asset which, as a Minnesota mortgage, can be used as a deduction in the computation of the taxes under section 273.56 Minnesota Statutes Annotated. In effect this statute levies a tax of approximately 5 percent upon any excess of the capital stock, surplus and undivided profits of the taxable entity over the sum of (i) the amount of its real property and tangible personal property located and subject to tax in the State of Minnesota, (ii) the amount of Minnesota mortgages owned by it upon which the mortgage registry tax has been paid and (iii) the amount of its Minnesota municipal bonds.

Section 17(a) of the Act, insofar as here pertinent, prohibits an affiliated person of a registered investment company from selling securities to or purchasing securities from such registered company unless the Commission, upon application pursuant to section 17(b), grants an exemption from section 17(a) upon a finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports, filed under the Act, and is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than December 12, 1963, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, 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 applicants 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 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 63-12479; Filed, Dec. 2, 1963; 8:48 a.m.]

[File No. 811-1221]

WARWICK FUND

Notice of Filing of Application for an Order Declaring That Company Has Ceased To Be an Investment Company

NOVEMBER 26, 1963.

Notice is hereby given that an application has been filed pursuant to section 8(f) of the Investment Company Act of 1940 ("Act") for an order of the Commission declaring that Warwick Fund ("Applicant"), 3001 Philadelphia Pike, Claymont, Delaware, a Delaware partnership and an open-end diversified management investment company, has ceased to be an investment company.

Applicant was organized on June 11, 1963 and filed a notification of registration under the Act on June 17, 1963. No public offering has been made or will be made and a registration statement under the Securities Act of 1933 was withdrawn on October 17, 1963. The remaining \$1,400 in assets will be distributed to the 14 partners upon termination of the partnership.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission upon application finds that a registered 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 December 16, 1963, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served person-

ally 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 such date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 63-12480; Filed, Dec. 2, 1963; 8:48 a.m.]

TARIFF COMMISSION

[332-44]

BEEF AND BEEF PRODUCTS

Notice of Investigation and Date of Hearing

Pursuant to a resolution adopted November 20, 1963 by the Committee on Finance, United States Senate, the United States Tariff Commission has instituted a general investigation under the authority of section 332 of the Tariff Act of 1930 (19 U.S.C. 1332) of the conditions of competition in the United States between beef and beef products produced in the United States and in foreign countries.

The Finance Committee resolution directs the Commission to include in its report to the Committee—

a summary of the facts obtained in the investigation, including a description of the domestic industry, domestic production, foreign production, imports, including sources of foreign supply, consumption, channels and methods of distribution, price, United States exports, United States customs treatment since 1930, and other factors affecting the competition between domestic and imported beef and beef products.

Hearing. A public hearing, at which interested parties will be given opportunity to appear and to be heard, will be held in connection with the investigation in the Hearing Room of the Tariff Commission, Eighth and E Streets NW., Washington, D.C., beginning at 10 a.m., e.d.s.t., on April 28, 1964.

Requests to appear. Interested parties desiring to appear and to be heard at the hearings should file requests in writing with the Secretary, United States Tariff Commission, Washington, D.C., 20436, at least five days in advance of the date of the hearing.

Issued November 26, 1963.

[SEAL] DONN N. BENT,
Secretary.

[F.R. Doc. 63-12486; Filed, Dec. 2, 1963; 8:48 a.m.]

[AA1921-32]

CHROMIC ACID FROM AUSTRALIA

Notice of Investigation

Having received advice from the Treasury Department on November 26, 1963 that chromic acid from Australia is being, or is likely to be, sold in the United States at less than fair value, the United States Tariff Commission has instituted an investigation under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

No hearing in connection with this investigation has been ordered. If a hearing is ordered, due notice of the time and place thereof will be given. In this connection, interested parties are referred to § 208.4 of the Commission's rules of practice and procedure (19 CFR 208.4) which provides that interested parties may, within 15 days after the date of publication of this notice in the FEDERAL REGISTER, request that a public hearing be held, stating reasons for the request.

Interested parties are also referred to section 208.5 of the Commission's rules regarding the submission of written statements of pertinent information. Written statements must be filed not later than December 31, 1963.

Issued November 26, 1963.

By order of the Commission.

[SEAL] DONN N. BENT,
Secretary.

[F.R. Doc. 63-12487; Filed, Dec. 2, 1963; 8:49 a.m.]

[TEA-W-5]

CERAMIC MOSAIC TILE WORKERS' PETITION FOR ADJUSTMENT ASSISTANCE

Report to the President

NOVEMBER 25, 1963.

The U.S. Tariff Commission today reported to the President the results of its investigation No. TEA-W-5, conducted under section 301(c)(2) of the Trade Expansion Act of 1962. The whole of the Commission's report to the President may not be made public, since it contains certain information that would disclose the operations of an individual concern. Except for such information, however, the text of the report to the President is reproduced below:

In accordance with section 301(f)(1) of the Trade Expansion Act of 1962, the U.S. Tariff Commission herein reports the results of its investigation, conducted under section 301(c)(2) of that act, in response to a workers' petition for determination of eligibility to apply for adjustment assistance. The petition was filed with the Commission on September 26, 1963, by Edward L. Wright, attorney, on behalf of a group of workers from the Winburn Tile Manufacturing Co. of Little Rock, Ark., a subsidiary of the Mosaic Tile Co. of Cleveland, Ohio. The petitioners alleged that "increas-

ing imports of ceramic mosaic tile caused in major part by concessions granted under trade agreements were the major factor causing unemployment or underemployment to a significant number of employees of the above-mentioned company."

The Commission instituted the investigation on September 27, 1963. Public notice of the receipt of the petition and the institution of the investigation was given by publication in the FEDERAL REGISTER (28 F.R. 10698). The Commission did not order a public hearing in conjunction with the investigation inasmuch as the petitioners stated that they did not desire such a hearing and no other interested party requested one.

The information in this report was obtained principally from the following sources: the petitioners; the Winburn Tile Manufacturing Co., the Mosaic Tile Co., and other companies of the ceramic mosaic tile industry; the Employment Security Division of the Arkansas Department of Labor, responses by individual companies to questionnaires prepared by the Tile Council of America; and the Commission's files, particularly data obtained in the course of the Commission's 1961 investigation (7-100) concerning ceramic mosaic tile.¹

*Finding of the Commission.*² On the basis of its investigation the Commission unanimously finds that ceramic mosaic tile is not, as a result in major part of concessions granted under trade agreements, being imported in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of the Winburn Tile Manufacturing Co., of Little Rock, Ark. (hereinafter referred to as Winburn).

Considerations bearing on the Commission's finding. The petition cites 51 production and related workers of Winburn who were reported to have been laid off after October 11, 1962, the effective date of the Trade Expansion Act of 1962. The Trade Agreements Extension Act of 1951, which was in effect immediately prior to that date, made no provision for adjustment assistance, and the Trade Expansion Act makes no provision for such assistance based on unemployment prior to October 11, 1962. The petition states that imports of ceramic mosaic tile increased during the past several years (except in 1961, when special conditions prevailed) and that the increase resulted in major part from trade-agreement concessions; that the increase in imports was the cause of the unemployment of the aforementioned 51 Winburn employees (all of whom were identified by name); and that additional Winburn employees were threatened with unemployment.

Winburn is engaged exclusively in the manufacture of ceramic mosaic tile. Since 1948 it has been operated as a subsidiary of the Mosaic Tile Co. (hereinafter referred to as Mosaic). The parent corporation *** operates two other plants wherein ceramic tile is produced. In a plant at Zanesville, Ohio (operated directly by the parent corporation), it produces ceramic mosaic tile (generally used on floors), as well as ceramic wall tile. In another establishment, at Corona, California (operated through a wholly

owned subsidiary), it produces both ceramic mosaic and ceramic wall tile.

Mosaic, through its exclusive handling of the sales and distribution of Winburn's product, in effect controls Winburn's output. It maintains warehouses throughout the country, some of which are in Winburn's sales area. The parent corporation is remunerated by Winburn for these selling and warehousing services. Mosaic's sales are allocated to its three plants by geographic regions; the general basis of allocation has not varied significantly since Winburn became a subsidiary. One notable exception to this procedure occurred, however, in the months from September 1961 through April 1962, during most of which period Mosaic's plant at Zanesville was closed largely because of a strike. In this period orders for mosaic tile from the Zanesville sales territory were filled chiefly with tile produced at Winburn. Accordingly, there was a substantial but short-lived buildup in Winburn's sales, production, employees on the payroll, and man-hours worked. Later, after customary distribution from the Zanesville plant had been resumed, retrenchment in production and employment took place.

The petition calls attention to this "special situation" from September 1961 to April 1962 affecting production and employment at Winburn. With reference to the strike that closed the plant at Zanesville, Ohio, the petition stated that—

"In order to maintain adequate stocks at this distribution center [at Zanesville, Ohio] and to avoid losing even more business to importers, Winburn's output (and employment) was sharply expanded and assigned to fill the shortages created by the temporary closing of associated plants. As the associated plants reopened, Winburn's production declined.

"The strike commenced in the middle of September 1961 and Winburn started to increase output and employment almost immediately. Production worker employment increased by more than 20 percent by the end of the month and kept rising all the way through the first quarter of 1962. The strike was settled in February 1962, but then another two months were consumed by the associated companies in rebuilding stocks, etc. As a result, Winburn production did not start declining until the end of April 1962."

Although the petitioners recognize that the strike at Zanesville had an effect on employment and production at Winburn, they state in their petition that—

"None of the parties named in this petition, to the best of our knowledge and belief, were workers hired to meet the temporary 'allocated production.' Further, this petition is also directed to our fellow workers, now employed, who are clearly faced by the threat of unemployment or underemployment as a result of increased imports."

The statute invoked by the workers from the Winburn plant in filing their petition requires the Commission to determine whether "a significant number or proportion of the workers" are unemployed or underemployed primarily because of increased imports of an article like or directly competitive with that produced by Winburn, and whether the increase in imports occurred "as a result in major part of concessions granted under trade agreements."

If the Commission finds that Winburn has not been obliged to reduce significantly the volume of its output because of such increased imports, the Commission need not consider in what measure, if at all, unemployment and underemployment have taken place.

Unemployment stemming from other causes, such as industrial innovation (including automation), replacement of some employees by others, seasonal and cyclical variations in building activity, strikes, "nor-

mal" turnover, and other factors not directly attributable to import competition, provide no basis for an affirmative finding by the Commission under section 301(c)(2) of the Trade Expansion Act. Further, any reduction in the plant's output must, under the provisions of the Trade Expansion Act, be absolute—not merely a reduction in the ratio of production to either imports or total domestic consumption of the article under consideration.

The Commission observes also that its finding in 1961 (under sec. 7 of the Trade Agreements Extension Act of 1951) that the domestic ceramic mosaic tile industry was being injured by imports, creates no presumption that the Winburn plant—whose output per man-hour is among the *** highest in the industry—has currently been obliged to reduce its physical output to such an extent as to necessitate a significant reduction in its work force.

In the instant case the Commission finds that such reduction in employment as may have occurred in the Winburn establishment in recent years must be attributed to causes other than reduced production and sales by that establishment and hence is attributable to causes other than increased imports. Likewise, increased imports cannot be considered as threatening to cause unemployment or underemployment.

* * * * *

If increased imports were the major factor—or indeed a factor at all—in any recent reduction in employment at Winburn, the impact of such imports would be manifested chiefly in a decline in Winburn's production and sales. However, Winburn's production of finished mosaic tile in the first 6 months of 1963 *** was *** greater than it was in the corresponding period of 1961. It was also *** greater than the average production during the corresponding periods in the 3 years before the strike occurred (1958-60). Comparably, Winburn's sales of mosaic tile in the first 6 months of 1963 *** were about the same as those in the corresponding period of 1961. They were equivalent also to about half of the average annual sales during the entire period 1958-60. Clearly the reported decline in employment at the Winburn plant reflected neither reduced production nor reduced sales and hence cannot be ascribed to increased imports.

*** the average number of workers on Winburn's payroll was *** smaller during January-June 1963 than the average for 1960, the year before the strike occurred in its associated plant, and *** smaller than the average for 1958-60. During the period of the strike at Zanesville the number of workers on Winburn's payroll expanded rapidly. The number employed in December 1961 *** was more than double the number in July of that year ***. By the close of 1962—i.e., considerably after the termination of the strike—the average number of workers on the payroll had readjusted to the same level as that of July 1961 ***. The Zanesville plant was strike free during the first half of both 1963 and 1961; it is significant, therefore, that the number of workers on the Winburn payroll was *** greater during the first half of 1963 than in the corresponding period of 1961 ***. Indeed, the number of workers employed in each of the first 9 months of 1963 was either equal to or greater than the number in the corresponding month of 1961. During the first three quarters of 1963 the number of additions to Winburn's work force exceeded the number of separations.

Man-hours of employment in the Winburn plant followed a pattern similar to that indicated above for the average number of workers employed. *** both production and man-hours of employment during the first 6 months of 1963, though lower than those in the strike-influenced period in the first half of 1962, were higher than those

¹ U.S. Tariff Commission, Ceramic Mosaic Tile: Report to the President on Escape-Clause Investigation No. 7-100 ***. TC Publication 16, 1961 (processed); Ceramic Mosaic Tile: Report in Response to the President's Request for Information Supplemental to the Report on Escape-Clause Investigation No. 7-100, TC Publication 45, 1961 (processed).

² Commissioner Dan H. Fenn, Jr., who entered on duty on Oct. 18, 1963, did not participate in the investigation or the finding.

in the first half of 1961. The lower sales and employment in 1963 than in 1962 reflected largely the resumption of customary operations following the greatly expanded operations in 1962. * * * During the third quarter of 1963, the man-hours worked were * * * greater than in the third quarter of 1961.

As measured in man-hours, employment during the first half of 1963 was indeed smaller * * * than the average during the corresponding periods in the 3 years preceding the strike (1958-60). However, the production and employment data assembled by the Commission show that between 1958 and 1963 there was a substantial reduction in the man-hours of labor required at Winburn to produce a given quantity of tile. The increase in output per man-hour could alone account for the aforementioned decline in employment between 1958 and 1963. * * *

The Trade Expansion Act of 1962 provides for adjustment assistance for workers whose unemployment or underemployment is attributable to increased imports generated mainly by trade-agreement concessions. The statute makes no provision for adjustment assistance to workers whose unemployment or underemployment is attributable wholly, or in major part, to industrial innovation or other developments not directly assignable to increased imports.

By direction of the Commission.

[SEAL] DONN N. BENT,
Secretary.

[F.R. Doc. 63-12488; Filed, Dec. 2, 1963; 8:49 a.m.]

DEPARTMENT OF LABOR

Office of the Solicitor

WAGE RATES FOR CERTAIN TYPES OF WORK IN VARIOUS AREAS IN TEXAS

Notice of Hearing

Notice is hereby given that pursuant to section 1.3 of Department of Labor Regulations, Part 1 (29 CFR Part 1), a hearing will be held before Hearing Examiner E. West Parkinson, on December 16, 1963, at 10:00 a.m., c.s.t., in the City Council Chambers, City Hall, Dallas and Lake Shore Drive, Port Arthur, Texas, at which time and place interested persons may submit orally, data, views, and arguments with respect to the following subjects and issues:

(a) What are the prevailing wage rates paid in Jefferson, Orange, and Galveston Counties, or civil subdivisions contained therein, in the State of Texas, to the various classes of laborers and mechanics employed in the construction, alteration, or repair of storm sewers and appurtenances, water storage facilities, sewerage treatment plants, sanitary sewer lines and collection systems, whenever any such construction is carried out:

- (1) Without regard to street paving or related improvements, highway construction, or other types of construction;
 - (2) With incidental street paving or related improvements; or
 - (3) As incidental to street paving or related improvements, highway construction, or other types of construction.
- (b) What are the prevailing wage rates paid in Jefferson, Orange, and

Galveston Counties, or civil subdivisions contained therein, in the State of Texas, to the various classes of laborers and mechanics employed in street paving or related improvements which are not connected with construction, alteration, or repair of the type listed in Issue (a) or other construction activity.

The purpose of the hearing is to compile wage rate information and other pertinent information relevant to the determination of prevailing wage rates under the Davis-Bacon Act and its related statutes for such construction in the indicated areas in the State of Texas.

Written data, views, or arguments may be filed with the Solicitor of Labor, United States Department of Labor, Washington 25, D.C., in lieu of oral presentations at any time prior to the oral proceeding, or they may be filed at the oral proceeding.

To the extent practicable, interested persons should include in their presentations data demonstrating their contentions with respect to particular construction projects.

The oral proceeding shall be stenographically reported. Transcripts will be made available to interested persons on such terms as the hearing examiner shall prescribe. The hearing examiner shall regulate the course of the proceeding; dispose of procedural requests, objections, and related matters, and confine the proceeding to the matters hereinabove stated. He shall have discretion to keep the record open after the close of the hearing in order to permit any person who participated in the oral proceeding to submit additional data, views, and arguments responsive to the oral presentations made by other persons so participating. Within such time as the hearing examiner may provide, but in no event to exceed 15 days from the close of the hearing, persons participating in the oral proceeding may submit to the hearing examiner proposed findings and conclusions concerning the subjects and issues noticed herein, together with supporting briefs including the reasons for any proposals. Such proposals shall contain adequate references to the record. Within a reasonable time after the termination of the time allowed for the filing of proposed findings and conclusions, the hearing examiner shall make an initial decision on the noticed subjects and issues, which shall include a statement of findings and conclusions, with reasons and bases therefor. Copies of the initial decision shall be mailed to interested persons that have filed proposed findings and conclusions, and such persons may file exceptions to that decision with the hearing examiner within 10 days from the date thereof. Such exceptions shall refer to the specific findings and conclusions excepted, and shall suggest corrected findings and conclusions. Following the period allowed for filing exceptions, the hearing examiner shall transmit the record of the proceeding to the Solicitor. Upon the consideration of the whole record, the Solicitor shall render his decision which shall adopt, modify, or set aside the findings and conclusions of the initial decision,

and shall include a statement of the reasons or bases therefor. A copy of the Solicitor's decision shall be mailed to interested persons filing proposed findings and conclusions.

Signed at Washington, D.C., this 2d day of December 1963.

CHARLES DONAHUE,
Solicitor of Labor.

[F.R. Doc. 63-12616; Filed, Dec. 2, 1963; 11:42 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 903]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 27, 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 66275. By order of November 21, 1963, the Transfer Board approved the transfer to Harry Popovsky and Irene Popovsky, a partnership, doing business as Green's Express, Vineland, N.J., of certificate in No. MC 21269, issued May 29, 1959, to Albert Green, doing business as Green's Express, Vineland, N.J., authorizing the transportation, over regular routes, of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between specified points in Pennsylvania and New Jersey. Stanley S. Brotman, 15 South Sixth Street, Vineland, N.J., attorney for applicants.

No. MC-FC 66384. By order of November 21, 1963, the Transfer Board approved the transfer to Mau Trucking, Inc., Early, Iowa, of permits in Nos. MC 119211 and MC 119211 (Sub-No. 4), issued by the Commission April 26, 1960 and August 23, 1963, to Rufus Mau, Early, Iowa, authorizing the transportation, over irregular routes, of: Animal and poultry feeds, and related commodities, in bags and in bulk, between specified points and portions of Iowa, South Dakota, and Nebraska. Russell S. Wunschel, Fifth and Main, Carroll, Iowa, attorney for applicants.

No. MC-FC 66396. By order of November 21, 1963, the Transfer Board approved the transfer to E. M. Gregg, Inc., Hugoton, Kans., of the operating rights in certificates in Nos. MC 17057 and MC 17057 (Sub-No. 1), issued October 31, 1951 and June 16, 1955, to E. M. Gregg,

doing business as E. M. Gregg Truck Service, Hugoton, Kans., authorizing the transportation, over irregular routes, of: Machinery, materials, supplies, and equipment, incidental to, and used in the gas and petroleum industry, and machinery, materials, supplies, used in connection with the stringing and picking up of pipelines, between points in Colorado, Kansas, and Oklahoma. James H. Hope, 641 Harrison Street, Topeka, Kans., attorney for applicants.

No. MC-FC 66416. By order of November 21, 1963, the Transfer Board approved the transfer and substitution of Thompson's Moving & Storage Company, a corporation, 1918 West Main, Norman, Okla., as applicant in the "claimed grandfather rights" proceeding seeking the issuance of a certificate of registration filed February 12, 1963, assigned No. MC 97383 (Sub-No. 1) to R. A. Thompson and J. L. Thompson, doing business as Thompson's Moving and Storage, 1918 West Main, Norman, Okla., covering operations conducted under the former second proviso of section 206(a) (1) of the Act, in No. MC 97383, in the transportation of commodities of a general commodity nature, between points in Oklahoma.

No. MC-FC 66420. By order of November 21, 1963, the Transfer Board approved the transfer to Moody Moving & Storage Company, Inc., Greenwich, Conn., of the operating rights in certificate in No. MC 80350, issued November 12, 1963, to J. Theodore Moody, doing business as Nemece's Express, Greenwich, Conn., authorizing the transportation, over irregular routes, of: Household goods, between East Port Chester, Conn., and points in New York and Connecticut within 15 miles thereof, on the one hand, and, on the other, points in Connecticut, New York, and New Jersey. Sidney L. Goldstein, 109 Church Street, New Haven, Conn., attorney for applicants.

No. MC-FC 66425. By order of November 21, 1963, the Transfer Board approved the transfer to McAlister Trucking Company, a corporation, Big Spring, Texas, of the operating rights in certificates in Nos. MC 23618, MC 23618 (Sub-No. 4), MC 23618 (Sub-No. 5), MC 23618 (Sub-No. 7) and MC 23618 (Sub-No. 9), issued June 5, 1947, June 18, 1948, February 3, 1953, January 23, 1956, and December 20, 1962, respectively, to O. H. McAlister, Big Spring, Texas, au-

thorizing the transportation, over irregular routes, of: Machinery, equipment, materials, and supplies, used in, or in connection with, the gas and petroleum industry, the pipeline industry and the sulphur industry, between points in Arizona, Colorado, Kansas, Louisiana, Montana, New Mexico, Oklahoma, Texas, Utah, and Wyoming. Ewell H. Muse, Jr., 415 Perry Brooks Building, Austin, Tex., 78701, attorney for applicants.

[SEAL] HAROLD D. McCoy,
Secretary.
[F.R. Doc. 63-12485; Filed, Dec. 2, 1963;
8:48 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 27, 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 38676: *Lumber from Riverton, Wyo.*, filed by Chicago and North Western Railway Company (No. 5), for itself and interested rail carriers. Rates on lumber and related articles, in carloads, from Riverton, Wyo., to points in western trunkline territory.

Grounds for relief: Market competition.

Tariff: Supplement 35 to Chicago and North Western Railway tariff I.C.C. 11349.

FSA 38677: *Salt from Alameda, Tex., to Montana points.* Filed by Trans-Continental Freight Bureau, agent (No. 415), for interested rail carriers. Rates on salt, in carloads, from Alameda, Tex., to points in Montana.

Grounds for relief: Market competition.

Tariff: Supplement 125 to Trans-Continental Freight Bureau, agent, tariff I.C.C. 1644.

FSA 38678: *Alcohols to Chicago, Ill.* Filed by Southwestern Freight Bureau, agent (No. B-8479), for interested rail carriers. Rates on alcohols and related articles, in tank-car loads, from Houston, Longview, North Seadrift, and Texas City, Tex., to Chicago, Ill. (applicable only for deliveries on railroad tracks

serving Lake River terminals at Crawford, Ill., or Union Carbide Chemicals Co., at Whiting, Ind.).

Grounds for relief: Market competition.

Tariff: Supplement 286 to Southwestern Freight Bureau, agent, tariff I.C.C. 4064.

FSA 38679: *Liquid caustic soda from Evans City, Ala.* Filed by O. W. South, Jr., agent (No. A4409), for interested rail carriers. Rates on liquid caustic soda, in tank-car loads, from Evans City, Ala., to Columbus, Ga.

Grounds for relief: Market competition.

Tariff: Supplement 105 to Southern Freight Association, agent, tariff I.C.C. S-194.

FSA 38680: *Liquid caustic soda from McIntosh, Ala.* Filed by O. W. South, Jr., agent (No. A4410), for interested rail carriers. Rates on liquid caustic soda, in tank-car loads, from McIntosh, Ala., to Columbus, Ga.

Grounds for relief: Market competition.

Tariff: Supplement 105 to Southern Freight Association, agent, tariff I.C.C. S-194.

FSA 38681: *Liquid caustic soda from Redstone Arsenal, Ala.* Filed by O. W. South, Jr., agent (No. A4411), for interested rail carriers. Rates on liquid caustic soda, in tank-car loads, from Redstone Arsenal, Ala., to Columbus, Ga.

Grounds for relief: Market competition.

Tariff: Supplement 105 to Southern Freight Association, agent, tariff I.C.C. S-194.

FSA 38682: *Sulphuric acid from Baton Rouge and North Baton Rouge, La.* Filed by O. W. South, Jr., agent (No. A4412), for interested rail carriers. Rates on sulphuric acid, in tank-car loads, from Baton Rouge and North Baton Rouge, La., to Gonzalez, Fla., also Demopolis and Green Tree, Ala.

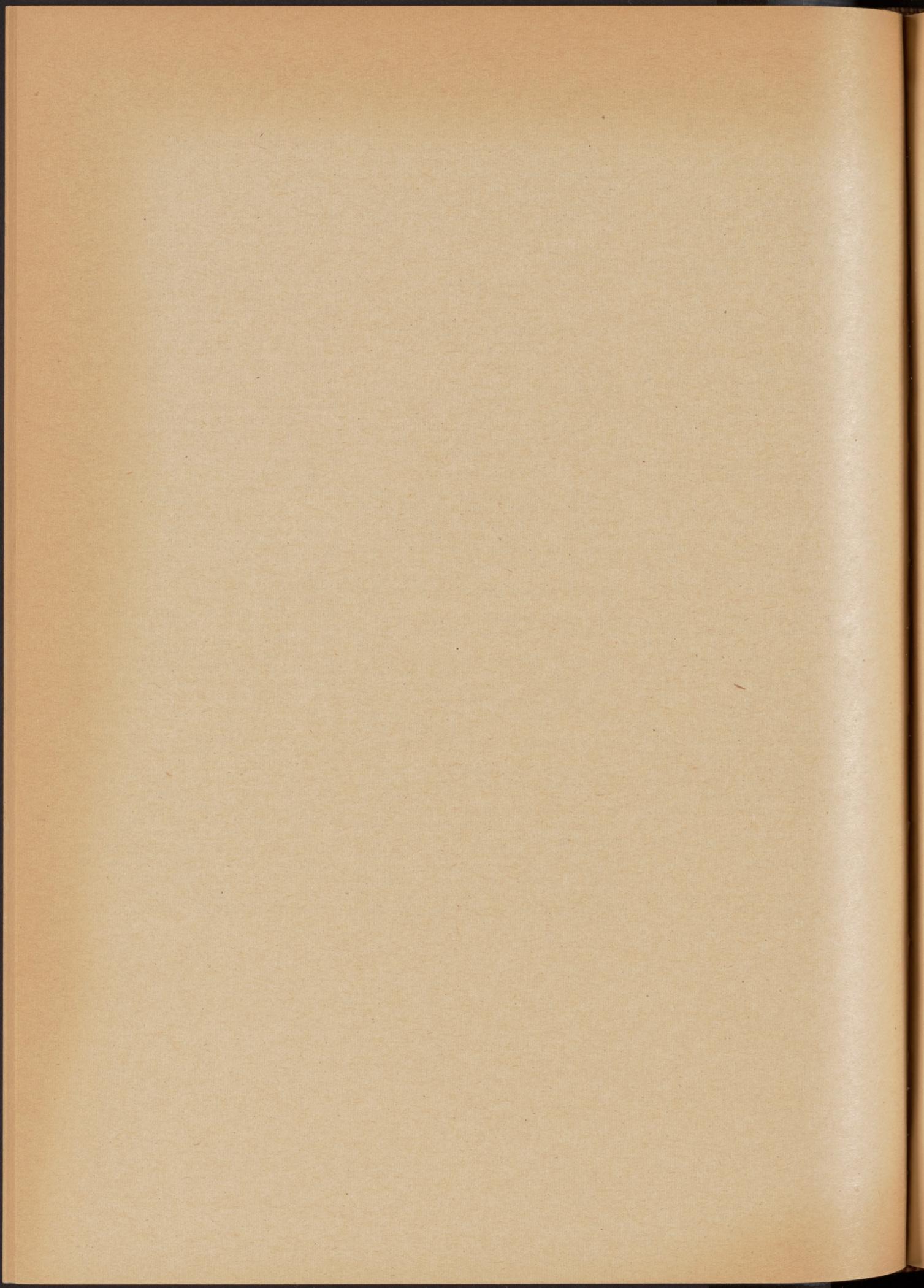
Ground for relief: Market competition and rate relationship.

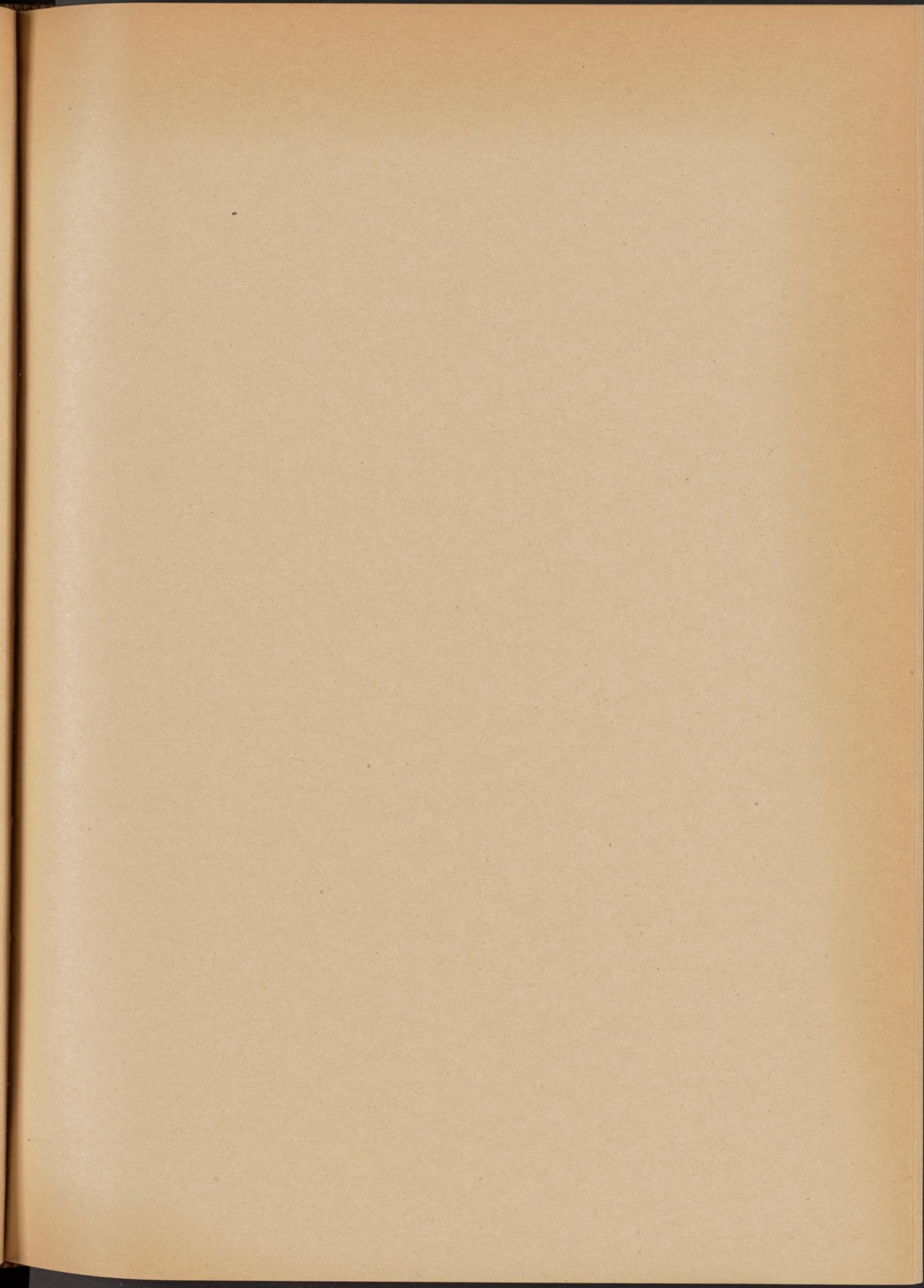
Tariff: Supplement 72 to Southern Freight Association, agent, tariff I.C.C. S-162.

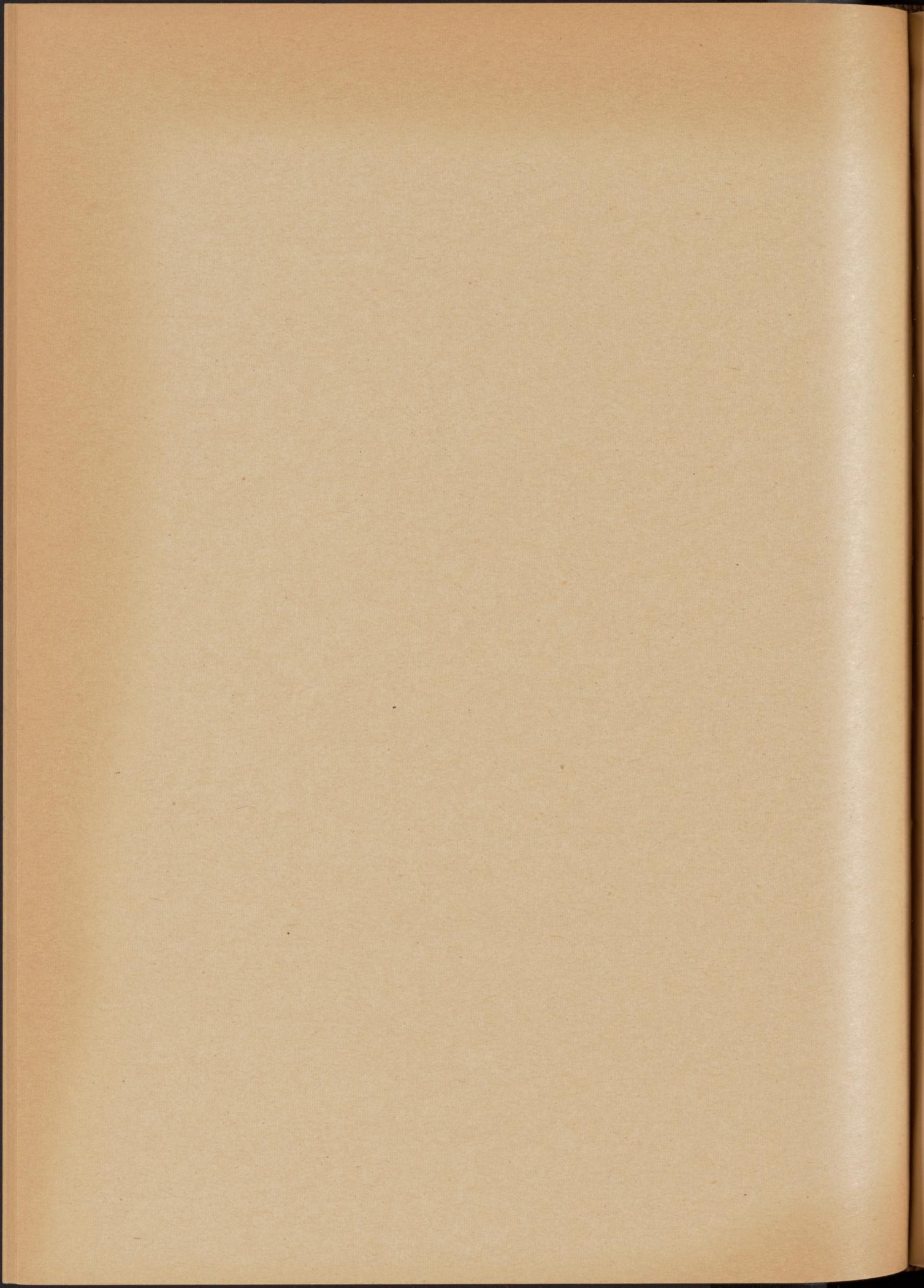
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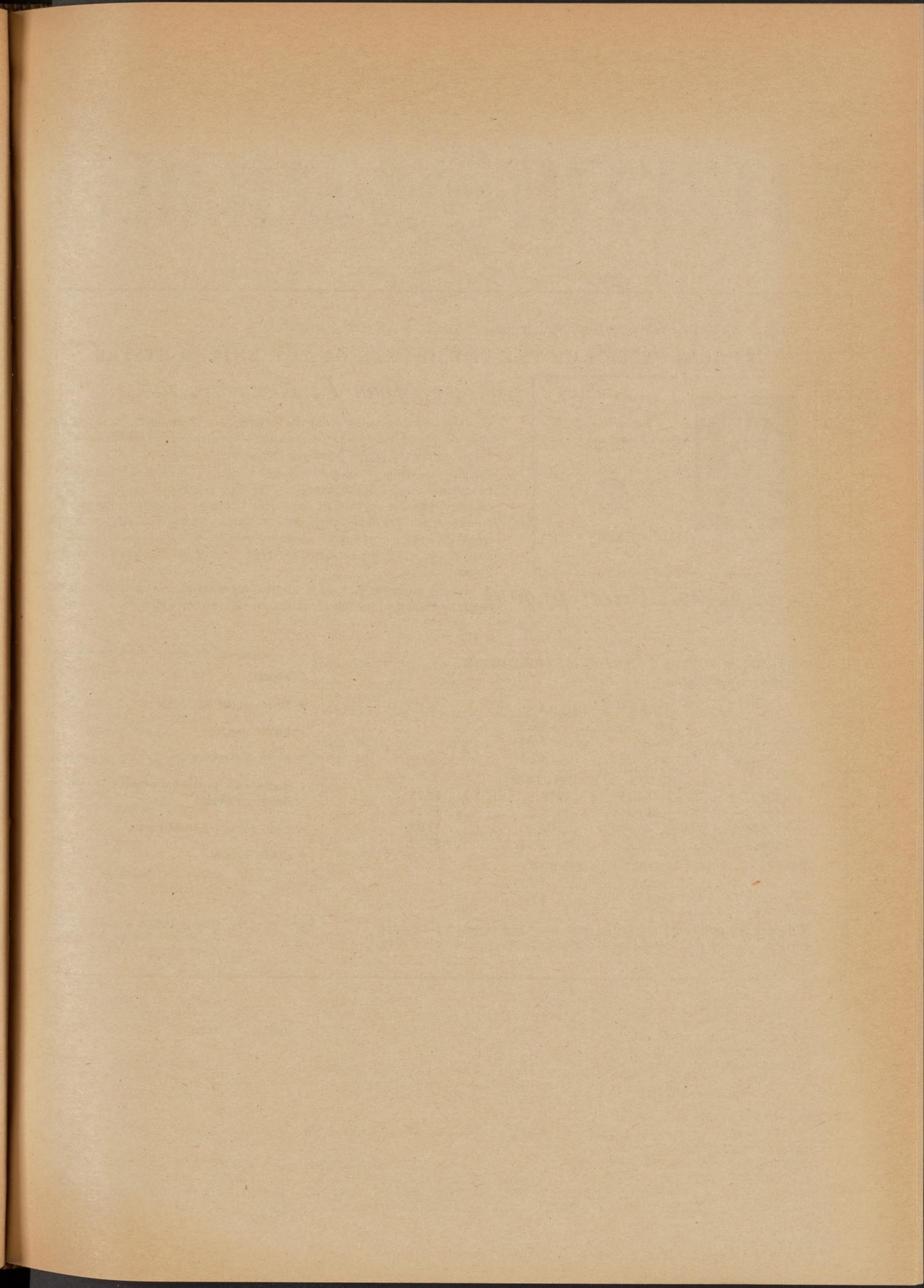
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[F.R. Doc. 63-12484; Filed, Dec. 2, 1963;
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