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Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T. D. 6728]

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

Mutual Savings Banks, Etc., Provisions

On November 5, 1963, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under sections 591 and 593 of the Internal Revenue Code of 1954 to conform the regulations to section 6 (a) and (f) of the Revenue Act of 1962 (76 Stat. 977, 984), relating to mutual savings banks, etc., was published in the FEDERAL REGISTER (28 F.R. 11785). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, such regulations are amended as follows:

PARAGRAPH 1. Paragraph (d) of § 1.166–4 is amended to read as follows:

§ 1.166–4 Reserve for bad debts.

* * * * *

(d) *Special rules applicable to certain banking organizations.* For special rules for the addition to the bad debt reserves of certain mutual savings banks, domestic building and loan associations, and cooperative banks, see §§ 1.593–1 through 1.593–11.

PAR. 2. Section 1.591 is amended by revising section 591 and by adding a historical note. These revised and added provisions read as follows:

§ 1.591 Statutory provisions; deduction for dividends paid on deposits.

SEC. 591. *Deduction for dividends paid on deposits.* In the case of mutual savings banks, cooperative banks, domestic building and loan associations, and other savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law, there shall be allowed as deductions in computing taxable income amounts paid to, or credited to the accounts of, depositors or holders of accounts as dividends or interest on their deposits or withdrawable accounts, if such amounts paid or credited are withdrawable on demand subject only to customary notice of intention to withdraw.

[Sec. 591 as amended by sec. 6(f), Rev. Act 1962 (76 Stat. 984)]

PAR. 3. Section 1.591–1 is amended to read as follows:

§ 1.591–1 Deduction for dividends paid on deposits.

(a) *In general.* (1) In the case of a taxpayer described in paragraph (c) (1) or (2) of this section, whichever is applicable, there are allowed as deductions from gross income amounts which during the taxable year are paid to, or credited to the accounts of, depositors or holders of accounts as dividends or interest on their deposits or withdrawable accounts, if such amounts paid or credited are withdrawable on demand subject only to customary notice of intention to withdraw.

(2) The deduction provided in section 591 is applicable to the taxable year in which amounts credited as dividends or interest become withdrawable by the depositor or holder of an account subject only to customary notice of intention to withdraw. Thus, amounts which, as of the last day of the taxable year, are credited as dividends or interest, but which are not withdrawable by depositors or holders of accounts until the following business day, are deductible under section 591 in the year subsequent to the taxable year in which they were so credited. A deduction under this section will not be denied by reason of the fact that the amounts credited as dividends or interest, otherwise deductible under section 591, are subject to the terms of a pledge agreement between the taxpayer and the depositor or holder of an account. In the case of a domestic building and loan association having nonwithdrawable capital stock represented by shares, no deduction is allowable under this section for amounts paid or credited as dividends on such shares. In the case of a taxable year ending after December 31, 1962, for special rules governing the treatment of dividends or interest paid or credited for periods representing more than 12 months, see section 461(e).

(b) *Serial associations, bonus plans, etc.* If a taxpayer described in paragraph (c) (1) or (2) of this section, whichever is applicable, operates in whole or in part as a serial association, maintains a bonus plan, or issues shares, or accepts deposits, subject to fines, penalties, forfeitures, or other withdrawal fees, it may deduct under section 591 the total amount credited as dividends or interest upon such shares or deposits, credited to a bonus account for such shares or deposits, or allocated to a series of shares for the taxable year, notwithstanding that as a customary condition of withdrawal:

(1) Amounts invested in, and earnings credited to, series shares must be withdrawn in multiples of even shares, or

(2) Such taxpayer has the right, pursuant to bylaw, contract, or otherwise, to retain or recover a portion of the total amount invested in, or credited as earnings upon, such shares or deposits, such bonus account, or series of shares, as a fine, penalty, forfeiture, or other withdrawal fee.

In any taxable year in which the right referred to in subparagraph (2) of this paragraph is exercised, there is includible in the gross income of such taxpayer for such taxable year amounts retained or recovered by the taxpayer pursuant to the exercise of such right.

(c) *Effective date.* The provisions of paragraphs (a) and (b) of this section shall apply to—

(1) Dividends or interest paid or credited after October 16, 1962, by any taxpayer which (at the time of such payment or credit) qualifies as (i) a mutual savings bank not having capital stock represented by shares, (ii) a domestic building and loan association (as defined in section 7701(a)(19)), (iii) a cooperative bank (as defined in section 7701(a)(32)), or (iv) any other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law; and

(2) Dividends paid or credited before October 17, 1962, by any taxpayer which (at the time of such payment or credit) qualifies as (i) a mutual savings bank not having capital stock represented by shares, (ii) a cooperative bank without capital stock organized and operated for mutual purposes and without profit, or (iii) a domestic building and loan association (as defined in section 7701(a)(19) before amendment by section 6(c) of the Revenue Act of 1962 (76 Stat. 982)).

PAR. 4. Section 1.593 is amended by revising section 593 and by adding a historical note. These revised and added provisions read as follows:

§ 1.593 Statutory provisions; reserves for losses on loans.

SEC. 593. *Reserves for losses on loans*—(a) *Organizations to which section applies.* This section shall apply to any mutual savings bank not having capital stock represented by shares, domestic building and loan association, or cooperative bank without capital stock organized and operated for mutual purposes and without profit.

(b) *Addition to reserves for bad debts*—(1) *In general.* For purposes of section 166 (c), the reasonable addition for the taxable year to the reserve for bad debts of any taxpayer described in subsection (a) shall be an amount equal to the sum of—

(A) The amount determined under section 166(c) to be a reasonable addition to the reserve for losses on nonqualifying loans, plus

(B) The amount determined by the taxpayer to be a reasonable addition to the reserve for losses on qualifying real property loans, but such amount shall not exceed the amount determined under paragraph (2), (3), or (4), whichever amount is the largest, but the amount determined under this subparagraph shall in no case be greater than the larger of—

(i) The amount determined under paragraph (4), or

(ii) The amount which, when added to the amount determined under subparagraph (A), equals the amount by which 12 percent of the total deposits or withdrawable accounts of depositors of the taxpayer at the close of such year exceeds the sum of its surplus, undivided profits, and reserves at the beginning of such year (taking into account any portion thereof attributable to the period before the first taxable year beginning after December 31, 1951).

(2) *Percentage of taxable income method.* The amount determined under this paragraph for the taxable year shall be the excess of—

(A) An amount equal to 60 percent of the taxable income for such year, over

(B) The amount referred to in paragraph (1)(A) for such year,

but the amount determined under this paragraph shall not exceed the amount necessary to increase the balance (as of the close of the taxable year) of the reserve for losses on qualifying real property loans to 6 percent of such loans outstanding at such time. For purposes of this paragraph, taxable income shall be computed (i) by excluding from gross income any amount included therein by reason of subsection (f), and (ii) without regard to any deduction allowable for any addition to the reserve for bad debts.

(3) *Percentage of real property loans method.* The amount determined under this paragraph for the taxable year shall be an amount equal to the amount necessary to increase the balance (as of the close of the taxable year) of the reserve for losses on qualifying real property loans to an amount equal to—

(A) 3 percent of such loans outstanding at such time, plus

(B) In the case of a taxpayer which is a new company and which does not have capital stock with respect to which distributions of property (as defined in section 317(a)) are not allowable as a deduction under section 591, an amount equal to—

(i) 2 percent of so much of the amount of such loans outstanding at such time as does not exceed $4,000,000, reduced (but not below zero) by

(ii) The amount, if any, of the balance (as of the close of such taxable year) of the taxpayer's supplemental reserve for losses on loans.

For purposes of subparagraph (B), a taxpayer is a new company for any taxable year only if such taxable year begins not more than 10 years after the first day on which it (or any predecessor) was authorized to do business as an organization described in subsection (a).

(4) *Experience method.* The amount determined under this paragraph for the taxable year shall be an amount equal to the amount determined under section 166(c) (without regard to this subsection) to be a reasonable addition to the reserve for losses on qualifying real property loans.

(5) *Limitation in case of certain domestic building and loan associations.* If the percentage of the assets of a domestic building and loan association which are not assets described in section 7701(a)(19)(D)(ii) exceeds 36 percent for the taxable year (as determined for purposes of section 7701(a)(19) for such year), the amount determined under paragraph (2), and the amount determined under paragraph (3), shall in each case be the amount (determined without regard to this paragraph but with regard to the limits contained in paragraphs (2), (3), and (1)(B) reduced by the amount determined under the following table:

If the percentage exceeds—	But does not exceed—	The reduction shall be the following proportion of the amount so determined without regard to this paragraph—
Percent	*Percent*	
36	37	1/12
37	38	1/6
38	39	1/4
39	40	1/3
40	41	5/12

(c) *Treatment of reserves for bad debts*—(1) *Establishment of reserves.* Each taxpayer described in subsection (a) which uses the reserve method of accounting for bad debts shall establish and maintain a reserve for losses on qualifying real property loans, a reserve for losses on nonqualifying loans, and a supplemental reserve for losses on loans. For purposes of this title, such reserves shall be treated as reserves for bad debts, but no deduction shall be allowed for any addition to the supplemental reserve for losses on loans.

(2) *Allocation of pre-1963 reserves.* For purposes of this section, the pre-1963 reserves shall, as of the close of December 31, 1962, be allocated to, and constitute the opening balance of—

(A) The reserve for losses on nonqualifying loans,

(B) The reserve for losses on qualifying real property loans, and

(C) The supplemental reserve for losses on loans.

(3) *Method of allocation.* The allocation provided by paragraph (2) shall be made—

(A) First, to the reserve described in paragraph (2)(A), to the extent such reserve is not increased above the amount which would be a reasonable addition under section 166(c) for a period in which the nonqualifying loans increased from zero to the amount thereof outstanding at the close of December 31, 1962;

(B) Second, to the reserve described in paragraph (2)(B), to the extent such reserve is not increased above the amount which would be determined under paragraph (3)(A) or (4) of subsection (b) (whichever such amount is the larger) for a period in which the qualifying real property loans increased from zero to the amount thereof outstanding at the close of December 31, 1962; and

(C) Then to the supplemental reserve for losses on loans.

(4) *Pre-1963 reserves defined.* For purposes of this subsection, the term "pre-1963 reserves" means the net amount, determined as of the close of December 31, 1962 (after applying subsection (d)(1)), accumulated in the reserve for bad debts pursuant to section 166(c) (or the corresponding provisions of prior revenue laws) for taxable years beginning after December 31, 1951.

(5) *Certain pre-1952 surplus.* If after the application of paragraph (3), the opening balance of the reserve described in paragraph (2)(B) is less than the amount described in paragraph (3)(B), then, for purposes of this subsection, the term "pre-1963 reserves" includes so much of the surplus, undivided profits, and bad debt reserves (determined as of December 31, 1962) attributable to the period before the first taxable year beginning after December 31, 1951, as does not exceed the amount by which such opening balance is less than the amount described in paragraph (3)(B). For purposes of the preceding sentence, the surplus, undivided profits, and bad debt reserves attributable to the period before the first taxable year beginning after December 31, 1951, shall be reduced by the amount thereof which is attributable to interest which would have been excludable from gross income under section 22(b)(4) of the Internal Revenue Code of 1939 (relating to interest on governmental obligations) or the corresponding provisions of prior laws. Notwithstanding the second sentence of paragraph (1), any amount which, by reason of the application of the first sentence of this paragraph, is allocated to the reserve described in paragraph (2)(B) shall not be treated as a reserve for bad debts for any purpose other than determining the amount referred to in subsection (b)(1)(B), and for such purpose such amount shall be treated as remaining in such reserve.

(6) *Charging of bad debts to reserves.* Any debt becoming worthless or partially worthless in respect of a qualifying real property loan shall be charged to the reserve for losses on such loans, and any debt becoming worthless or partially worthless in respect of a nonqualifying loan shall be charged to the reserve for losses on nonqualifying loans; except that any such debt may, at the election of the taxpayer, be charged in whole or in part to the supplemental reserve for losses on loans.

(d) *Taxable years beginning in 1962 and ending in 1963.* In the case of a taxable year beginning before January 1, 1963, and ending after December 31, 1962, of a taxpayer described in subsection (a) which uses the reserve method of accounting for bad debts, the taxable income shall be the sum of—

(1) That portion of the taxable income allocable to the part of the taxable year occurring before January 1, 1963, reduced by the amount of the deduction for an addition to a reserve for bad debts which would be allowable under section 166(c) (without regard to the amendments made by section 6 of the Revenue Act of 1962) if such part year constituted a taxable year, plus

(2) That portion of the taxable income allocable to the part of the taxable year occurring after December 31, 1962, reduced by the amount of the deduction for an addition to a reserve for bad debts which would be allowed under section 166(c) (taking into account the amendments made by section 6 of the Revenue Act of 1962) if such part year constituted a taxable year.

For purposes of the preceding sentence, the taxable income shall be determined without regard to any deduction under section 166(c), and the portion thereof allocable to each part year shall be determined on the basis of the ratio which the number of days in such part year bears to the number of days in the entire taxable year.

(e) *Loans defined.* For purposes of this section—

(1) *Qualifying real property loans.* The term "qualifying real property loan" means any loan secured by an interest in improved real property or secured by an interest in real property which is to be improved out of the proceeds of the loan, but such term does not include—

(A) Any loan evidenced by a security (as defined in section 165(g)(2)(C));

(B) Any loan, whether or not evidenced by a security (as defined in section 165(g)(2)(C)), the primary obligor on which is—

(i) A government or political subdivision or instrumentality thereof;

(ii) A bank (as defined in section 581); or

(iii) Another member of the same affiliated group;

(C) Any loan, to the extent secured by a deposit in or share of the taxpayer; or

(D) Any loan which, within a 60-day period beginning in one taxable year of the creditor and ending in its next taxable year, is made or acquired and then repaid or disposed of, unless the transactions by which such loan was made or acquired and then repaid or disposed of are established to be for bona fide business purposes.

For purposes of subparagraph (B)(iii), the term "affiliated group" has the meaning assigned to such term by section 1504(a); except that (i) the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in section 1504(a), and (ii) all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)).

(2) *Nonqualifying loans.* The term "nonqualifying loan" means any loan which is not a qualifying real property loan.

(3) *Loan.* The term "loan" means debt, as the term "debt" is used in section 166.

(f) *Distributions to shareholders*—(1) *In general.* For purposes of this chapter, any distribution of property (as defined in section 317(a)) by a domestic building and loan

association to a shareholder with respect to its stock, if such distribution is not allowable as a deduction under section 591, shall be treated as made—

(A) First out of its earnings and profits accumulated in taxable years beginning after December 31, 1951, to the extent thereof,

(B) Then out of the reserve for losses on qualifying real property loans, to the extent additions to such reserve exceed the additions which would have been allowed under subsection (b)(4),

(C) Then out of the supplemental reserve for losses on loans, to the extent thereof,

(D) Then out of such other accounts as may be proper.

This paragraph shall apply in the case of any distribution in redemption of stock or in partial or complete liquidation of the association, except that any such distribution shall be treated as made first out of the amount referred to in subparagraph (B), second out of the amount referred to in subparagraph (C), third out of the amount referred to in subparagraph (A), and then out of such other accounts as may be proper.

(2) *Amounts charged to reserve accounts and included in gross income.* If any distribution is treated under paragraph (1) as having been made out of the reserves described in subparagraphs (B) and (C) of such paragraph, the amount charged against such reserve shall be the amount which, when reduced by the amount of tax imposed under this chapter and attributable to the inclusion of such amount in gross income, is equal to the amount of such distribution; and the amount so charged against such reserve shall be included in gross income of the taxpayer.

(3) *Special rules.* (A) For purposes of paragraph (1)(B), additions to the reserve for losses on qualifying real property loans for the taxable year in which the distribution occurs shall be taken into account.

(B) For purposes of computing under this section the amount of a reasonable addition to the reserve for losses on qualifying real property loans for any taxable year, any amount charged during any year to such reserve pursuant to the provisions of paragraph (2) shall not be taken into account.

[Sec. 593 as amended by sec. 6(a), Rev. Act 1962 (76 Stat. 977)]

PAR. 5. There are inserted immediately after § 1.593–2 the following new sections:

§ 1.593–3 Taxable years affected.

Sections 1.593–1 and 1.593–2 apply only to taxable years beginning after December 31, 1953, and ending after August 16, 1954, but before January 1, 1963, and all references to sections of the Code are to the Internal Revenue Code of 1954 before amendment by the Revenue Act of 1962. Sections 1.593–4 through 1.593–11 apply only to taxable years ending after December 31, 1962, and all references to sections of the Code are to the Internal Revenue Code of 1954 after amendment by the Revenue Act of 1962.

§ 1.593–4 Organizations to which section 593 applies.

The provisions of section 593 and §§ 1.593–5 through 1.593–11 (except subsection (f) of section 593 and § 1.593–10) apply to any mutual savings bank not having capital stock represented by shares, any domestic building and loan association, and any cooperative bank without capital stock organized and operated for mutual purposes and without profit, which uses the reserve method of accounting for bad debts, or which adopts or changes to such method in accordance with the provisions of paragraph (b) of § 1.166–1. With respect to taxable years beginning after October 16, 1962, for definition of the terms "domestic building and loan association" and "cooperative bank", see paragraphs (19) and (32), respectively, of section 7701(a).

§ 1.593–5 Addition to reserves for bad debts.

(a) *Amount of addition.* As an alternative to a deduction from gross income under section 166(a) for specific debts which become worthless in whole or in part, a taxpayer described in § 1.593–4 is allowed a deduction under section 166(c) for a reasonable addition to a reserve for bad debts. For purposes of section 166(c) in the case of such a taxpayer, the amount of the reasonable addition to such reserve may not exceed the sum of (1) the amount determined under § 1.166–4 as a reasonable addition to the reserve for losses on nonqualifying loans, and (2) the amount determined under § 1.593–6 as a reasonable addition to the reserve for losses on qualifying real property loans.

(b) *Crediting to reserves required*—(1) *In general.* The amounts referred to in paragraph (a) (1) and (2) of this section must be credited, respectively, to the reserve for losses on nonqualifying loans and to the reserve for losses on qualifying real property loans by the close of the taxable year, or as soon as practicable thereafter. For rules with respect to accounting for such reserves, see paragraph (a)(2) of § 1.593–7.

(2) *Subsequent adjustments.* If an adjustment with respect to the income tax return for a taxable year is made, and if such adjustment (whether initiated by the taxpayer or the Commissioner) has the effect of permitting an increase, or requiring a reduction, in the amount claimed on such return as an addition to the reserve for losses on nonqualifying loans or to the reserve for losses on qualifying real property loans, then the amount initially credited to such reserve for such year pursuant to subparagraph (1) of this paragraph may have to be increased or decreased, as the case may be, to the extent necessary to reflect such adjustment.

(c) *Transition year.* For rules governing the computation of taxable income in the case of a taxable year beginning in 1962 and ending in 1963, see § 1.593–9.

§ 1.593–6 Addition to reserve for losses on qualifying real property loans.

(a) *In general.* For purposes of § 1.593–5, the amount of the addition for any taxable year to the reserve for losses on qualifying real property loans is the amount which the taxpayer determines to constitute a reasonable addition to such reserve for such year. However, the amount so determined for such year—

(1) Cannot exceed the largest of the amounts computed under one of the three methods described in paragraph (b), (c), or (d) of this section (relating, respectively, to the percentage of taxable income method, the percentage of real property loans method, and the experience method),

(2) Cannot exceed the maximum permissible addition described in paragraph (e) of this section (if applicable), and

(3) Shall be determined without regard to any amount charged for any taxable year against the reserve for losses on qualifying real property loans pursuant to § 1.593–10 (relating to certain distributions to shareholders by a domestic building and loan association).

For each taxable year the taxpayer must include in its income tax return for such year a computation of the addition under this section. The use of a particular method in the return for a taxable year is not a binding election by the taxpayer to apply such method either for such taxable year or for subsequent taxable years. Thus, in the case of a subsequent adjustment described in paragraph (b)(2) of § 1.593–5 which has the effect of permitting an increase, or requiring a reduction, in the amount claimed in the return for a taxable year as an addition to the reserve for losses on qualifying real property loans, the amount of such addition may be recomputed under whichever method the taxpayer selects for the purposes of such recomputation, irrespective of the method initially applied for such taxable year. However, a taxpayer may not subsequently reduce the amount claimed in the return for a taxable year for the purpose of obtaining a larger deduction in a later year.

(b) *Percentage of taxable income method*—(1) *In general.* The amount determined under the percentage of taxable income method for any taxable year is an amount equal to 60 percent of the taxable income for such year, minus the amount determined under § 1.166–4 as a reasonable addition for such year to the reserve for losses on nonqualifying loans. However, the amount determined under such method shall not exceed the amount necessary to increase the balance (as of the close of the taxable year) of the reserve for losses on qualifying real property loans to an amount equal to 6 percent of such loans outstanding at such time.

(2) *Taxable income defined.* For purposes of this paragraph, taxable income shall be computed—

(i) By excluding from gross income any amount included therein by reason of the application of § 1.593–10 (relating to certain distributions to shareholders by a domestic building and loan association);

(ii) Without regard to any deduction allowable under section 166(c) for an addition to a reserve for bad debts;

(iii) Without regard to any section providing for a deduction the amount of which is dependent upon the amount of taxable income (such as section 170, relating to charitable, etc., contributions and gifts), other than sections 243, 244, and 245 (relating to deductions for dividends received); and

(iv) Without regard to any net operating loss carryback to such year under section 172.

In computing the deductions under sections 243, 244, and 245, section 246(b) (relating to limitation on aggregate amount of deduction) shall not apply. For purposes of subdivision (iii) of this subparagraph, a net operating loss deduction under section 172 is not a deduction the amount of which is dependent upon the amount of taxable income.

(c) *Percentage of real property loans method*—(1) *General rule.* The amount determined under the percentage of real property loans method for any taxable year is the amount necessary to increase the balance (as of the close of such year) of the reserve for losses on qualifying real property loans to—

(i) An amount equal to 3 percent of such loans outstanding at such time, plus

(ii) In the case of a taxpayer described in subparagraph (2) of this paragraph, an amount equal to—

(*a*) The lesser of 2 percent of such loans outstanding at such time, or $80,000, reduced (but not below zero) by

(*b*) The balance as of the close of such year, if any, of such taxpayer's supplemental reserve for losses on loans.

(2) *Certain new companies.* (i) Subparagraph (1)(ii) of this paragraph applies only in the case of a taxpayer which is a new company, and which does not have capital stock with respect to which distributions of property (as defined in section 317(a)) are not allowable as a deduction under section 591.

(ii) For purposes of this subparagraph, a taxpayer is a new company for any taxable year only if such year begins not more than 10 calendar years after the first day on which such taxpayer, or any predecessor of such taxpayer, was authorized by Federal or State law to do business as (*a*) a mutual savings bank not having capital stock represented by shares, (*b*) a domestic building and loan association, (*c*) a cooperative bank without capital stock organized and operated for mutual purposes and without profit, or (*d*) any other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law.

(iii) As used in subdivision (ii) of this subparagraph, the term "calendar year" has the meaning assigned to such term in section 441 (relating to the period for computation of taxable income); and the term "predecessor" means any organization which transferred more than 50 percent of the total amount of its assets to the taxpayer, and which, prior to the time of such transfer, was (*a*) authorized by Federal or State law to do business as a mutual savings bank not having capital stock represented by shares, a domestic building and loan association, or a cooperative bank without capital stock organized and operated for mutual purposes and without profit, or (*b*) any other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law. The term "predecessor" also means any predecessor of such predecessor.

(d) *Experience method.* The amount determined under the experience method for any taxable year is the amount determined under § 1.166–4 to be a reasonable addition for such year to the reserve for losses on qualifying real property loans.

(e) *Maximum permissible addition where percentage of taxable income method or percentage of real property loans method is applied*—(1) *12 percent of deposits limitation.* If, for the taxable year, the taxpayer uses either the percentage of taxable income method described in paragraph (b) of this section or the percentage of real property loans method described in paragraph (c) of this section, then (unless subparagraph (2) of this paragraph applies) the maximum permissible addition for such year is equal to the lesser of—

(i) The amount determined under such paragraph (b) or (c), or

(ii) An amount which, when added to the amount determined under § 1.166–4 as an addition for such year to the reserve for losses on nonqualifying loans, equals the amount by which 12 percent of the total deposits or withdrawable accounts of depositors of the taxpayer at the close of such year exceeds the sum of the taxpayer's surplus, undivided profits, and reserves at the beginning of such year (taking into account any portion thereof which is attributable to the period before the first taxable year beginning after December 31, 1951).

For definition of the terms "surplus, undivided profits, and reserves" and "total deposits or withdrawable accounts", see paragraph (f) of this section.

(2) *Special rule where a domestic building and loan association or cooperative bank exceeds certain assets limitations.* If, for the taxable year, the taxpayer uses either the percentage of taxable income method described in paragraph (b) of this section or the percentage of real property loans method described in paragraph (c) of this section, and if for such year such taxpayer qualifies as a domestic building and loan association under the first sentence of paragraph (19) of section 7701(a) (or as a cooperative bank under paragraph (32) thereof) solely by reason of the application of the second sentence of such paragraph (19) (that is, solely by reason of the fact that for such year more than 36 percent, but not more than 41 percent, of the amount of the total assets of such association or bank consists of assets other than assets described in section 7701(a)(19)(D)(ii)), then the maximum permissible addition for such year is equal to the amount determined under subparagraph (1) of this paragraph, reduced in accordance with the following table:

If the percentage of the taxpayer's assets which are not assets described in section 7701(a)(19)(D)(ii) exceeds—	But does not exceed—	The reduction shall be the following proportion of the amount determined under such subparagraph (1)—
Percent	*Percent*	
36	37	1/12
37	38	1/6
38	39	1/4
39	40	1/3
40	41	5/12

(f) *Definitions.* For purposes of this section—

(1) *Surplus, undivided profits, and reserves.* The term "surplus, undivided profits, and reserves" means the amount by which the total assets of the taxpayer exceed its total liabilities. The determination of such total assets and total liabilities shall conform to the method of accounting employed by the taxpayer in determining taxable income and to the rules applicable in determining its earnings and profits. Total deposits or withdrawable accounts (as defined in subparagraph (3) of this paragraph but determined as of the beginning of the taxable year) shall be considered a liability. In the case of a domestic building and loan association having permanent nonwithdrawable capital stock represented by shares, the paid-in amount of such stock shall also be considered a liability. However, reserves for contingencies and other reserves which are mere appropriations of surplus are not liabilities for purposes of this section.

(2) *Total assets.* The term "total assets" means the sum of money (including time or demand deposits with, or withdrawable accounts in, any financial institution), plus the aggregate of the adjusted basis (determined under § 1.1011–1) of the property other than money held by the taxpayer. For special rules with respect to adjustments to basis in the case of property acquired by the taxpayer in a transaction described in section 595(a), see section 595.

(3) *Total deposits or withdrawable accounts.* The term "total deposits or withdrawable accounts" means the total of the amounts placed with the taxpayer for deposit or investment. Such term also includes earnings outstanding on the books of account of the taxpayer at the close of the taxable year which have been credited as dividends or interest upon such deposits or withdrawable accounts prior to the close of such taxable year, and which are withdrawable on demand subject only to customary notice of intention to withdraw. In the case of a domestic building and loan association, however, such phrase does not include permanent nonwithdrawable capital stock represented by shares, or earnings credited thereon.

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

Example (1)—(i) *Facts.* X is a domestic building and loan association which was organized in 1947 and which makes its returns on the basis of the calendar year and the reserve method of accounting for bad debts. X's accounts contain the following entries:

Account	Balance as of—	
	Jan. 1, 1965	Dec. 31, 1965
Total deposits or withdrawable accounts	$1,000,000	$1,200,000
Nonqualifying loans	50,000	60,000
Qualifying real property loans	900,000	940,000
Reserve for losses on nonqualifying loans	200	*160
Reserve for losses on qualifying real property loans	24,000	*21,000
Supplemental reserve for losses on loans	60,800	60,800
Surplus, undivided profits, and other reserves	15,000	18,040

*Computed before any addition for 1965 under section 166(c).

X's taxable income for 1965 (before any deductible addition to a reserve for bad debts and without regard to charitable contributions of $200) is $20,000, computed as follows:

Interest and other income	$19,940
Dividends received from Y Corporation, a domestic corporation subject to taxation under chapter 1 of the Code	400
	20,340
Deduction for 85 percent of dividends received computed without regard to the limitation of section 246(b)	340
Taxable income	20,000

It is assumed that under § 1.166–4 X's addition for 1965 to its reserve for losses on nonqualifying loans is $80.

(ii) *Computation of addition to reserve for losses on qualifying real property loans—(a) In general.* X determines that the reasonable addition for 1965 to its reserve for losses on qualifying real property loans is $11,920. Such amount, computed under the percentage of taxable income method, is the largest of the amounts determined under (*b*), (*c*), and (*d*) of this subdivision, and does not exceed the 12 percent of deposits limitation computed under (*e*) of this subdivision.

(*b*) *Percentage of taxable income method.* The amount determined under the percentage of tavable income method is $11,920, that is, 60 percent of the taxable income for 1965, or $12,000 (60 percent of $20,000), minus $80, the addition for such year to the reserve for losses on nonqualifying loans. This amount is not subject to reduction under the 6 percent of qualifying real property loans limitation described in paragraph (b)(1) of this section since the addition of $11,920 to the $21,000 balance of the reserve for losses on qualifying real property loans at the close of 1965 will not increase such balance to an amount in excess of $56,400, that is, 6 percent of such loans of $940,000 outstanding at such time.

(*c*) *Percentage of real property loans method.* Since X is not a new company within the meaning of paragraph (c)(2) of this section, the amount determined under the percentage of real property loans method is $7,200, that is, the amount necessary to increase the balance of the reserve for losses on qualifying real property loans at the close of 1965 from $21,000 to an amount equal to 3 percent of such loans outstanding at such time, or $28,200 (3 percent of $940,000).

(*d*) *Experience method.* The amount determined under the experience method is zero since it is assumed that the $21,000 balance of the reserve for losses on qualifying real property loans at the close of 1965 before any addition for such year exceeds the maximum amount to which such reserve could be increased under such method.

(*e*) *12 percent of deposits limitation.* The amount determined under the 12 percent of deposits limitation is $43,920, that is, $44,000 (the excess of 12 percent of $1,200,000 of deposits at the close of 1965, or $144,000, over the $100,000 of surplus, undivided profits, and reserves at the beginning of such year), minus $80, the addition for such year to the reserve for losses on nonqualifying loans. Since such $43,920 is greater than $11,920 (the amount determined under (*b*) of this subdivision), the 12 percent of deposits limitation does not apply for 1965.

(iii) *Computation of taxable income for 1965.* X's taxable income for 1965, after deducting the additions for such year to its reserves for losses on nonqualifying loans and on qualifying real property loans, after deducting the charitable contributions which were not taken into account in computing taxable income for purposes of the addition to the reserve for losses on qualifying real property loans, after including in taxable income dividends received from Y Corporation, and after taking into account the deduction for dividends received under section 243 (subject to the limitation in section 246(b)), is $7,800, computed as follows:

Interest and other income	$19,940	
Dividends received from Y Corporation	400	
		$20,340
Less:		
Deduction for charitable contributions	200	
85 percent of dividends received from Y Corporation	340	
Additions to reserves for bad debts	12,000	
		12,540
Taxable income		7,800

Example (2). Assume the same facts as in example (1), except that X Corporation was organized in 1957, and qualifies for the taxable year 1965 as a new company within the meaning of paragraph (c)(2) of this section. The maximum permissible addition for 1965 to X's reserve for losses on qualifying real property loans is $18,000, the amount computed under the percentage of real property loans method, since such amount is greater than (i) $11,920, the amount computed under the percentage of taxable income method, or (ii) zero, the amount computed under the experience method. The $18,000 amount (as computed under the percentage of real property loans method) is the amount necessary to increase the reserve for losses on qualifying real property loans from the $21,000 closing balance to $39,000, computed as follows:

3 percent of $940,000 of qualifying real property loans at close of 1965		$28,200
Plus:		
Lesser of $80,000 or $18,800 (2 percent of such loans of $940,000)	$18,800	
Reduced by the balance of supplemental reserve for losses on loans	8,000	
		10,800
		39,000

Example (3). Assume the same facts as in example (1), except that for 1965, 38.4 percent of X's total assets consist of assets other than the assets described in section 7701(a)(19)(D)(ii). In such case, the maximum permissible addition of $11,920 for such year to the reserve for losses on qualifying real property loans (as determined under subdivision (ii) of example (1)) would be reduced by $2,980 (¼ of $11,920) to $8,940.

§ 1.593–7 Establishment and treatment of reserves for bad debts.

(a) *Establishment of reserves*—(1) *In general.* A taxpayer described in § 1.593–4 shall establish and maintain a reserve for losses on nonqualifying loans, a reserve for losses on qualifying real property loans, and, if required under paragraph (b)(4) or (c)(3)(i)(*c*) of this section, a supplemental reserve for losses on loans. For rules governing the crediting of additions to the reserve for losses on nonqualifying loans and the reserve for losses on qualifying real property loans, see paragraph (b) of § 1.593–5.

(2) *Accounting for reserves.* (i) The taxpayer shall establish and maintain as a permanent part of its regular books of account an account for each of the reserves established pursuant to subparagraph (1) of this paragraph. For purposes of the preceding sentence, a taxpayer may establish and maintain a permanent subsidiary ledger containing an account for each of such reserves. If a taxpayer maintains such a permanent subsidiary ledger, the total of the reserve accounts in such ledger, and the total of the reserve accounts in any other ledger, must be reconciled.

(ii) The credits and charges to each of the reserves established pursuant to subparagraph (1) of this paragraph must be made to such reserves irrespective of whether the amount thereof is also credited or charged to any surplus, reserve, or other account which the taxpayer may be required or permitted to maintain pursuant to any Federal or State statute, regulation, or supervisory order. Minimum amounts credited in compliance with such Federal or State statutes, regulations, or supervisory orders to reserve or similar accounts, or additional amounts credited to such reserve or similar accounts and permissive under such statutes, regulations, or orders, against which charges may be made for the purpose of absorbing losses sustained by the taxpayer, may also be credited to the reserve for losses on nonqualifying loans or the reserve for losses on qualifying real property loans, provided that the total of the amounts so credited to the reserve for losses on nonqualifying loans, or to the reserve for losses on qualifying real property loans, for any taxable year does not exceed the amount determined under § 1.166–4 or § 1.593–6 as the addition to such reserve for such year.

(b) *Allocation of pre-1963 reserves*—(1) *In general.* In the case of a taxpayer described in § 1.593–4, the pre-1963 reserves, if any, of such taxpayer shall be allocated to (and constitute the opening balance of) the reserve for losses on nonqualifying loans, the reserve for losses on qualifying real property loans, and, if required under subparagraph (4) of this paragraph, the supplemental reserve for losses on loans. The term "pre-1963 reserves" means the net amount (determined as of the close of December 31, 1962) accumulated for taxable years beginning after December 31, 1951, in the taxpayer's reserve for bad debts pursuant to section 166(c) of the Internal Revenue Code of 1954 and section 23(k)(1) of the Internal Revenue Code of 1939 (including the amount of any bad debt reserves acquired from another taxpayer). For purposes of the preceding sentence in the case of a taxable year beginning before January 1, 1963, and ending after December 31, 1962, the part of such year occurring before January 1, 1963, shall be treated as a taxable year. Thus, the pre-1963 reserves of the taxpayer shall be an amount equal to—

(i) The sum of the amounts allowed as deductions for additions to a reserve for bad debts for taxable years beginning after December 31, 1951, and ending before January 1, 1963, plus

(ii) In the case of a taxable year beginning before January 1, 1963, and end-

ing after December 31, 1962, the amount (determined under § 1.593–1 or 1.593–2) which would be allowable under section 166(c) as a deduction for an addition to a reserve for bad debts for the part of such year occurring before January 1, 1963, if such part year constituted a taxable year, minus

(iii) The total amount of bad debts charged against a reserve for bad debts during the period which begins with the opening of the first taxable year beginning after December 31, 1951, and which ends at the close of December 31, 1962, plus

(iv) The total amount of recoveries, during the period described in subdivision (iii) of this subparagraph, on bad debts charged against a reserve for bad debts in a taxable year beginning after December 31, 1951.

(2) *Allocation to opening balance of reserve for losses on nonqualifying loans.* (i) As of the close of December 31, 1962, the pre-1963 reserves shall first be allocated to (and constitute the opening balance of) the reserve for losses on nonqualifying loans in an amount equal to the lesser of (*a*) the amount of such pre-1963 reserves, or (*b*) the amount determined under subdivision (ii) of this subparagraph.

(ii) The amount referred to in subdivision (i)(*b*) of this subparagraph shall be the amount which would constitute a reasonable addition to the reserve for losses on nonqualifying loans under § 1.166–4 for a period in which the taxpayer's nonqualifying loans increased from zero to the amount thereof outstanding at the close of December 31, 1962.

(3) *Allocation to opening balance of reserve for losses on qualifying real property loans.* (i) Any portion of the pre-1963 reserves remaining after the allocation provided in subparagraph (2) of this paragraph shall, as of the close of December 31, 1962, be allocated to (and constitute the opening balance of) the reserve for losses on qualifying real property loans in an amount equal to the lesser of (*a*) the amount of such remaining portion, or (*b*) the amount determined under subdivision (ii) of this subparagraph. If the amount described in (*a*) of the preceding sentence is less than the amount described in (*b*) thereof, see § 1.593–8 for allocation of pre-1952 surplus, if any, to the opening balance of such reserve.

(ii) The amount referred to in subdivision (i)(*b*) of this subparagraph shall be an amount equal to the greater of—

(*a*) 3 percent of the taxpayer's qualifying real property loans outstanding at the close of December 31, 1962, or

(*b*) The amount which would constitute a reasonable addition to the reserve for losses on such loans under § 1.166–4 for a period in which the amount of such loans increased from zero to the amount thereof outstanding at the close of December 31, 1962.

(4) *Allocation to supplemental reserve for losses on loans.* Any portion of the pre-1963 reserves remaining after the allocations provided in subparagraphs (2) and (3) of this paragraph shall be allocated in its entirety to the supplemental reserve for losses on loans.

(5) *Examples.* This paragraph may be illustrated by the following examples:

Example (1).—(i) *Facts.* X Corporation, a domestic building and loan association organized on April 1, 1954, makes its returns on the basis of a taxable year ending March 31 and the reserve method of accounting for bad debts. For its taxable years ending March 31, 1955, through March 31, 1962, X was allowed a total of $750,000 as deductible additions to its reserve for bad debts under section 166(c). For its taxable year ending March 31, 1963, X was allowed a deduction under section 166(c) for an addition to a reserve for bad debts. Of such deduction $46,000 was determined under § 1.593–1 (relating to additions to reserve for bad debts) by reference to § 1.593–9 (relating to taxable income for taxable years beginning in 1962 and ending in 1963) as the amount which would be allowable for the period April 1 through December 31, 1962, if such period constituted a taxable year. During the taxable years ending March 31, 1955, through March 31, 1963, X charged bad debts of $55,000 against its reserve for bad debts and made recoveries on such debts of $10,000. Of such bad debt charges and recoveries, $50,000 was charged off and $9,000 was recovered prior to January 1, 1963. At the close of December 31, 1962, X had outstanding nonqualifying loans of $500,000 and outstanding qualifying real property loans of $10 million. It is assumed that, under § 1.66–4, $2,000 would constitute a reasonable addition to the reserve for losses on nonqualifying loans for a period in which such loans increased from zero to $500,000 and $20,000 would constitute a reasonable addition to the reserve for losses on qualifying real property loans for a period in which such loans increased from zero to $10 million.

(ii) *Pre-1963 reserves determined.* X's pre-1963 reserves are $755,000, computed as follows:

Deductible additions to reserve for bad debts:		
Years ending March 31, 1955 through March 31, 1962	$750,000	
Period April 1 through December 31, 1962	46,000	
		$796,000
Less:		
Net bad debt losses for period April 1, 1954 through December 31, 1962:		
Bad debts	50,000	
Recoveries	(9,000)	41,000
		755,000

(iii) *Allocation to opening balance of reserve for losses on nonqualifying loans.* The portion of the $755,000 of pre-1963 reserves to be allocated to the reserve for losses on nonqualifying loans as the opening balance thereof is $2,000 since such amount would constitute a reasonable addition to the reserve for losses on nonqualifying loans under § 1.166–4 for a period in which the amount of such loans increased from zero to $500,000.

(iv) *Allocation to opening balance of reserve for losses on qualifying real property loans.* Of the $753,000 ($755,000 minus $2,000) of pre-1963 reserves remaining after the allocation described in subdivision (iii) of this example, $300,000 (3 percent of $10 million, the total amount of qualifying real property loans outstanding at the close of December 31, 1962) is allocated to the opening balance of the reserve for losses on qualifying real property loans, since such amount is greater than $20,000, the amount which would constitute a reasonable addition to the reserve for losses on such loans under § 1.166–4 for a period in which the amount of such loans increased from zero to $10 million.

(v) *Allocation to supplemental reserve for losses on loans.* The balance of the pre-1963 reserves, or $453,000 ($755,000 minus the sum of $2,000 and $300,000), is allocated in its entirety to the supplemental reserve for losses on loans.

Example (2). Assume the same facts as in example (1), except that X was organized in 1936, and on December 31, 1962, had pre-1963 reserves of only $15,000 (rather than $755,000). In such case, $2,000 of such pre-1963 reserves would be allocated to, and constitute the opening balance of, the reserve for losses on nonqualifying loans, and $13,000 ($15,000 minus $2,000) would be allocated to and constitute part of the opening balance of the reserve for losses on qualifying real property loans. However, since such $13,000 is less than $300,000 (3 percent of $10 million), the opening balance of the reserve for losses on qualifying real property loans must be increased by so much of the taxpayer's pre-1952 surplus as is necessary to increase such opening balance to $300,000. For rules on the allocation of pre-1952 surplus to the opening balance of the reserve for losses on qualifying real property loans, see § 1.593–8.

(c) *Treatment of reserves.*—(1) *In general.* Except as provided in paragraph (d) of § 1.593–8 (relating to the allocation of pre-1952 surplus), each of the reserves established pursuant to paragraph (a) of this section shall be treated, for purposes of subtitle A of the Code, as a reserve for bad debts, except that no deduction shall be allowed under section 166 for any addition to the supplemental reserve for losses on loans. Accordingly, if in any taxable year the taxpayer charges any of the reserves established pursuant to paragraph (a) of this section for an item other than a bad debt, gross income for such year shall be increased by the amount of such charge. For special rules in case of certain nondeductible distributions to shareholders by a domestic building and loan association, see § 1.593–10.

(2) *Bad debt losses.* Any bad debt in respect of a nonqualifying loan shall be charged against the reserve for losses on nonqualifying loans, and any bad debt in respect of a qualifying real property loan shall be charged against the reserve for losses on qualifying real property loans. At the option of the taxpayer, however, any bad debt in respect of either class of loans may be charged in whole or in part against the supplemental reserve for losses on loans.

(3) *Recoveries of bad debts.* Any amount recovered after December 31, 1962, in respect of a bad debt shall be credited to the reserves established pursuant to paragraph (a) of this section in the following manner:

(i) If the recovery is in respect of a bad debt which was charged prior to January 1, 1963, against a reserve for bad debts established pursuant to section 166(c) of the Internal Revenue Code of 1954, or section 23(k)(1) of the Internal Revenue Code of 1939, then the amount recovered shall be credited—

(*a*) First, to the reserve for losses on nonqualifying loans in an amount equal to the amount, if any, by which the amount determined under subdivision (ii) of paragraph (b)(2) of this section exceeds the opening balance of

such reserve (determined under such paragraph (b)(2)),

(b) Second, to the reserve for losses on qualifying real property loans in an amount equal to the amount, if any, by which the amount determined under subdivision (ii) of paragraph (b)(3) of this section exceeds the opening balance of such reserve (determined under such paragraph (b)(3)), and

(c) Finally, to the supplemental reserve for losses on loans.

For purposes of determining the amounts of the credits under (a) and (b) of this subdivision, the opening balances of the reserve for losses on nonqualifying loans and the reserve for losses on qualifying real property loans shall be deemed to include the sum of the amounts of any prior credits made to such reserves pursuant to this subdivision.

(ii) If the recovery is in respect of a bad debt which is charged after December 31, 1962, against only one of the reserves established pursuant to paragraph (a) of this section, the entire amount recovered shall be credited to the reserve so charged.

(iii) If the recovery is in respect of a bad debt which is charged after December 31, 1962, against more than one of the reserves established pursuant to paragraph (a) of this section, then the amount recovered shall be credited to each of the reserves so charged in the ratio which the amount of the bad debt charged against such reserve bears to the total amount of such bad debt charged against both such reserves.

(iv) Subdivision (i) of this subparagraph may be illustrated by the following example:

Example. In 1962, the taxpayer sustained a bad debt of $10,000, which was charged against a reserve for bad debts established pursuant to section 166(c). As of the close of December 31, 1962, the balance of the taxpayer's reserve for losses on nonqualifying loans was $2,000, the amount determined under paragraph (b)(2)(ii) of this section. As of the same time, the balance of the taxpayer's reserve for losses on qualifying real property loans was $100,000, but the amount determined under paragraph (b)(3)(ii) of this section was $106,000. In 1963, the taxpayer recovers $8,000 of the $10,000 charged off in 1962. Of the $8,000 recovered in 1963, $6,000 ($106,000 minus $100,000) is credited to the reserve for losses on qualifying real property loans, and the balance of $2,000 is credited to the supplemental reserve for losses on loans.

§ 1.593–8 Allocation of pre-1952 surplus to opening balance of reserve for losses on qualifying real property loans.

(a) *General rule.* In the case of a taxpayer described in § 1.593–4, if the amount of pre-1963 reserves allocated (under paragraph (b)(3)(i) of § 1.593–7) to the opening balance of the reserve for losses on qualifying real property loans is less than an amount equal to the greater of—

(1) The total amount of qualifying real property loans outstanding at the close of December 31, 1962, multiplied by 3 percent, or

(2) The amount which would constitute a reasonable addition to the reserve for losses on such loans under § 1.166–4 for a period in which the amount of such loans increased from zero to the amount thereof outstanding at the close of December 31, 1962.

then such opening balance shall be increased by an amount equal to so much of the "pre-1952 surplus" of the taxpayer as is necessary to increase such opening balance to the greater of the amounts described in subparagraph (1) or (2) of this paragraph. The amount of such increase shall be deemed to be included in such opening balance solely for the limited purpose described in paragraph (d) of this section.

(b) *Pre-1952 surplus defined*—(1) *In general.* For purposes of this section and § 1.593–7, the term "pre-1952 surplus" means an amount equal to—

(i) The sum of the taxpayer's surplus, undivided profits, and reserves determined (under the principles of paragraph (d)(2) of § 1.593–1) as of the close of the taxpayer's last taxable year beginning before January 1, 1952 (including any amount acquired from another taxpayer), minus

(ii) The amount of any impairments of such sum (as determined under paragraph (c) of this section).

(2) *Reduction for certain excludable interest.* (i) The amount otherwise determined under subparagraph (1) of this paragraph may, at the option of the taxpayer, be reduced by the portion, if any, of such amount which is attributable to interest which would have been excludable from gross income of such taxpayer under section 22(b)(4) of the Internal Revenue Code of 1939 (relating to interest on governmental obligations) or the corresponding provisions of prior revenue laws, had such taxpayer been subject, when such interest was received or accrued, to the income tax imposed by such Code or prior revenue laws.

(ii) For purposes of subdivision (i) of this subparagraph, the portion of the amount otherwise determined under subparagraph (1) of this paragraph which is attributable to interest which would have been excludable from gross income shall be determined by multiplying such amount by the ratio which—

(a) The total amount of such excludable interest for the period before the taxpayer's first taxable year beginning after December 31, 1951, bears to

(b) The total amount of the taxpayer's gross income, plus the total amount of such excludable interest, for such period.

If the amount determined under subparagraph (1)(i) of this paragraph includes any amount acquired from another taxpayer, then the gross income and excludable interest of the taxpayer for the period before its first taxable year beginning after December 31, 1951, shall include the gross income and excludable interest (for the same period) of such other taxpayer.

(c) *Impairment of surplus, undivided profits, and reserves*—(1) *General rule.* In the case of a taxable year beginning after December 31, 1951, and ending before January 1, 1963, if for such year—

(i) The amount described in paragraph (b)(1)(i) of this section (as decreased under subparagraph (3)(i) of this paragraph), exceeds

(ii) The sum of the taxpayer's surplus, undivided profits, and reserves (excluding the amount of any pre-1963 reserves) determined as of the close of such year under the principles of paragraph (d)(2) of § 1.593–1,

then the amount described in paragraph (b)(1)(i) of this section may, at the option of the taxpayer, be reduced by the amount of such excess.

(2) *Transition year.* In the case of a taxable year beginning before January 1, 1963, and ending after December 31, 1962, the part of such year which occurs before January 1, 1963, shall be considered to be a taxable year for purposes of subparagraph (1) of this paragraph.

(3) *Rules for applying subparagraph (1).* (i) For purposes of subparagraph (1)(i) of this paragraph, the amount described in paragraph (b)(1)(i) of this section shall be decreased by the total of any reductions under subparagraph (1) of this paragraph for prior taxable years; and

(ii) For purposes of subparagraph (1)(ii) of this paragraph, the term "pre-1963 reserves" means the amount determined under the principles of paragraph (b)(1) of § 1.593–7 for the period which begins with the first day of the first taxable year beginning after December 31, 1951, and which ends at the close of the taxable year with respect to which the computation under subparagraph (1) is being made.

(d) *Treatment of pre-1952 surplus.* Any portion of the taxpayer's pre-1952 surplus which, pursuant to paragraph (a) of this section, is deemed to be included in the opening balance of the reserve for losses on qualifying real property loans shall not be treated as a reserve for bad debts for any purpose other than computing for any taxable year the amount determined under the method described in paragraph (b), (c), or (d) of § 1.593–6 (relating, respectively, to the percentage of taxable income method, the percentage of real property loans method, and the experience method). For such limited purpose, such portion shall be deemed to remain in, and constitute a part of, the reserve for losses on qualifying real property loans. For all other purposes, such portion will retain its character as part of the taxpayer's pre-1952 surplus.

(e) *Example.* The provisions of this section may be illustrated by the following example:

Example—(1) *Facts.* X Corporation, a mutual savings bank organized in 1934, makes its returns on the basis of the calendar year and the reserve method of accounting for bad debts. For the taxable years 1934 through 1951, X's gross income was $2.7 million, in addition to which X received $300,000 of interest which would have been excludable from gross income under section 22(b)(4) of the Internal Revenue Code of 1939, or the corresponding provisions of prior revenue laws, if X had been subject to the income tax imposed by such Code or prior revenue laws when such interest was received. At the close of 1951, the sum of X's surplus, undivided profits, and reserves was $650,000. At the close of 1954, X had pre-1963 reserves of $10,000, and surplus, undivided profits, and reserves of $630,000. At

the close of 1955, X had pre-1963 reserves of $15,000, and surplus, undivided profits, and reserves of $625,000. At the close of 1962, X had pre-1963 reserves of $55,000, nonqualifying loans of $4 million, and qualifying real property loans of $10 million. It is assumed that, under § 1.166–4, $16,000 would constitute a reasonable addition to the reserve for losses on nonqualifying loans for a period in which such loans increased from zero to $4 million and $20,000 would constitute a reasonable addition to the reserve for losses on qualifying real property loans for a period in which such loans increased from zero to $10 million.

(2) *Impairment of surplus, undivided profits, and reserves for 1954.* The sum of X's surplus, undivided profits, and reserves at the close of 1951 was impaired during 1954 by $30,000, computed as follows:

Sum of surplus, undivided profits, and reserves at close of 1951		$650,000
Less:		
Sum of surplus, undivided profits, and reserves at close of 1954, excluding pre-1963 reserves at close of such year ($630,000 minus $10,000)		620,000
		30,000

(3) *Impairment of surplus, undivided profits, and reserves for 1955.* The sum of X's surplus, undivided profits, and reserves at the close of 1951 was further impaired during 1955 by $10,000, computed as follows:

Sum of surplus, undivided profits, and reserves at close of 1951, decreased by amount of 1954 impairment ($650,000 minus $30,000)		$620,000
Less:		
Sum of surplus, undivided profits, and reserves at close of 1955, excluding pre-1963 reserves at close of such year ($625,000 minus $15,000)		610,000
		10,000

(4) *Pre-1952 surplus.* X's pre-1952 surplus is $549,000, computed as follows:

Sum of surplus, undivided profits and reserves at close of 1951	$650,000	
Less:		
Sum of impairments for 1954 and 1955 ($30,000 plus $10,000)	40,000	
		$610,000
Less:		
Portion of such $610,000 which is attributable to excludable interest ($610,000 multiplied by $300,000/$3 million)		61,000
		549,000

(5) *Allocation of pre-1963 reserves to reserve for losses on nonqualifying loans and to reserve for losses on qualifying real property loans.* Of the $55,000 of pre-1963 reserves at the close of 1962, $16,000 (the amount which would constitute a reasonable addition to the reserve for losses on nonqualifying loans for a period in which such loans increased from zero to $4 million) shall be allocated to, and constitute the opening balance of, the reserve for losses on nonqualifying loans, and the balance of $39,000 ($55,000 minus $16,000) shall be allocated to, and constitute a part of the opening balance of, the reserve for losses on qualifying real property loans.

(6) *Allocation of pre-1952 surplus to reserve for losses on qualifying real property loans.* X's pre-1963 reserves are not sufficient to bring the opening balance of the reserve for losses on qualifying real property loans to $300,000, which is an amount equal to the greater of—

(i) $300,000 (i.e., $10 million of qualifying real property loans outstanding at the close of 1962, multiplied by 3 percent), or

(ii) $20,000 (the amount which would constitute a reasonable addition to the reserve for losses on such loans under § 1.166–4 for a period in which the amount of such loans increased from zero to the $10 million).

Therefore, $261,000 ($300,000 minus $39,000) of X's pre-1952 surplus of $549,000 shall be deemed to be included in the opening balance of such reserve in order to increase such opening balance to $300,000.

§ 1.593–9 Taxable income for taxable years beginning in 1962 and ending in 1963.

(a) *In general.* For purposes of subtitle A of the Code, in the case of a taxable year beginning before January 1, 1963, and ending after December 31, 1962, of a taxpayer described in § 1.593–4, taxable income for such taxable year shall be the sum of—

(1) An amount equal to (i) the portion of taxable income (as determined under paragraph (b) of this section) allocable to the part of such year occurring before January 1, 1963, minus (ii) the amount determined under § 1.593–1 or 1.593–2 which would be allowable under section 166(c) as a deduction for an addition to a reserve for bad debts if such part year constituted a taxable year, and

(2) An amount equal to (i) the portion of taxable income (as determined under paragraph (b) of this section) allocable to the part of such year occurring after December 31, 1962, minus (ii) the amount determined under § 1.593–5 which would be allowable under section 166(c) as a deduction for an addition to a reserve for bad debts if such part year constituted a taxable year.

(b) *Rules for applying paragraph (a).* For purposes of paragraph (a) (1) and (2) of this section—

(1) In determining taxable income the rules of paragraph (b)(2) of § 1.593–6 shall apply.

(2) Taxable income (as determined under subparagraph (1) of this paragraph) shall be allocated to each part year (that is, the part occurring before January 1, 1963, and the part occurring after December 31, 1962) in the ratio which the number of days in such part year bears to the number of days in the entire taxable year.

(3) The sum of surplus, undivided profits, and reserves, the total deposits or withdrawable accounts, the amount of outstanding qualifying real property loans and nonqualifying loans, and any other account balance necessary to determine the addition to a reserve for bad debts for each part year, shall be the actual account balance as of the beginning or ending, as the case may be, of each such part year. See example (1) of paragraph (b)(5) of § 1.593–7.

(c) *Example.* This section may be illustrated by the following example:

Example. (i) For its taxable year beginning October 1, 1962, and ending September 30, 1963, corporation X, a domestic building and loan association, has taxable income of $1,825,000, determined without regard to any deduction under section 166(c) for an addition to a reserve for bad debts, without regard to a charitable contribution of $500, and without regard to $1,000 which is includible in gross income by reason of the application of § 1.593–10.

(ii) Under this section, $460,000 (92/365 of $1,825,000) of such taxable income is allocated to the part of the taxable year occurring before January 1, 1963 (that is, October 1 through December 31, 1962) and $1,365,000 (273/365 of $1,825,000) of such taxable income is allocated to the part of the taxable year occurring after December 31, 1962 (that is, January 1 through September 30, 1963). Corporation X's taxable income for the taxable year ending September 30, 1963, is $546,500, computed as follows:

Part year occurring in 1962:

Taxable income	$460,000	
Amount of deduction assumed to be allowable under § 1.593–1 if such part year constituted a taxable year	460,000	
		0

Part year occurring in 1963:

Taxable income	$1,365,000	
Amount of deduction assumed to be allowable under § 1.593–5 if such part year constituted a taxable year	819,000	
		$546,000
		546,000
Add:		
Amount includible in gross income by reason of application of § 1.593–10		1,000
Less:		
Charitable contribution		(500)
Taxable income for taxable year ending September 30, 1963		546,500

§ 1.593–10 Certain distributions to shareholders by a domestic building and loan association.

(a) *In general.* Section 593(f) provides that if a domestic building and loan association (as defined in section 7701(a)(19)) distributes property after December 31, 1962, to a shareholder with respect to its stock and if the amount of such distribution is not allowable to the association as a deduction under section 591 (relating to deduction for dividends paid on deposits), then, notwithstanding any other provision of the Code, the distribution shall be treated as provided in paragraphs (b) and (c) of this section. For purposes of the preceding sentence, the term "distribution" includes any distribution in redemption of stock to which section 302(a) or 303 applies, or in partial or complete liquidation of the association, as well as any other distribution which the association may make to a shareholder with respect to its stock. For definition of the term "property", see section 317(a). For determination of the amount of a distribution, see section 301(b).

(b) *Distributions out of certain reserves—(1) Distributions not in exchange for stock.* If the distribution is not in a redemption to which section 302(a) or 303 applies or in partial or complete liquidation of the association, then to the extent that the distribution

is not out of earnings and profits of the taxable year (within the meaning of section 316(a)(2)) or out of earnings and profits accumulated in taxable years beginning after December 31, 1951, the distribution shall be treated as made out of—

(i) First, the reserve for losses on qualifying real property loans (determined under subparagraph (3) of this paragraph), to the extent thereof,

(ii) Second, the supplemental reserve for losses on loans, to the extent thereof, and

(iii) Finally, such other accounts as may be proper.

(2) *Distributions in redemption of stock or in liquidation.* If the distribution is a redemption to which section 302(a) or 303 applies, or in partial or complete liquidation of the association, the distribution shall be treated as made out of—

(i) First, the reserve for losses on qualifying real property loans (as determined under subparagraph (3) of this paragraph), to the extent thereof,

(ii) Second, the supplemental reserve for losses on loans, to the extent thereof,

(iii) Third, earnings and profits of the taxable year (within the meaning of section 316(a)(2)),

(iv) Fourth, earnings and profits accumulated in taxable years beginning after December 31, 1951, and

(v) Finally, such other accounts as may be proper.

(3) *Special rule.* For purposes of subparagraphs (1)(i) and (2)(i) of this paragraph, the reserve for losses on qualifying real property loans shall be an amount equal to—

(i) The balance of such reserve determined as of the close of the taxable year after all adjustments for such year have been made (including the addition for such year determined under § 1.593–6), minus

(ii) The sum of—

(*a*) The amount which would have constituted the opening balance of such reserve (at the close of December 31, 1962) if such opening balance had been determined under the experience method described in paragraph (b)(3)(ii)(*b*) of § 1.593–7 (relating to allocation of pre-1963 reserves to the opening balance of the reserve for losses on qualifying real property loans), and

(*b*) The total amount of the annual additions which would have been made to such reserve under section 166(c) for taxable years ending after December 31, 1962, if each such addition had been determined under the experience method described in paragraph (d) of § 1.593–6 (relating to the addition to the reserve for losses on qualifying real property loans).

For purposes of subdivision (i) of this subparagraph, the balance of the reserve for losses on qualifying real property loans shall include the total amount of any pre-1963 reserves allocated thereto under paragraph (b)(3) of § 1.593–7, but shall not include any pre-1952 surplus which is deemed to be included therein under paragraph (a) of § 1.593–8 (relating to allocation of pre-1952 surplus to the opening balance of the reserve for losses on qualifying real property loans).

(c) *Amount charged against reserve and included in gross income*—(1) *In general.* If a distribution is treated under paragraph (b)(1) or (2) of this section as having been made out of the reserve for losses on qualifying real property loans or out of the supplemental reserve for losses on loans, such reserves shall be charged with, and gross income for the taxable year shall be increased by, an amount equal to the lesser of—

(i) The amount of such reserves, or

(ii) The amount which, when reduced by the amount of income tax imposed by chapter 1 of the Code and attributable to the inclusion of such amount in gross income, is equal to the amount of such distribution.

(2) *Special rule.* For purposes of subparagraph (1)(ii) of this paragraph, in determining the income tax attributable to the inclusion of an amount in gross income, taxable income shall be determined without regard to any net operating loss carryback to the taxable year under section 172.

(d) *Examples.* This section may be illustrated by the following examples:

Example (1)—(i) *Facts.* X Corporation, a domestic building and loan association having nonwithdrawable capital stock represented by shares, was organized in 1946, and makes its returns on the basis of the calendar year and the reserve method of accounting for bad debts. As of the close of December 31, 1962, X had $6,900 of earnings and profits accumulated in taxable years beginning after December 31, 1951. X's taxable income for 1963 is $30,000 (computed prior to the inclusion of any amount in gross income for such year under section 593(f)) and during such year X received tax-exempt interest of $500. X's earnings and profits for 1963 (computed at the close of the taxable year without diminution by reason of any distributions made during the taxable year) is $20,400. The opening balance of X's reserve for losses on qualifying real property loans as of the close of December 31, 1962 (determined under paragraph (b)(3)(ii)(*a*) of § 1.593–7) was $24,500. Pre-1963 reserves of $22,500 were included in such opening balance, but it is assumed that pre-1963 reserves of only $2,500 would have been included in the opening balance if the opening balance had been determined under the experience method described in paragraph (b)(3)(ii)(*b*) of § 1.593–7. Pre-1952 surplus of $2,000 was deemed included in such opening balance under paragraph (a) of § 1.593–8. The deductible addition to such reserve for 1963 is $47,000. It is assumed that the addition to such reserve for 1963 would have been $2,200 if such addition had been computed under the experience method described in paragraph (d) of § 1.593–6. On each of four dates during 1963 (January 1, April 1, July 1, and October 1), X made a $12,000 distribution (which was not a redemption to which section 302(a) or 303 applied or in partial or complete liquidation of X) to its shareholders with respect to its stock.

(ii) *Reserve for losses on qualifying real property loans.* For purposes of paragraph (b)(1)(i) of this section, X's reserve for losses on qualifying real property loans is $64,800, computed as follows:

Closing balance of reserve for losses on qualifying real property loans after addition for 1963 ($24,500 opening balance plus $47,000 addition)		$71,500
Minus:		
Amount of pre-1963 reserves which would have been included in opening balance under experience method	$2,500	
Total additions which would have been made under experience method	2,200	
Pre-1952 surplus included in opening balance	2,000	
		6,700
		64,800

(iii) *Treatment of distributions.* Of each $12,000 quarterly distribution, $5,100 ($20,400 earnings and profits of the taxable year divided by 4) is out of X's earnings and profits of the taxable year (within the meaning of section 316(a)(2)); the remainder of the January 1 distribution, $6,900 ($12,000 minus $5,100), is out of X's earnings and profits accumulated in taxable years beginning after December 31, 1951. Since $20,700 ($6,900 multiplied by 3) is not out of X's earnings and profits, such amount shall be treated as made out of X's reserve for losses on qualifying real property loans (as determined under subdivision (ii) of this example).

(iv) *Amount charged against reserve for losses on qualifying real property loans and included in gross income.* The reserve for losses on qualifying real property loans is charged with, and X's gross income for 1963 is increased by, $43,124, which is the lesser of—

(*a*) $64,800 (the reserve as of December 31, 1963, as determined under subdivision (ii) of this example), or

(*b*) $43,124, i.e., the amount which, when reduced by the amount of income tax attributable to the inclusion of such amount in gross income, $22,424 ($43,124 multiplied by a tax rate of 52 percent), is equal to the amount of such distribution, $20,700.

Example (2)—(i) *Facts.* Assume the same facts as in example (1) and the following additional facts: X's taxable income for 1964 is $6,000. The deductible addition to the reserve for losses on qualifying real property loans for 1964 is $11,000, but it is assumed that only $2,676 would have been the addition to such reserve for 1964 if such addition had been computed under the experience method described in paragraph (d) of § 1.593–6. On December 31, 1964, X makes a $10,000 distribution in a redemption to which section 302(a) applies.

(ii) *Reserve for losses on qualifying real property loans.* For purposes of paragraph (b)(2)(i) of this section, X's reserve for losses on qualifying real property loans is $30,000, computed as follows:

Closing balance of reserve for losses on qualifying real property loans after addition for 1964 ($71,500 opening balance plus $11,000 addition)	$82,500

Minus:		
Amount of pre-1963 reserves which would have been included in opening balance under the experience method	$2,500	
Total additions which would have been made under the experience method ($2,200 for 1963 plus $2,676 for 1964)	4,876	
Pre-1952 surplus included in opening balance	2,000	
		$9,376
		73,124
Less charge against reserve under subdivision (iv) of example (1) for 1963 distribution		43,124
		30,000

(iii) *Treatment of distribution.* The $10,000 distribution in a redemption to which section 302(a) applies shall be treated as made out of X's reserve for losses on qualifying real property loans (as determined under subdivision (ii) of this example).

(iv) *Amount charged against reserve for losses on qualifying real property loans and included in gross income.* The reserve for losses on qualifying real property loans is charged with, and X's gross income for 1964 is increased by, $12,820, which is the lesser of—

(*a*) $30,000 (the reserve as of December 31, 1964, as determined under subdivision (ii) of this example), or

(*b*) $12,820, i.e., the amount which, when reduced by the amount of income tax attributable to the inclusion of such amount in gross income, $2,820 ($12,820 multiplied by a tax rate of 22 percent), is equal to the amount of such distribution, $10,000.

Example (3)—(i) *Facts.* X Corporation, a domestic building and loan association having nonwithdrawable capital stock represented by shares, was organized in 1946, and makes its returns on the basis of the calendar year and the reserve method of accounting for bad debts. As of the close of December 31, 1962, X had $6,900 of earnings and profits accumulated in taxable years beginning after December 31, 1951. X's taxable income for 1963 is $30,000 (computed prior to the inclusion of any amount in gross income for such year under section 593(f)) and during such year X received tax-exempt interest of $500. X's earnings and profits for 1963 (computed at the close of the taxable year without diminution by reason of any distributions made during the taxable year) is $20,400. The opening balance of X's reserve for losses on qualifying real property loans as of the close of December 31, 1962 (determined under paragraph (b)(3)(ii)(*a*) of § 1.593–7) was $24,500. Pre-1963 reserves of $24,500 were included in such opening balance, but it is assumed that pre-1963 reserves of only $4,500 would have been included in the opening balance if the opening balance had been determined under the experience method described in paragraph (b)(3)(ii)(*b*) of § 1.593–7. The deductible addition to such reserve for 1963 is $500. It is assumed that the addition to such reserve for 1963 would have been $100 if such addition had been computed under the experience method described in paragraph (d) of § 1.593–6. As of December 31, 1963, the balance of X's supplemental reserve for losses on loans is $30,000. On each of four dates during 1963 (January 1, April 1, July 1, and October 1), X made a $12,000 distribution (which was not a redemption to which section 302(a) or 303 applied or in partial or complete liquidation of X) to its shareholders with respect to its stock.

(ii) *Reserve for losses on qualifying real property loans.* For purposes of paragraph (b)(1)(i) of this section, X's reserve for losses on qualifying real property loans is $20,400, computed as follows:

Closing balance of reserve for losses on qualifying real property loans after addition for 1963 ($24,500 opening balance plus $500 addition)		$25,000
Minus:		
Amount of pre-1963 reserves which would have been included in opening balance under experience method	$4,500	
Total additions which would have been made under experience method	100	
		4,600
		20,400

(iii) *Treatment of distributions.* Of each $12,000 quarterly distribution, $5,100 ($20,400 earnings and profits of the taxable year divided by 4) is out of X's earnings and profits of the taxable year (within the meaning of section 316(a)(2)); the remainder of the January 1 distribution, $6,900 ($12,000 minus $5,100), is out of X's earnings and profits accumulated in taxable years beginning after December 31, 1951. Since $20,700 ($6,900 multiplied by 3) is not out of X's earnings and profits, $20,400 of such amount shall be treated as made out of X's reserve for losses on qualifying real property loans (as determined under subdivision (ii) of this example) and $300 ($20,700 minus $20,400) shall be treated as made out of X's supplemental reserve for losses on loans.

(iv) *Amount included in gross income.* X's gross income for 1963 is increased by $43,124, which is the lesser of—

(*a*) $50,400 ($20,400, the reserve for losses on qualifying real property loans, as determined under subdivision (ii) of this example, plus $30,000, the supplemental reserve for losses on loans), or

(*b*) $43,124, i.e., the amount which, when reduced by the amount of income tax attributable to the inclusion of such amount in gross income, $22,424 ($43,124 multiplied by a tax rate of 52 percent), is equal to the amount of such distribution, $20,700.

(v) *Amount charged against reserve for losses on qualifying real property loans and supplemental reserve for losses on loans.* The reserve for losses on qualifying real property loans is charged with $20,400 (the balance of the reserve as of December 31, 1963, as determined under subdivision (ii) of this example), and the supplemental reserve for losses on loans is charged with $22,724 ($43,124, the amount included in gross income under subdivision (iv) of this example, minus $20,400).

§ 1.593–11 Qualifying real property loan and nonqualifying loan defined.

(a) *Loan defined.* For purposes of this section, the term "loan" means debt, as the term "debt" is used in section 166 and the regulations thereunder. The term "loan" also includes a redeemable ground rent (as defined in section 1055(c)) which is owned by the taxpayer, and any property acquired by the taxpayer in a transaction described in section 595(a). For determination of the amount of a loan, see paragraph (d) of this section.

(b) *Qualifying real property loan defined*—(1) *General rule.* For purposes of §§ 1.593–4 through 1.593–10, the term "qualifying real property loan" means any loan (other than a loan described in subparagraph (5) of this paragraph) which is secured by an interest in qualifying real property. For purposes of this section, the term "real property" means any property which, under the law of the jurisdiction in which such property is situated, constitutes real property.

(2) *Meaning of "secured".* A loan will be considered as "secured" only if the loan is on the security of any instrument (such as a mortgage, deed of trust, or land contract) which makes the interest of the debtor in the property described therein specific security for the payment of the loan, provided that such instrument is of such a nature that, in the event of default, the property could be subjected to the satisfaction of the loan with the same priority as a mortgage or deed of trust in the jurisdiction in which the property is situated.

(3) *Meaning of "interest".* The word "interest" means an interest in real property which, under the law of the jurisdiction in which such property is situated, constitutes either (i) an interest in fee in such property, (ii) a leasehold interest in such property extending or renewable automatically for a period of at least 30 years, or at least 10 years beyond the date specified for the final payment on such loan, or (iii) a leasehold interest in such property held subject to a redeemable ground rent defined in section 1055(c).

(4) *Meaning of "qualifying real property".* The term "qualifying real property" means any real property which is improved real property, or which from the proceeds of the loan will become improved real property. As used in the preceding sentence, the term "improved real property" means—

(i) Land on which is located any building of a permanent nature (such as a house, apartment house, office building, hospital, shopping center, warehouse, garage, or other similar permanent structure), provided that the value of such building is substantial in relation to the value of such land,

(ii) Any building lot or site which, by reason of installations and improvements that have been completed in keeping with applicable governmental requirements and with general practice in the community, is a building lot or site ready for the construction of any building of a permanent nature within the meaning of subdivision (i) of this subparagraph, or

(iii) Real property which, because of its state of improvement, produces sufficient income to maintain such real property and retire the loan in accordance with the terms thereof.

(5) *Loans not included.* The term "qualifying real property loan" does not include—

(i) Any loan evidenced by a security as defined in section 165(g)(2)(C),

(ii) Any loan (whether or not evidenced by a security as so defined) the

primary obligor on which is (*a*) a government or a political subdivision or instrumentality thereof, (*b*) a bank (as defined in section 581), or (*c*) another member of the same affiliated group.

(iii) Any loan to the extent such loan is secured by a deposit in or share of the taxpayer (including a share of nonwithdrawable capital stock), determined as of the close of the taxable year, and

(iv) Any loan which (within a 60-day period beginning in one taxable year of the taxpayer and ending in the next taxable year of such taxpayer) is made or acquired, and then repaid or disposed of, unless both the transaction by which the loan is made or acquired and the transaction by which the loan is repaid or disposed of are established to the satisfaction of the district director to be for bona fide business purposes.

As used in subdivision (ii) (c) of this subparagraph, the term "affiliated group" shall have the meaning assigned to such term by section 1504(a) (relating to the definition of an affiliated group), except that the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place the latter phrase appears in section 1504(a), and all corporations shall be treated as includible corporations (without regard to any of the exclusions provided in section 1504(b)).

(c) *Nonqualifying loan defined.* For purposes of §§ 1.593–4 through 1.593–9, the term "nonqualifying loan" means any loan which is not a qualifying real property loan.

(d) *Amount of loan determined*—(1) *General rule.* Except as provided in subparagraph (2) of this paragraph, the amount of any qualifying real property loan or nonqualifying loan, for purposes of section 593, is the adjusted basis of such loan as determined under § 1.1011–1. However, the adjusted basis, determined under § 1.1011–1, of any "loan in process" does not include the unadvanced portion of such loan. For the basis of a redeemable ground rent reserved or created by the taxpayer before April 11, 1963, see section 1055(b)(3); and for the basis of a loan represented by property acquired by the taxpayer in a transaction described in section 595 (a), see section 595(c).

(2) *Limitation.* If the total amount advanced on any loan exceeds the loan value of any interest in qualifying real property which secures such loan, then the portion of such loan which, as of the close of any taxable year, will be considered as a qualifying real property loan shall be determined under the principles of section 7701(a)(19) and the regulations thereunder.

(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: April 29, 1964.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 64–4472; Filed, May 4, 1964; 8:51 a.m.]

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 6727]

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Taxes Under the Railroad Retirement Tax Act

In order to conform the Employment Tax Regulations (26 CFR Part 31) to section 201 of the Social Security Amendments of 1961 (75 Stat. 140), and sections 201 and 202 of the Act of October 5, 1963 (Public Law 88–133, 77 Stat. 221), and to correct an erroneous quotation, such regulations are amended as follows:

PARAGRAPH 1. Section 31.3201 is amended to read as follows:

§ 31.3201 Statutory provisions; rate of tax.

SEC. 3201. *Rate of tax.* In addition to other taxes, there is hereby imposed on the income of every employee a tax equal to—

(1) 6¾ percent of so much of the compensation paid to such employee for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

(2) 7¼ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1961,

as is not in excess of $400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended: *Provided*, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956.

[Sec. 3201 as amended by sec. 206(a), Act of Aug. 31, 1954 (Pub. Law 746, 83d Cong., 68 Stat. 1040); sec. 201(a), Act of May 19, 1959 (Pub. Law 86–28, 73 Stat. 28); sec. 201, Act of Oct. 5, 1963 (Pub. Law 88–133, 77 Stat. 221)]

PAR. 2. Section 31.3201–1 is amended to read as follows:

§ 31.3201–1 Measure of employee tax.

The employee tax with respect to compensation paid after 1954 for services rendered after 1954 is measured by the amount of such compensation paid to an individual for services rendered as an employee to one or more employers, excluding, however, the amount of—

(a) Compensation in excess of $450 which is paid to the employee after May 31, 1959, for services rendered during any one calendar month after October 31, 1963;

(b) Compensation in excess of $400 which is paid to the employee after May 31, 1959, for services rendered during any one calendar month after May 31, 1959, and before November 1, 1963;

(c) Compensation in excess of $350 which is paid to the employee after 1954 and before June 1, 1959, for services rendered during any one calendar month after May 31, 1959; and

(d) Compensation in excess of $350 which is paid to the employee after 1954 for services rendered during any one calendar month after 1954 and before June 1, 1959.

The employee tax with respect to compensation paid after May 31, 1959, for services rendered after that date, is measured without regard to any amount of compensation paid before June 1, 1959, for such services. The employee tax with respect to compensation paid before June 1, 1959, for services rendered after May 31, 1959, is measured without regard to any amount of compensation paid after May 31, 1959, for such services. For provisions relating to compensation, see § 31.3231(e)–1. For provisions relating to the circumstances under which certain compensation is to be disregarded for the purpose of determining the employee tax, see paragraph (a) (4) and (5) of § 31.3231(e)–1.

PAR. 3. Paragraph (a) of § 31.3201–2 is amended to read as follows:

§ 31.3201–2 Rates and computation of employee tax.

(a) *Rates.* (1) Except as provided in subparagraph (2) of this paragraph, the rates of employee tax applicable with respect to compensation are as follows:

	Percent
(i) Compensation paid at any time after 1954 for services rendered after 1954 and before June 1, 1959; and compensation paid after 1954 and before June 1, 1959, for services rendered after May 31, 1959	6¼
(ii) Compensation paid after May 31, 1959, for services rendered after May 31, 1959, and before 1962	6¾
(iii) Compensation paid after May 31, 1959, for services rendered during the calendar years 1962, 1963, and 1964	7¼
(iv) Compensation paid after May 31, 1959, for services rendered during the calendar year 1965	8⅛
(v) Compensation paid after May 31, 1959, for services rendered during the calendar years 1966 and 1967	8⅝
(vi) Compensation paid after May 31, 1959, for services rendered after December 31, 1967	9⅛

(2) The rates of employee tax with respect to compensation paid after May 31, 1959, for services rendered after 1964 are the sum of 7¼ percent and an additional percentage. The additional percentage is determined by subtracting 2¾ percent from the rate of tax imposed by section 3101 with respect to wages received at the time such services are rendered. The rates set forth in subdivisions (iv), (v), and (vi) of subparagraph (1) of this paragraph are based upon the rates of tax imposed by section 3101, as amended by section 201(b) of the Social Security Amendments of 1961, and are subject to change in the event of further amendment of section 3101.

* * * * *

PAR. 4. Section 31.3202 is amended by revising section 3202(a) and the historical note to read as follows:

§ 31.3202 Statutory provisions; deduction of tax from compensation.

SEC. 3202. *Deduction of tax from compensation*—(a) *Requirement.* The tax imposed by section 3201 shall be collected by the employer of the taxpayer by deducting the amount of the tax from the compensation of the employee as and when paid. If an employee is paid compensation after the month in which this provision was amended in 1959, by more than one employer for services rendered during any calendar month after the month in which this provision was amended in 1959 and the aggregate of such compensation is in excess of $400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended, the tax to be deducted by each employer other than a subordinate unit of a national railway-labor-organization employer from the compensation paid by him to the employee with respect to such month shall be that proportion of the tax with respect to such compensation paid by all such employers which the compensation paid by him after the month in which this provision was amended in 1959, to the employee for services rendered during such month bears to the total compensation paid by all such employers after the month in which this provision was amended in 1959, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than $400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended, each subordinate unit of a national railway-labor-organization employer shall deduct such proportion of any additional tax as the compensation paid by such employer after the month in which this provision was amended in 1959, to such employee for services rendered during such month bears to the total compensation paid by all such employers after the month in which this provision was amended in 1959, to such employee for services rendered during such month.

* * * * *

[Sec. 3202 as amended by sec. 206(a), Act of Aug. 31, 1954 (Pub. Law 746, 83d Cong., 68 Stat. 1040); sec. 201(b), Act of May 19, 1959 (Pub. Law 86-28, 73 Stat. 29); sec. 202, Act of Oct. 5, 1963 (Pub. Law 88-133, 77 Stat. 221)]

PAR. 5. Paragraph (b) of § 31.3202-1 is amended by deleting subparagraph (1) and substituting new subparagraphs (1) and (2) in lieu thereof, and by renumbering subparagraphs (2) and (3) as subparagraphs (3) and (4), respectively. These revised provisions read as follows:

§ 31.3202-1 Collection of, and liability for, employee tax.

* * * *

(b) *Collection; payments by two or more employers in excess of monthly compensation limitation*—(1) *Aggregate monthly compensation in excess of $450 paid after May 31, 1959, for services rendered after October 31, 1963.* If an employee is paid compensation after May 31, 1959, by two or more employers for services rendered during any one calendar month after October 31, 1963, and if the aggregate of such compensation paid to the employee by all employers for services rendered during that month is in excess of $450, the employee tax to be deducted by each employer from the compensation as and when paid by him after May 31, 1959, to the employee shall be determined as follows:

(i) If the compensation is paid by two or more employers, none of whom is a subordinate unit of a national railway-labor-organization employer (see paragraph (a)(6) of § 31.3231(a)-1), each employer shall deduct the employee tax with respect to that proportion of $450 which the compensation paid by that employer to the employee for the month bears to the total compensation paid to the employee by all employers for that month. See example (1) in subdivision (vii) of this subparagraph.

(ii) If the compensation is paid by two or more employers, each of which is a subordinate unit of a national railway-labor-organization employer, each subordinate unit shall deduct the employee tax with respect to that proportion of $450 which the compensation paid by that subordinate unit to the employee for the month bears to the total compensation paid to the employee by all of the subordinate units for that month.

(iii) If the compensation is paid by two or more employers, only one of whom is an employer other than a subordinate unit of a national railway-labor-organization employer, and if the compensation paid to the employee by the employer other than a subordinate unit equals or exceeds $450 for the month, then no employee tax shall be deducted by any subordinate unit from the compensation paid by it to the employee for that month, and the employer other than a subordinate unit shall deduct the employee tax with respect to $450 of compensation paid by him to the employee for that month. See example (2) in subdivision (vii) of this subparagraph.

(iv) If the compensation is paid by two or more employers other than a subordinate unit of a national railway-labor-organization employer and by one or more subordinate units of a national railway-labor-organization employer, and if the total compensation paid to the employee by the employers other than a subordinate unit equals or exceeds $450 for the month, then no employee tax shall be deducted by any subordinate unit from the compensation paid by it to the employee for that month, and each employer other than a subordinate unit shall deduct the employee tax with respect to that proportion of $450 which the compensation paid by that employer to the employee for the month bears to the total compensation paid to the employee by all of the employers other than a subordinate unit for that month. See example (3) in subdivision (vii) of this subparagraph.

(v) If the compensation is paid by two or more employers, only one of whom is a subordinate unit of a national railway-labor-organization employer, and if the total compensation paid to the employee by all employers other than the subordinate unit is less than $450 for the month, then each employer other than the subordinate unit shall deduct the employee tax with respect to the full amount of compensation paid by him to the employee for that month, and the subordinate unit of a national railway-labor-organization employer shall deduct the employee tax with respect to the remainder of $450 of compensation less the total compensation paid to the employee for that month by all other employers. See example (4) in subdivision (vii) of this subparagraph.

(vi) If the compensation is paid by one or more employers other than a subordinate unit of a national railway-labor-organization employer and by two or more subordinate units of a national railway-labor-organization employer, and if the total compensation paid to the employee by all employers other than the subordinate units is less than $450 for the month, then each employer other than the subordinate units shall deduct the employee tax with respect to the full amount of compensation paid by him to the employee for that month, and each subordinate unit of a national railway-labor-organization employer shall deduct the employee tax with respect to that proportion of the remainder of $450 of compensation less the total compensation paid to the employee for the month by all employers other than the subordinate units which the compensation paid by that subordinate unit to the employee for that month bears to the total compensation paid to the employee by all of the subordinate units for that month. See example (5) in subdivision (vii) of this subparagraph.

(vii) The application of certain of the principles stated in this subparagraph may be illustrated by the following examples:

Example (1). A, an employee, renders services during November 1963 for employers X, Y, and Z, none of whom is a subordinate unit of a national railway-labor-organization employer. After the performance of such services A is paid compensation of $100 by X, $100 by Y, and $300 by Z, or an aggregate of $500 for the month. In such case X pays one-fifth of A's aggregate compensation for the month, Y pays one-fifth, and Z pays three-fifths. X and Y, therefore, are each required to deduct the employee tax with respect to one-fifth of $450, or $90, and Z is required to deduct the employee tax with respect to three-fifths of $450, or $270.

Example (2). A, an employee, renders services during November 1963 for employer X, an employer other than a subordinate unit of a national railway-labor-organization employer, and for employers Y and Z, each of which is a subordinate unit of a national railway-labor-organization employer. After the performance of such services A is paid compensation of $450 by X, $50 by Y, and $35 by Z. Since the compensation paid A for the month by X equals $450, neither Y nor Z is required to deduct any employee tax from the compensation paid by it to A for the month; and X is required to deduct the employee tax with respect to the full $450 paid by him to A for the month.

Example (3). A, an employee, renders services during November 1963 for employers W and X, each of whom is an employer other than a subordinate unit of a national railway-labor-organization employer, and for employers Y and Z, each of which is a subordinate unit of a national railway-labor-organization employer. After the performance of such services A is paid compensation of $200 by W and $300 by X, or an aggregate of $500 for the month, and compensation of $50 by Y and $50 by Z. Since the aggregate compensation paid A for the month by W and X is in excess of $450, neither Y nor Z is required to deduct any employee tax from the compensation paid by it to A for the

month. Of the aggregate compensation of $500 paid A for the month by W and X, W pays two-fifths and X pays three-fifths. W, therefore, is required to deduct the employee tax with respect to two-fifths of $450, or $180, and X is required to deduct the employee tax with respect to three-fifths of $450, or $270.

Example (4). A, an employee, renders services during November 1963 for employer X, an employer other than a subordinate unit of a national railway-labor-organization employer, and for employer Y, a subordinate unit of a national railway-labor-organization employer. After the performance of such services A is paid compensation of $300 by X and $200 by Y. In such case X is required to deduct the employee tax with respect to the full $300 paid by him to A for the month; and Y is required to deduct the employee tax only with respect to $150 ($450 minus $300 paid by X).

Example (5). A, an employee, renders services during November 1963 for employers W and X, each of whom is an employer other than a subordinate unit of a national railway-labor-organization employer, and for employers Y and Z, each of which is a subordinate unit of a national railway-labor-organization employer. After the performance of such services A is paid compensation of $220 by W, $140 by X, $50 by Y, and $100 by Z. In such case W and X are each required to deduct the employee tax with respect to the full amount paid to A for the month, that is, W with respect to $220 and X with respect to $140; and Y and Z are required to deduct the employee tax with respect to their proportionate share of $90 ($450 minus $360 paid by W and X). Of the aggregate compensation of $150 paid by Y and Z, $50, or one-third, was paid by Y, and $100, or two-thirds, was paid by Z. In such case Y is required to deduct the employee tax with respect to one-third of $90, or $30, and Z is required to deduct the employee tax with respect to two-thirds of $90, or $60.

(2) *Aggregate monthly compensation in excess of $400 paid after May 31, 1959, for services rendered after May 31, 1959, and before November 1, 1963.* If an employee is paid compensation after May 31, 1959, by two or more employers for services rendered during any one calendar month after May 31, 1959, and before November 1, 1963, and if the aggregate compensation so paid to such employee by all employers for such services rendered during such month is in excess of $400, the employee tax to be deducted by each employer from the compensation as and when so paid by him to the employee shall be determined in accordance with the principles stated in subparagraph (1) of this paragraph. Such principles should be applied, however, with reference to the compensation and services described in this subparagraph.

(3) *Aggregate monthly compensation in excess of $350 paid before June 1, 1959, for services rendered after May 31, 1959.* * * *

(4) *Aggregate monthly compensation in excess of $350 paid after 1954 for services rendered before June 1, 1959.* * * *

PAR. 6. Section 31.3211 is amended to read as follows:

§ 31.3211 Statutory provisions; rate of tax.

SEC. 3211. *Rate of tax.* In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to—

(1) 13½ percent of so much of the compensation paid to such employee representative for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

(2) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1961,

as is not in excess of $400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended: *Provided*, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to twice the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956.

[Sec. 3211 as amended by sec. 206(a), Act of Aug. 31, 1954 (Pub. Law 746, 83d Cong., 68 Stat. 1040); sec. 201(c), Act of May 19, 1959 (Pub. Law 86-28, 73 Stat. 29); sec. 201, Act of Oct. 5, 1963 (Pub. Law 88-133, 77 Stat. 221)]

PAR. 7. Paragraph (a) of § 31.3211-1 is revised; and paragraph (b) of § 31.3211-1 is amended by deleting subparagraph (1) and substituting new subparagraphs (1) and (2) in lieu thereof, and by renumbering subparagraphs (2) and (3) as subparagraphs (3) and (4), respectively. These revised provisions read as follows:

§ 31.3211-1 Measure of employee representative tax.

(a) *General rule.* Except as provided in paragraph (b) of this section the employee representative tax with respect to compensation paid after 1954 for services rendered after 1954 is measured by the amount of such compensation paid to an individual for services rendered as an employee representative, excluding, however, the amount of—

(1) Compensation in excess of $450 which is paid to the employee representative after May 31, 1959, for services rendered during any one calendar month after October 31, 1963;

(2) Compensation in excess of $400 which is paid to the employee representative after May 31, 1959, for services rendered during any one calendar month after May 31, 1959, and before November 1, 1963;

(3) Compensation in excess of $350 which is paid to the employee representative after 1954 and before June 1, 1959, for services rendered during any one calendar month after May 31, 1959; and

(4) Compensation in excess of $350 which is paid to the employee representative after 1954 for services rendered during any one calendar month after 1954 and before June 1, 1959.

The employee representative tax with respect to compensation paid after May 31, 1959, for services rendered after that date, is measured without regard to any amount of compensation paid before June 1, 1959, for such services. The employee representative tax with respect to compensation paid before June 1, 1959, for services rendered after May 31, 1959, is measured without regard to any amount of compensation paid after May 31, 1959, for such services. For provisions relating to compensation, see § 31.3231(e)-1.

(b) *Aggregate monthly compensation as employee representative and employee in excess of monthly compensation limitation*—(1) *Compensation in excess of $450 paid after May 31, 1959, for services rendered after October 31, 1963.* (i) If during any one calendar month after October 31, 1963, an individual renders services both as an employee representative and as an employee and the total compensation paid after May 31, 1959, to the individual for services rendered during the month both as an employee representative and as an employee exceeds $450, the measure of the employee representative tax for the month shall be $450 minus the compensation paid after May 31, 1959, to the individual for services rendered by him during the month as an employee.

(ii) The application of subdivision (i) of this subparagraph may be illustrated by the following example:

Example. A renders services as an employee representative during November 1963 for which he is paid a total of $100 in November and December 1963. During November 1963 A also renders services as an employee for one or more employers for which he receives during November and December 1963 total compensation of $400. Inasmuch as the total amount of compensation paid after May 31, 1959, to A for services rendered during November 1963 as an employee representative and as an employee exceeds $450 ($100 plus $400, or $500), the measure of the employee representative tax is $450 minus $400 (A's compensation for services rendered as an employee), or $50.

(2) *Compensation in excess of $400 paid after May 31, 1959, for services rendered after May 31, 1959, and before November 1, 1963.* If during any one calendar month after May 31, 1959, and before November 1, 1963, an individual renders services both as an employee representative and as an employee and the total compensation paid after May 31, 1959, to the individual for services rendered during the month both as an employee representative and as an employee exceeds $400, the measure of the employee representative tax for the month shall be $400 minus the compensation paid after May 31, 1959, to the individual for services rendered by him during the month as an employee.

(3) *Compensation in excess of $350 paid before June 1, 1959, for services rendered after May 31, 1959.* * * *

(4) *Compensation in excess of $350 paid after 1954 for services rendered after 1954 and before June 1, 1959.* * * *

PAR. 8. Paragraph (a) of § 31.3211-2 is amended to read as follows:

§ 31.3211-2 Rates and computation of employee representative tax.

(a) *Rates.* (1) Except as provided in subparagraph (2) of this paragraph, the rates of employee representative tax applicable with respect to compensation are as follows:

	Percent
(i) Compensation paid at any time after 1954 for services rendered after 1954 and before June 1, 1959; and compensation paid after 1954 and before June 1, 1959, for services rendered after May 31, 1959	12½
(ii) Compensation paid after May 31, 1959, for services rendered after May 31, 1959, and before 1962	13½
(iii) Compensation paid after May 31, 1959, for services rendered during the calendar years 1962, 1963, and 1964	14½
(iv) Compensation paid after May 31, 1959, for services rendered during the calendar year 1965	16¼
(v) Compensation paid after May 31, 1959, for services rendered during the calendar years 1966 and 1967	17¼
(vi) Compensation paid after May 31, 1959, for services rendered after December 31, 1967	18¼

(2) The rates of employee representative tax with respect to compensation paid after May 31, 1959, for services rendered after 1964 are the sum of 14½ percent and an additional percentage. The additional percentage is determined by subtracting 2¾ percent from the rate of tax imposed by section 3101 with respect to wages received at the time such services are rendered, and by doubling the remainder. The rates set forth in subdivisions (iv), (v), and (vi) of subparagraph (1) of this paragraph are based upon the rates of tax imposed by section 3101, as amended by section 201(b) of the Social Security Amendments of 1961, and are subject to change in the event of further amendment of section 3101.

* * * * *

PAR. 9. Section 31.3221 is amended by revising section 3221(a) and the historical note to read as follows:

§ 31.3221 Statutory provisions; rate of tax.

SEC. 3221. *Rate of tax.* (a) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to—

(1) 6¾ percent of so much of the compensation paid by such employer for services rendered to him after the month in which this provision was amended in 1959, and before January 1, 1962, and

(2) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1961,

as is, with respect to any employee for any calendar month, not in excess of $400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended; except that if an employee is paid compensation after the month in which this provision was amended in 1959, by more than one employer for services rendered during any calendar month after the month in which this provision was amended in 1959, the tax imposed by this section shall apply to not more than $400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended of the aggregate compensation paid to such employee by all such employers after the month in which this provision was amended in 1959, for services rendered during such month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the tax with respect to such compensation paid by all such employers which the compensation paid by him after the month in which this provision was amended in 1959, to the employee for services rendered during such month bears to the total compensation paid by all such employers after the month in which this provision was amended in 1959, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than $400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended, each subordinate unit of a national railway-labor-organization employer shall be liable for such proportion of any additional tax as the compensation paid by such employer after the month in which this provision was amended in 1959, to such employee for services rendered during such month bears to the total compensation paid by all such employers after the month in which this provision was amended in 1959, to such employee for services rendered during such month.

* * * * *

[Sec. 3221 as amended by sec. 206(a), Act of Aug. 31, 1954 (Pub. Law 746, 83d Cong., 68 Stat. 1040); sec. 201(d), Act of May 19, 1959 (Pub. Law 86-28, 73 Stat. 29); sec. 202, Act of Oct. 5, 1963 (Pub. Law 88-133, 77 Stat. 221)]

PAR. 10. Paragraph (a) of § 31.3221-1 is revised; and paragraph (b) of § 31.3221-1 is amended by deleting subparagraph (1) and substituting new subparagraphs (1) and (2) in lieu thereof, and by renumbering subparagraphs (2) and (3) as subparagraphs (3) and (4), respectively. These revised provisions read as follows:

§ 31.3221-1 Measure of employer tax.

(a) *General rule.* Except as provided in paragraph (b) of this section, the employer tax with respect to compensation paid after 1954 for services rendered after 1954 is measured by the amount of such compensation paid by an employer to his employees, excluding, however, the amount of—

(1) Compensation in excess of $450 which is paid to any employee after May 31, 1959, for services rendered during any one calendar month after October 31, 1963;

(2) Compensation in excess of $400 which is paid to any employee after May 31, 1959, for services rendered during any one calendar month after May 31, 1959, and before November 1, 1963;

(3) Compensation in excess of $350 which is paid to any employee after 1954 and before June 1, 1959, for services rendered during any one calendar month after May 31, 1959; and

(4) Compensation in excess of $350 which is paid to any employee after 1954 for services rendered during any one calendar month after 1954 and before June 1, 1959.

The employer tax with respect to compensation paid after May 31, 1959, for services rendered after that date, is measured without regard to any amount of compensation paid before June 1, 1959, for such services. The employer tax with respect to compensation paid before June 1, 1959, for services rendered after May 31, 1959, is measured without regard to any amount of compensation paid after May 31, 1959, for such services. For provisions relating to compensation, see § 31.3231(e)-1. For provisions relating to the circumstances under which certain compensation is to be disregarded for the purpose of determining the employer tax, see paragraph (a) (4) and (5) of § 31.3231(e)-1.

(b) *Payments by two or more employers in excess of monthly compensation limitation*—(1) *Aggregate monthly compensation in excess of $450 paid after May 31, 1959, for services rendered after October 31, 1963.* If an employee is paid compensation after May 31, 1959, by two or more employers for services rendered during any one calendar month after October 31, 1963, and if the aggregate of such compensation paid to the employee by all employers for services rendered during that month is in excess of $450, the measure of the employer tax of each employer with respect to the compensation paid by him after May 31, 1959, to the employee for the month shall be determined as follows:

(i) If the compensation is paid by two or more employers, none of whom is a subordinate unit of a national railway-labor-organization employer (see paragraph (a)(6) of § 31.3231(a)-1), the measure of the employer tax of each employer shall be that proportion of $450 which the compensation paid by that employer to the employee for the month bears to the total compensation paid to the employee by all employers for that month.

(ii) If the compensation is paid by two or more employers, each of which is a subordinate unit of a national railway-labor-organization employer, the measure of the employer tax of each subordinate unit shall be that proportion of $450 which the compensation paid by that subordinate unit to the employee for the month bears to the total compensation paid to the employee by all of the subordinate units for that month.

(iii) If the compensation is paid by two or more employers, only one of whom is an employer other than a subordinate unit of a national railway-labor-organization employer, and if the compensation paid to the employee by the employer other than a subordinate unit equals or exceeds $450 for the month, then no subordinate unit shall be liable for any employer tax with respect to the compensation paid by it to the employee for that month, and the measure of the employer tax of the employer other than a subordinate unit with respect to the compensation paid by him to the employee for that month shall be $450.

(iv) If the compensation is paid by two or more employers other than a subordinate unit of a national railway-labor-organization employer and by one or more subordinate units of a national railway-labor-organization employer, and if the total compensation paid to the employee by the employers other than a subordinate unit equals or exceeds $450 for the month, then no subordinate unit shall be liable for any employer tax with respect to the compensation paid by it

to the employee for that month, and the measure of the employer tax of each employer other than a subordinate unit shall be that proportion of $450 which the compensation paid by that employer to the employee for the month bears to the total compensation paid to the employee by all of the employers other than a subordinate unit for that month.

(v) If the compensation is paid by two or more employers, only one of whom is a subordinate unit of a national railway-labor-organization employer, and if the total compensation paid to the employee by all employers other than the subordinate unit is less than $450 for the month, then the measure of the employer tax of each employer other than the subordinate unit shall be the full amount of compensation paid by him to that employee for that month, and the measure of the employer tax of the subordinate unit of a national railway-labor-organization employer shall be the remainder of $450 less the total compensation paid to the employee for that month by all other employers.

(vi) If the compensation is paid by one or more employers other than a subordinate unit of a national railway-labor-organization employer, and by two or more subordinate units of a national railway-labor-organization employer, and if the total compensation paid to the employee by all employers other than the subordinate units is less than $450 for the month, then the measure of the employer tax of each employer other than the subordinate units shall be the full amount of compensation paid by him to the employee for that month, and the measure of the employer tax of each subordinate unit of a national railway-labor-organization employer shall be that proportion of the remainder of $450 less the total compensation paid to the employee for the month by all employers other than the subordinate units which the compensation paid by that subordinate unit to the employee for that month bears to the total compensation paid to the employee by all of the subordinate units for that month.

(vii) For illustrations of the application of certain of the principles in this subparagraph, see the examples, illustrating the analogous principles with respect to the deduction of employee tax, set forth in paragraph (b)(1)(vii) of § 31.3202–1.

(2) *Aggregate monthly compensation in excess of $400 paid after May 31, 1959, for services rendered after May 31, 1959, and before November 1, 1963.* If an employee is paid compensation after May 31, 1959, by two or more employers for services rendered during any one calendar month after May 31, 1959, and before November 1, 1963, and if the aggregate compensation so paid to the employee by all employers for such services rendered during such month is in excess of $400, the measure of the employer tax of each employer with respect to such compensation paid by him to the employee after May 31, 1959, shall be determined in accordance with the principles stated in subparagraph (1) of this paragraph. Such principles should be applied, however, with reference to the compensation and services described in this subparagraph.

(3) *Aggregate monthly compensation in excess of $350 paid before June 1, 1959, for services rendered after May 31, 1959.* * * *

(4) *Aggregate monthly compensation in excess of $350 paid after 1954 for services rendered before June 1, 1959.* * * *

PAR. 11. Paragraph (a) of § 31.3221–2 is amended to read as follows:

§ 31.3221–2 Rates and computation of employer tax.

(a) *Rates* (1) Except as provided in subparagraph (2) of this paragraph, the rates of employer tax applicable with respect to compensation are as follows:

(i) Compensation paid at any time after 1954 for services rendered after 1954 and before June 1, 1959; and compensation paid after 1954 and before June 1, 1959, for services rendered after May 31, 1959	6¼
(ii) Compensation paid after May 31, 1959, for services rendered after May 31, 1959, and before 1962	6¾
(iii) Compensation paid after May 31, 1959, for services rendered during the calendar years 1962, 1963, and 1964	7¼
(iv) Compensation paid after May 31, 1959, for services rendered during the calendar year 1965	8⅛
(v) Compensation paid after May 31, 1959, for services rendered during the calendar years 1966 and 1967	8⅝
(vi) Compensation paid after May 31, 1959, for services rendered after December 31, 1967	9⅛

(2) The rates of employer tax with respect to compensation paid after May 31, 1959, for services rendered after 1964 are the sum of 7¼ percent and an additional percentage. The additional percentage is determined by subtracting 2¾ percent from the rate of tax imposed by section 3111 with respect to wages paid at the time such services are rendered. The rates set forth in subdivisions (iv), (v), and (vi) of subparagraph (1) of this paragraph are based upon the rates of tax imposed by section 3111, as amended by section 201(c) of the Social Security Amendments of 1961, and are subject to change in the event of further amendment of section 3111.

* * * *

PAR. 12. Paragraph (d)(2) of § 31.3401(a)(6)–1 is amended by revising that portion of section 101(a)(15) of the Immigration and Nationality Act which precedes subparagraph (F)(i). In the revision the words "except an alien" are inserted after the word "alien". The revised provision reads as follows:

§ 31.3401(a)(6)–1 Remuneration for services of certain non-resident alien individuals.

* * * * *

(d) * * *

(2) * * *

SEC. 101 *Definitions.* [Immigration and Nationality Act (66 Stat. 166)]

(a) As used in this chapter—* * *

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens—

* * * * *

Because the amendments made by this Treasury decision merely conform the regulations to the provisions of section 201 of the Social Security Amendments of 1961 (75 Stat. 140) and sections 201 and 202 of the Act of October 5, 1963 (Public Law 88–133, 77 Stat. 221), and correct an erroneous quotation, it is hereby found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

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

[SEAL] BERTRAND M. HARDING,
Acting Commissioner of Internal Revenue.

Approved: April 28, 1964.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 64–4466; Filed, May 4, 1964; 8:49 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 410—EMPLOYEE DEVELOPMENT

Waiver of Limitations on Training of Employees Through Non-Government Facilities

Section 410.506 is amended by adding a new paragraph (d) which will permit the waiver, under specified conditions, of the limitation in section 12(a)(3) of the Government Employees Training Act for an employee in a professional position in the field of natural or mathematical science or engineering. Effective upon publication in the FEDERAL REGISTER paragraph (d) is added to § 410.506 as set out below.

§ 410.506 Waiver of limitations on training of employees through non-Government facilities.

* * * * *

(d) To the extent he considers justified, the head of each department may also waive the limitation in section 12(a)(3) of the Act for an employee in a professional position in the field of natural or mathematical science or engineering when all of the following conditions are met:

(1) The employee is serving under a career or carree-conditional appointment or under an excepted appointment without time limitation;

(2) Postponement of the training until the employee completes the current 10-year period of service prescribed by section 12(a)(3) of the Act would be detrimental to the development of skills, abilities, or knowledges needed by the

employee for the performance of official duties; and

(3) The training would not cause the total of training by, in, or through non-Government facilities to exceed 2 years in the current 10-year period of the employee's service.

(Sec. 6, 72 Stat. 329; 5 U.S.C. 2305; E.O. 10800, 24 F.R. 447, 3 CFR 1959 Supp.)

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

[F.R. Doc. 64-4469; Filed, May 4, 1964; 8:50 a.m.]

PART 430—PERFORMANCE EVALUATION

Coverage

Section 430.101 is amended by the addition of the National Security Agency as one of the agencies not covered by Part 430, to agree with section 2(b) of the Performance Rating Act of 1950, as amended by Public Law 88-290 approved March 26, 1964. Subparagraph (14) is added to paragraph (b) of § 430.101 as set out below.

§ 430.101 Coverage.

* * * * *

(b) *Agencies not covered.* * * *

(14) The National Security Agency.

* * * * *

(Sec. 8, 64 Stat. 1099; 5 U.S.C. 2007)

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

[F.R. Doc. 64-4468; Filed, May 4, 1964; 8:50 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter V—Office of Foreign Assets Control, Department of the Treasury

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

Importation of and Dealings in Certain Merchandise

Renumbering of items in Appendix to § 500.204 of the Foreign Assets Control regulations:

The following changes are made herewith in the item numbers in the Appendix:

1. Items 28 through 40 are renumbered consecutively 100 through 112.

2. Items 41 through 51 are renumbered consecutively 200 through 210.

The references in the Commodity Index in the Appendix to item numbers in the Appendix are herewith corrected to reflect the above changes. The old reference numbers followed by the corrected numbers are as follows:

Old item number:	*Corrected item number*
28	100
29	101
30	102
31	103
32	104
33	105
34	106
35	107
36	108
37	109
38	110
39	111
40	112
41	200
42	201
43	202
44	203
45	204
46	205
47	206
48	207
49	208
50	209
51	210

[SEAL] MARGARET W. SCHWARTZ,
Director, Foreign Assets Control.

[F.R. Doc. 64-4457; Filed, May 4, 1964; 8:49 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 56164]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Exemptions for Returning Residents; Unaccompanied Merchandise

Elimination of practice allowing amendment of declaration to include unaccompanied articles not declared or listed at time of resident's return to United States—Section 10.17(k), Customs Regulations, amended.

The privilege afforded returning residents to import free of duty and tax articles acquired abroad but shipped separately has been applied under § 10.17(k), Customs Regulations, so as to permit the resident to obtain the exemption although he failed to make written declaration of the unaccompanied articles at the time and place of his return. The supplemental declarations or amended claims that have been accepted to sustain free entry have been the source of questionable demands for application of the personal exemptions and have involved time-consuming paperwork and internal customs verifications.

It has been decided that such undesirable results justify the withdrawal of permission in § 10.17(k) to make supplemental declarations of unaccompanied articles undeclared to a customs officer upon entry of the person into the United States.

Section 10.17(k) is amended to read:

§ 10.17 **Exemptions for returning residents.**

* * * * *

(k) *Unaccompanied articles.* It is not necessary that articles accompany a resident at the time of his return to the United States to be within such exemptions as are applicable under items 813.30, 813.31, or 813.32 and schedule 8, part 2, headnote 1, Tariff Schedules of the United States. See § 10.20(b). However, as to any unaccompanied article, whether it has already arrived or is to arrive later, or an article that is being shipped in bond to another port, entry free of duty or tax by reason of such exemptions shall not be allowed if at the time of his return to the United States the returning resident failed either to include the article in a written declaration to a customs officer or, in lieu of declaration, to list the article on customs Form 6059-B as an article separately shipped. Customs officers shall apply the exemptions only to articles before them for examination, and the application of an exemption for unaccompanied articles shall be finally determined only after they have been imported and the importer has performed the acts required of him for their customs clearance.

* * * * *

(Sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 19 U.S.C. 1624, Gen. Hdnote 11, Tariff Schedules of the United States)

This amendment shall be effective as to residents returning to the United States on and after the 30th day following the date of publication in the FEDERAL REGISTER.

[SEAL] LESTER D. JOHNSON,
Acting Commissioner of Customs.

Approved: April 27, 1964.

JAMES A. REED,
Assistant Secretary of the Treasury.

[F.R. Doc. 64-4456; Filed, May 4, 1964; 8:48 a.m.]

Title 7—AGRICULTURE

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

PART 43—STANDARDS FOR SAMPLING PLANS

Subpart—United States Standards for Sampling Plans for Inspection by Attributes

SINGLE AND DOUBLE SAMPLING PLANS

The United States Department of Agriculture hereby promulgates the United States Standards for Sampling Plans for Inspection by Attributes pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; as amended; 7 U.S.C. 1621-1627).

Statement leading to the promulgation of these standards. The Agricultural Marketing Service (AMS) of the Department recognizes that significant advances are taking place in sampling procedures, especially in the field of statistical sampling for attribute inspection. Over the past decade, AMS has incorporated these techniques in some of its inspection procedures. These standards are a further step in that direction as they provide attribute sampling plans for use by all of the commodity divisions in AMS.

These standards will be available to handlers of agricultural commodities and may be used by AMS standardization and inspection specialists in preparing uniform sampling and inspection procedures for use by AMS inspectors. Private industry may also select and utilize sampling plans from these standards as may be suitable to their inspection programs. The use of these standards is not mandatory for either industry or government; however, the Department recommends their use.

The AMS standardization and inspection specialist when using these standards will select, for a particular attribute, only the applicable AQL(s) and sampling plan(s) and incorporate them in appropriate specifications, inspection procedures, or related documents. Before specific AQL(s) and sampling plan(s) are incorporated into a United States grade standard, such standards will be published in accordance with the Administrative Procedures Act, giving interested parties an opportunity to submit comments and views.

The standards are as follows:

DEFINITIONS

Sec.
43.101 Meaning of words.
43.102 Definitions.

SAMPLING PLANS

43.103 Purpose and scope.
43.104 Master table of single and double sampling plans.
43.105 Operating Characteristics (OC) curves.
43.106 Choosing AQL's and sampling plans.

AUTHORITY: The provisions of this Part 43 issued under sec. 203, 205, 60 Stat. 1087, as amended, 1090, as amended; 7 U.S.C. 1622, 1624.

DEFINITIONS

§ 43.101 Meaning of words.

Words used in this subpart in the singular form shall be considered to impart the plural, or vice versa, as the case may demand.

§ 43.102 Definitions.

(a) Statistical and inspection or sampling terms and their respective definitions that are used in the sampling plans and operating characteristic curves or which are pertinent to the understanding of inspection by attributes follow:

Acceptable quality level (AQL) The AQL is expressed in terms of percent defective or defects per 100 units. Lots having a quality level equal to a specified AQL will be accepted approximately 95 percent of the time when using the sampling plans prescribed for that AQL.

Acceptance number (Ac). The number in a sampling plan that indicates the maximum number of defects or defectives permitted in a sample in order to consider a lot as meeting a specific requirement.

Acceptance sampling. The art or science that deals with procedures in which decisions to accept or reject lots or processes are based on the examination of samples.

Attributes. Refers to the measurement of a given factor noting and recording the presence or absence of some characteristic (attribute) in each of the units in the group under consideration.

Consumer's risk. The risk a consumer takes that a lot will be accepted by a sampling plan even though the lot does not conform to requirements. In the standards of this subpart this risk is nominally set at ten percent.

Consumer Protection. The ability of a sampling plan to reject unacceptable supplies. This is measured as the complement of the probability of acceptance (Pa) for the Limiting Quality (LQ) lots. The consumer protection is 90 percent in these standards.

Defect. A failure to meet a requirement imposed on a unit with respect to a single quality characteristic. A unit may contain more than one defect.

Defective. A defective unit; one containing one or more defects with respect to the quality characteristic(s) under consideration.

Inspection. The examination (including testing) of supplies (including, when appropriate, raw materials, components and intermediate assemblies).

(1) *Acceptance inspection.* An Inspection to determine conformance of supplies to specified requirements in order to accept or reject the supplies.

(2) *Estimation inspection.* In dealing with attributes, an inspection to determine the amount of the supplies conforming to a specified requirement—usually expressed as a percentage.

Inspection by attributes. Inspection whereby either the sample unit is classified as defective or non-defective with respect to a requirement or set of requirements (when on a "defective" basis); or, inspection whereby the number of defects in each sample unit is counted with respect to a requirement or set of requirements (when on a "defect" basis).

Limiting Quality (LQ). The LQ is expressed in terms of percent defective or defects per 100 units. Lots inspected under the standards of this subpart that have a ten percent probability of acceptance are referred to as a lot having a quality level equal to LQ.

Lot. A collection of units of the same size, type and style which has been manufactured or processed under essentially the same conditions. The term shall mean "inspection lot," i.e., a collection of units of product from which a sample is to be drawn and inspected to determine conformance with the acceptability criteria. An inspection lot may differ from a collection of units designated as a lot for other purposes (e.g., production lot, shipping lot, etc.).

Lot size. The number of units in the lot.

Operating characteristic curve (OC curve). A curve that gives the probability of acceptance as a function of a specific lot quality level.

Probability of acceptance (Pa). For a given sampling plan and a given quality of inspection lots, is that percentage of inspection lots expected to be accepted.

Process capability. Performance of a process under normal operating conditions. The performance is measured with respect to specific characteristics.

Producer's risk. The risk that a producer takes that a lot will be rejected by a sampling plan even though the lot conforms to requirements. In the standards of this subpart this risk is nominally set at five percent.

Random sampling. A process of selecting a sample from a lot whereby each unit in the lot has an equal chance of being chosen. Ordinary haphazard choice is generally insufficient to guarantee randomness. Devices such as tables of random numbers are used to remove subjective biases inherent in personal choice.

Rejection number (Re). The number in a sampling plan that indicates the minimum number of defects or defectives permitted in a sample that will cause a lot to fail a specific requirement.

Sample. Any number of sample units which are to be used for inspection.

Sample size. The number of sample units which are to be included in the sample.

Sample unit. A container, the entire contents of a container, a portion of the contents of a container, a composite mixture of a product, or any other unit of container or commodity to be used for inspection.

Sampling. The act of drawing or selecting sample units from a given lot.

Sampling plan. A specific plan which states the sample size(s), acceptance number(s) and rejection number(s).

(b) In the standards of this subpart two types of sampling plans are provided:

(1) *Single sampling plan.* A sampling inspection scheme in which a decision to accept or reject an inspection lot is based on the inspection of a single sample. A single sampling plan consists of a single sample size with associated acceptance and rejection number(s).

(2) *Double sampling plan.* A sampling inspection scheme which involves use of two independently drawn but related samples, a first sample (n_1) and a second sample which is added to the first to form a total sample size (n_t). A double sampling plan consists of a first and total sample size with associated acceptance and rejection number(s). Inspection of the first sample leads to a decision to accept, to reject, or to take a second sample and the examination of a second sample, when required, always leads to a decision to accept or reject.

SAMPLING PLANS

§ 43.103 Purpose and scope.

(a) This subpart contains selected single and double sampling plans for inspection by attributes. They are to serve as a source of plans for developing sound

specifications, standards, or sampling and inspection procedures.

(b) The sampling plans of this subpart and corresponding operating characteristic curves are indexed by acceptable quality level, AQL. The AQL's expressed in percent defectives or defects per hundred units are:

0.065	0.40	2.5	8.5
0.10	0.65	4.0	10.0
0.15	1.0	5.0	12.5
0.25	1.5	6.5	15.0

§ 43.104 Master table of single and double sampling plans.

(a) In the master table, a sampling plan is selected by first determining the sample size or sizes and AQL to be used. Then find the applicable acceptance (Ac) and rejection (Re) numbers at the intersection of the sample size(s) row and AQL column. These numbers together with the sample size or sizes constitute a sampling plan.

(b) Single sampling plans having a sample size of 66 or greater and an acceptance number of 1 are not included in the Master Table. These plans are listed in the tables which supplement the Master Table and accompany the OC curves as indexes to the comparable double sampling plans. The use of these single sampling plans do not facilitate the practice of using two or more AQL's simultaneously with the same sample size.

§ 43.105 Operating characteristics (OC) curves.

The OC curves shows the ability of the various sampling plans, presented for each AQL, to distinguish between lots of different quality.

§ 43.106 Choosing AQL's and sampling plans.

(a) The selection of AQL's and sampling plans for given lot sizes depends on too many factors to permit the issuance of a "pre-selected" standard set of plans for specified lot sizes. Each user of the standards of this subpart should select AQL's and sampling plans that are tailored to best meet his needs.

(b) Some of the factors that must be considered prior to selecting the AQL's are:

(1) Class of defects such as major and minor: Major defects would generally require lower AQL's than those for minor defects;

(2) Process capabilities under good commercial practice with respect to the defects in question: For example, if under normal production processes, the defect level cannot be kept below 2.0 percent defective, the selection of an AQL of 0.15 percent defective, although desirable for the defects in question, may not be practical;

(3) Consumer preferences: These may require higher AQL's or permit lower AQL's than process capabilities would indicate; and

(4) Time and cost required to sample and inspect a lot under various AQL's: The smaller the AQL the more time and cost of inspection.

(c) Some of the factors that may be considered prior to selecting the sampling plans for given lot sizes are:

(1) The applicable AQL(s): The AQL dictates, among other things, the smallest sample size that can be used and the size of the "jumps" from one sample size to the next larger one;

(2) The relative ability of the plans to discriminate between "good" and "bad" lots: Although several plans in these standards have the same AQL, they differ in their ability to reject lots worse than the AQL's. The OC curve in the standards of this subpart provide the basis for determining the discriminating ability of each plan;

(3) The amount, time, and cost of sampling required;

(4) The size and value of the lots relative to the producer and consumer protection a sampling plan affords: One may be willing to take larger risks of passing "bad" lots that are small or of lesser value than they would for larger more valuable lots;

(5) The knowledge about the lot(s) to be submitted for inspection: Lots consisting of product produced under essentially the same conditions may require smaller sample sizes than those consisting of product produced by different shifts and different raw stock for example; and

(6) The record of the quality level of previously submitted lots: The sample size can be smaller for lots submitted from a supplier with a consistent record of quality levels significantly better than the specified AQL(s) than sample sizes for the supplier whose records show considerable variability in quality, "borderline" supplies or product worse than the AQL.

MASTER TABLE OF SINGLE AND DOUBLE SAMPLING PLANS[1]

Sample size code letter	Sample size	Acceptable quality levels (AQL)																													
		0.065		0.10		0.15		0.25		0.40		0.65		1.0		1.5		2.5		4.0		5.0		6.5		8.5		10.0		12.5		15.0	
		Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re
AA	n_i=1																													0	1
A	n_i=2																											0	1		
B	n_i=3																							0	1					0	2
	n_i=8																													2	3
C	n_i=4																					0	1					1	2		
D	n_i=5																			0	1					1	2				
E	n_i=6																							1	2					2	3
EE	n_i=7																														
F	n_i=9																	0	1			1	2					2	3	3	4
G	n_i=11																			1	2					2	3	3	4		
H	n_i=13													0	1									2	3			3	4	4	5
J	n_i=21											0	1	0	2	0	2	2	3	2	3	1	4	3	4	3	5	4	5	5	6
	n_i=31													1	2	2	3					3	4			5	6			6	7
K	n_i=29											0	1	0	2	1	2	2	3	1	4	3	4	4	5	3	7	5	6	6	7
	n_i=65													1	2					6	7					9	10			7	8
L	n_i=48									0	1	0	2	1	2	2	3	3	4	4	5	5	6	6	7	7	8	8	9	10	11
	n_i=72											1	2																	11	12
M	n_i=84							0	1	0	2	0	3	2	3	3	4	4	5	6	7	7	8	9	10	11	12	13	14	15	16
	n_i=120									1	2																			18	19
	n_i=132											2	3																		
N	n_i=126					0	1	0	2	0	3	2	3	3	4	4	5	6	7	9	10	10	11	13	14	16	17	18	19	22	23
	n_i=180							1	2																					26	27
	n_i=210									2	3																				
P	n_i=200			0	1	0	2	0	3	2	3	3	4	4	5	6	7	9	10	13	14	15	16	19	20	24	25	27	28	33	34
	n_i=284					1	2																							39	40
	n_i=326							2	3																						
Q	n_i=315	0	1	0	2	0	3	2	3	3	4	4	5	6	7	8	9	13	14	19	20	22	23	28	29	35	36	41	42	50	51
	n_i=435			1	2																									59	60
	n_i=519					2	3																								
R	n_i=500	0	2	0	3	2	3	3	4	4	5	6	7	9	10	12	13	18	19	28	29	33	34	42	43	53	54	62	63	76	77
	n_i=644	1	2																											90	91
	n_i=836			2	3																										
S	n_i=800	0	3	2	3	3	4	4	5	6	7	9	10	13	14	18	19	27	28	42	43	50	51	64	65	82	83	95	96	117	118
	n_i=1304	2	3																											140	141
T	n_i=1250	2	3	3	4	4	5	6	7	9	10	13	14	19	20	26	27	41	42	63	64	76	77								
U	n_i=2000	3	4	4	5	6	7	9	10	13	14	19	20	28	29	39	40	62	63	96	97										

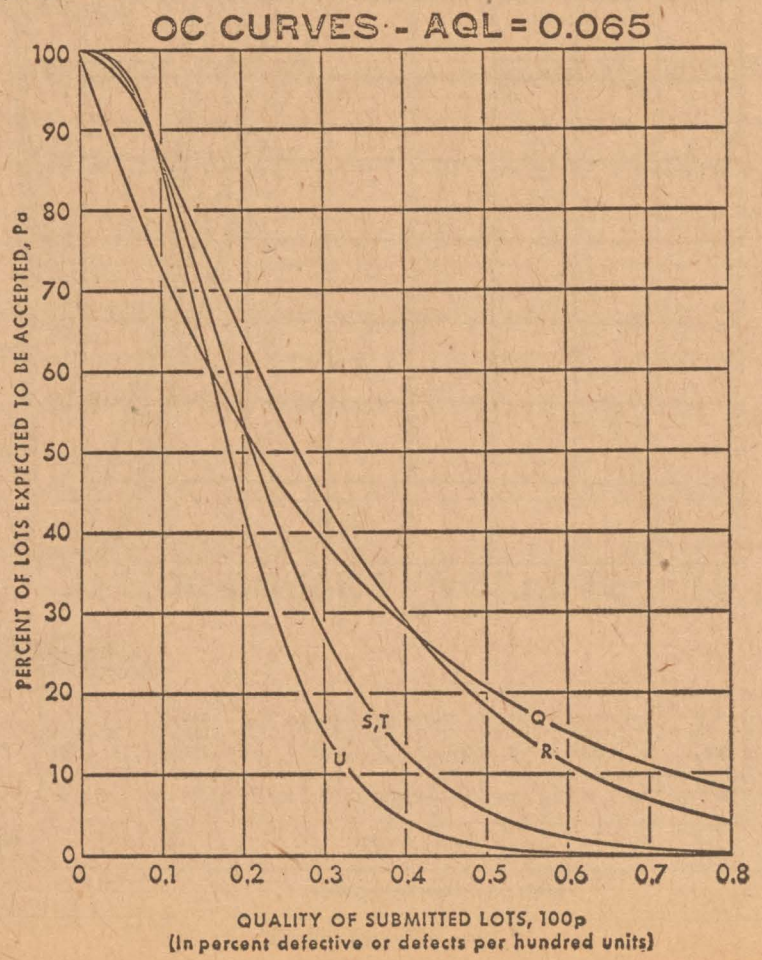
[1] Double plans are indicated by 2 sample sizes, n_i (first) and n_t (total).
Ac=Acceptance number.
Re=Rejection number.

SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.065 PERCENT DEFECTIVE (OR AQL=0.065 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.065]

Comparable sampling plans	Identification letter of OC curve											
	Q			R			S,T			U		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	315	0	1	624	1	2	1250	2	3	2000	3	4
Double	------	------	------	500	0	2	800	0	3	------	------	------
	------	------	------	644	1	2	1304	2	3	------	------	------

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.

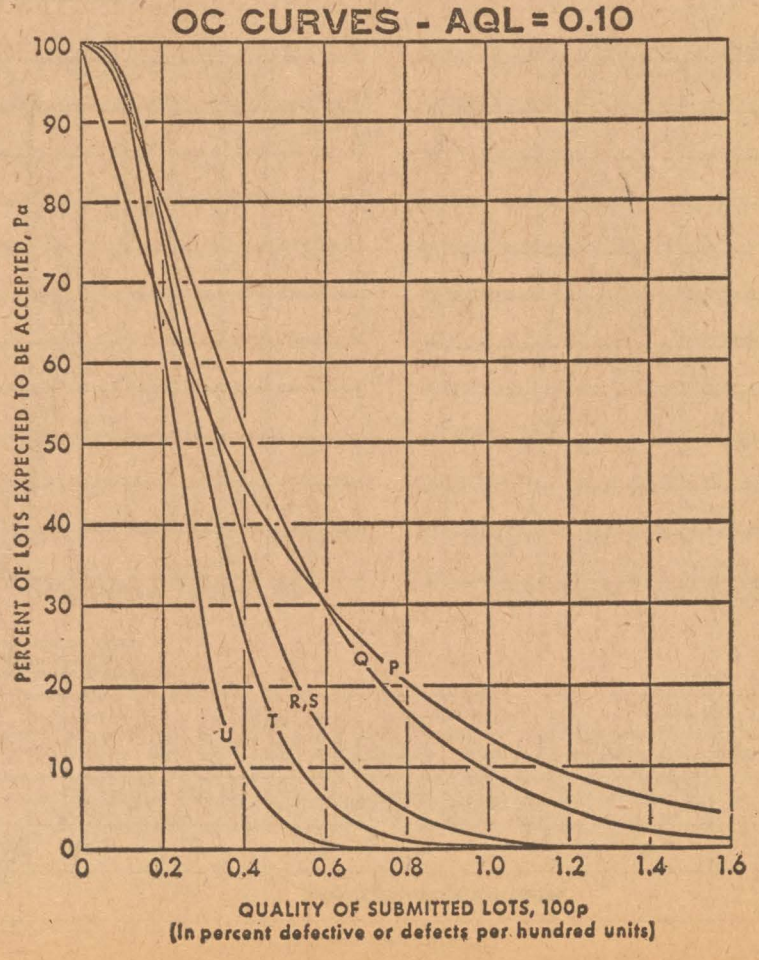


SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.10 PERCENT DEFECTIVE (OR AQL=0.10 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.10]

Comparable sampling plans	Identification letter of OC curve														
	P			Q			R,S			T			U		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	200	0	1	408	1	2	800	2	3	1250	3	4	2000	4	5
Double	------	------	------	315	0	2	500	0	3	------	------	------	------	------	------
	------	------	------	435	1	2	836	2	3	------	------	------	------	------	------

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.

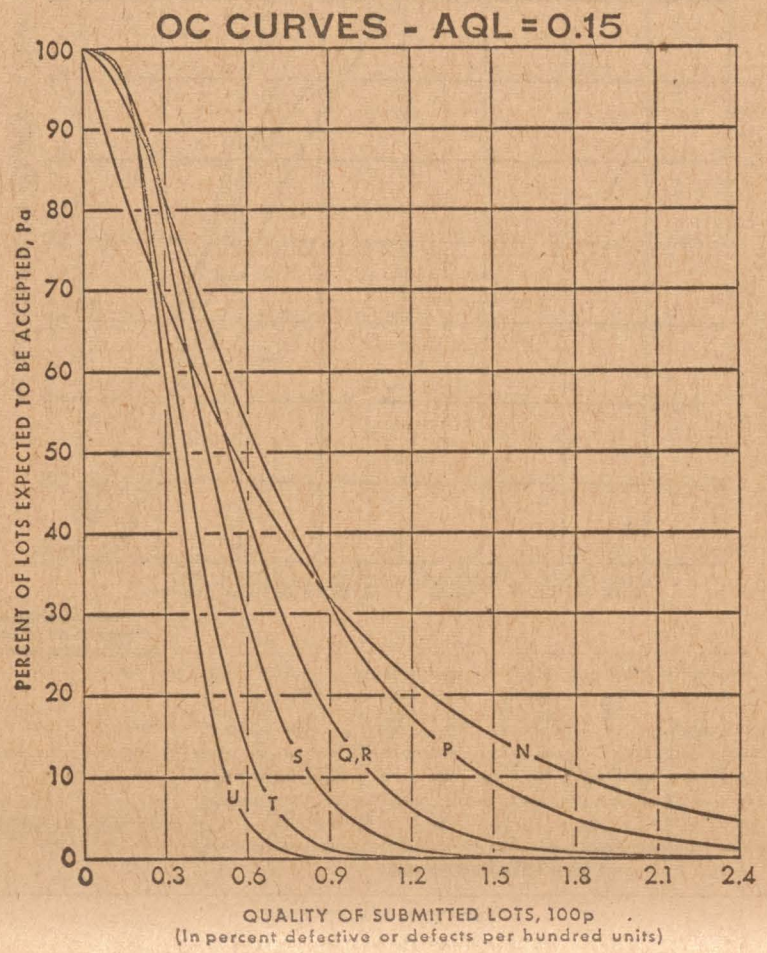


SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.15 PERCENT DEFECTIVE (OR AQL=0.15 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.15]

Comparable sampling plans	Identification letter of OC curve																	
	N			P			Q,R			S			T			U		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	126	0	1	264	1	2	500	2	3	800	3	4	1250	4	5	2000	6	7
Double	-----	-----	-----	200	0	2	315	0	3	-----	-----	-----	-----	-----	-----	-----	-----	-----
	-----	-----	-----	284	1	2	519	2	3	-----	-----	-----	-----	-----	-----	-----	-----	-----

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.

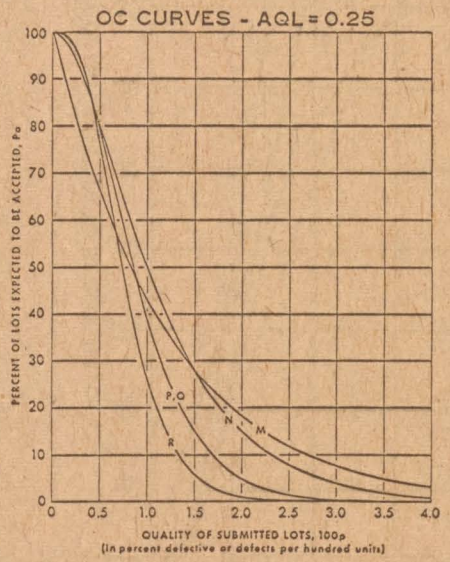


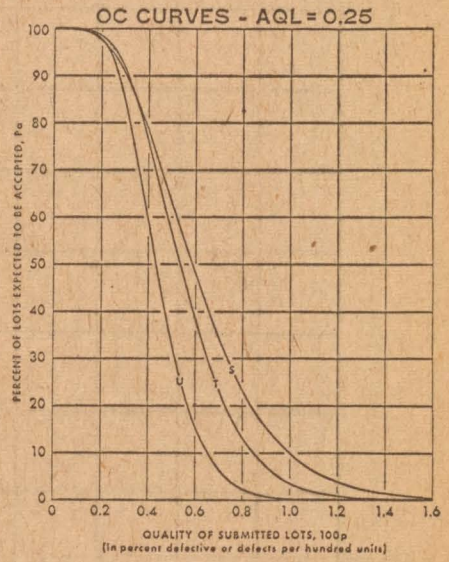
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.25 PERCENT DEFECTIVE (OR AQL=0.25 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.25]

Comparable sampling plans	Indentification letter of OC curve																				
	M			N			P,Q			R			S			T			U		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	84	0	1	168	1	2	315	2	3	500	3	4	800	4	5	1250	6	7	2000	9	10
Double	-----	-----	-----	126	0	2	200	0	3	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----
	-----	-----	-----	180	1	2	326	2	3	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.



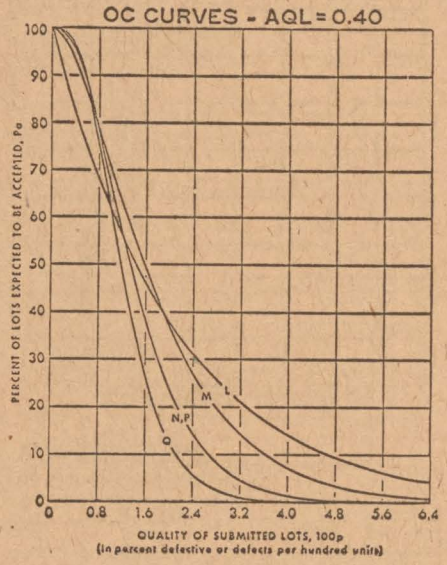


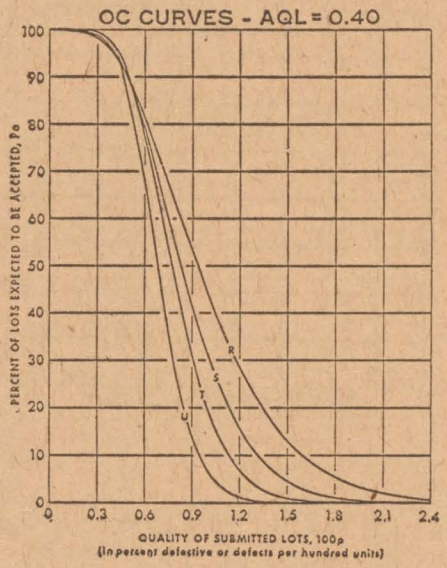
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.40 PERCENT DEFECTIVE (OR AQL=0.40 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.40]

Comparable sampling plans	Identification letter of OC curve																							
	L			M			N,P			Q			R			S			T			U		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	48	0	1	108	1	2	200	2	3	315	3	4	500	4	5	800	6	7	1250	9	10	2000	13	14
Double	---	---	---	84	0	2	126	0	3	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
	---	---	---	120	1	2	210	2	3	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.



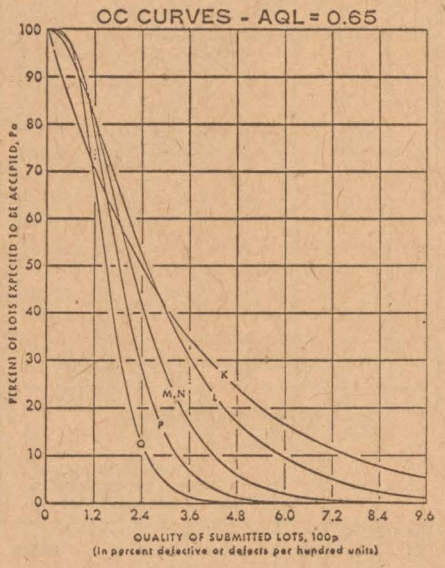


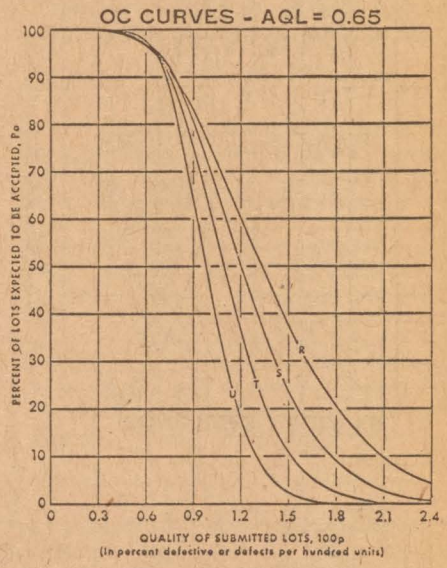
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.65 PERCENT DEFECTIVE (OR AQL=0.65 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.65]

Comparable sampling plans	Identification letter of OC curve																							
	K			L			M,N			P			Q			R			S			T			U	
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	29	0	1	66	1	2	126	2	3	200	3	4	315	4	5	500	6	7	800	9	10	1250	13	14	2000	19	20
Double	---	---	---	48	0	2	84	0	3	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
	---	---	---	72	1	2	132	2	3	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.





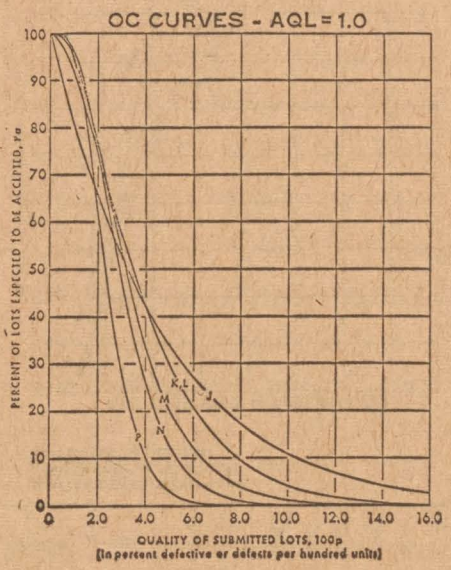
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.0 PERCENT DEFECTIVE (OR AQL=1.0 DEFECTS PER HUNDRED UNITS)

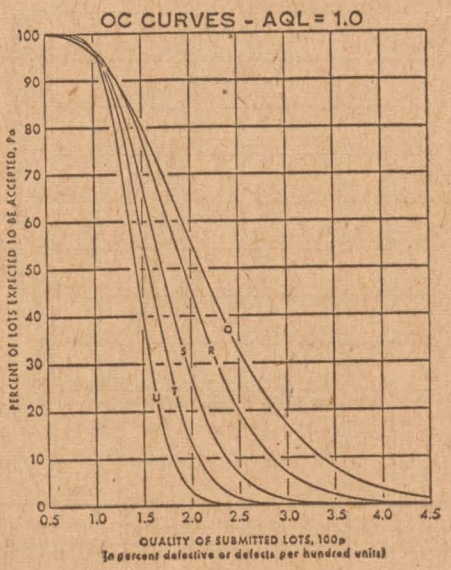
[Sampling plans—AQL=1.0]

Comparable sampling plans	Identification letter of OC curve															
	J			K,L			M			N			P			
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	
Single	21	0	1	48	1	2	84	2	3	126	3	4	200	4	5	
Double				29	0	2										
				65	1	2										

	Q			R			S			T			U		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	315	6	7	500	9	10	800	13	14	1250	19	20	2000	28	29

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.





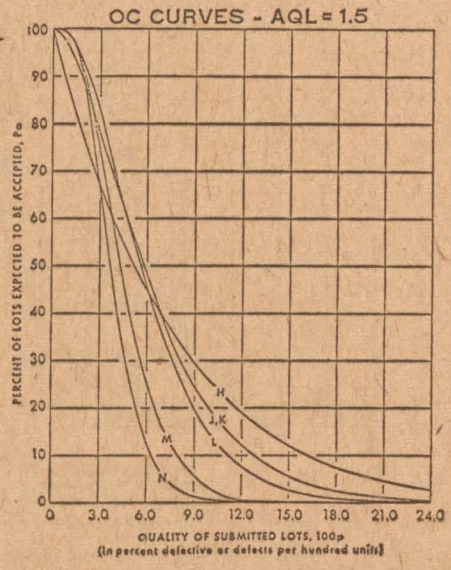
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.5 PERCENT DEFECTIVE (OR AQL=1.5 DEFECTS PER HUNDRED UNITS)

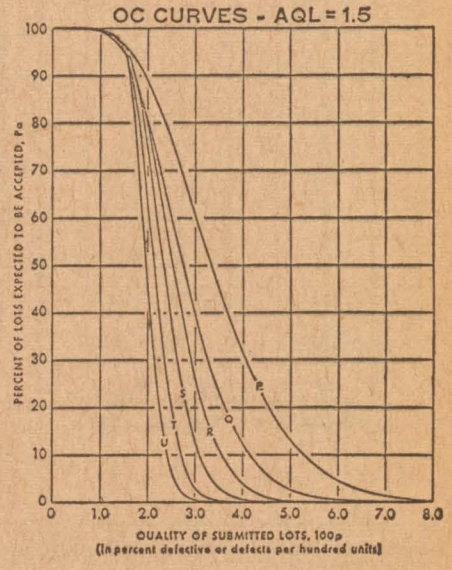
[Sampling plans—AQL=1.5]

Comparable sampling plans	Identification letter of OC curve															
	H			J,K			L			M			N			P		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	13	0	1	29	1	2	48	2	3	84	3	4	126	4	5	200	6	7
Double				21	0	2												
				31	1	2												

	Q			R			S			T			U		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	315	8	9	500	12	13	800	18	19	1250	26	27	2000	39	40

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.





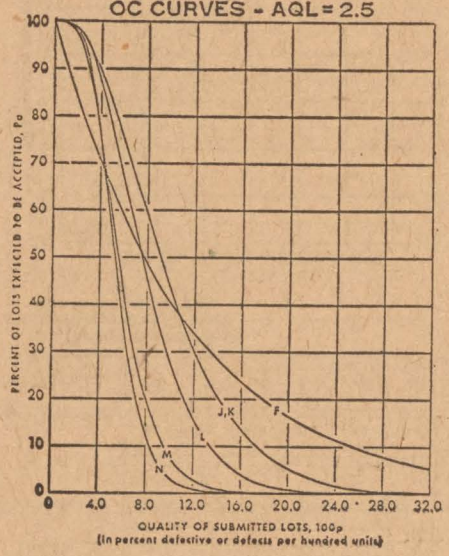
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=2.5 PERCENT DEFECTIVE (OR AQL=2.5 DEFECTS PER HUNDRED UNITS)

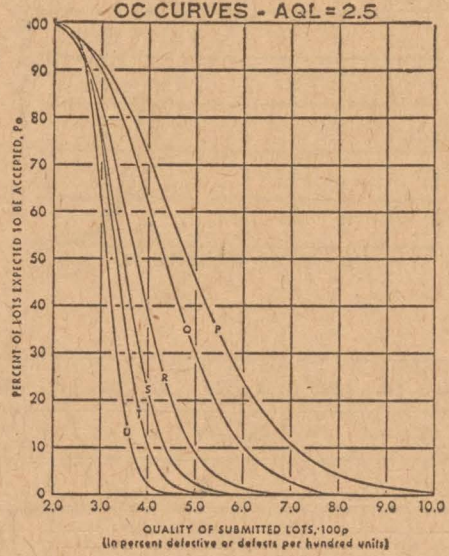
[Sampling plans—AQL=2.5]

Comparable sampling plans	Identification letter of OC curve																	
	F			J,K			L			M			N			P		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	9	0	1	29	2	3	48	3	4	84	4	5	126	6	7	200	9	10
Double				21	0	2												
				31	2	3												

	Q			R			S			T			U		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	315	13	14	500	18	19	800	27	28	1250	41	42	2000	62	63

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.





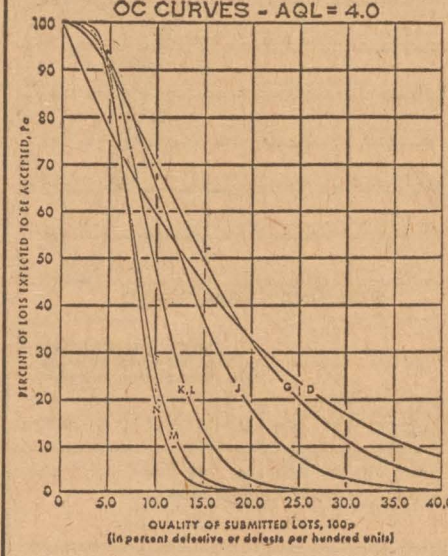
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=4.0 PERCENT DEFECTIVE (OR AQL=4.0 DEFECTS PER HUNDRED UNITS)

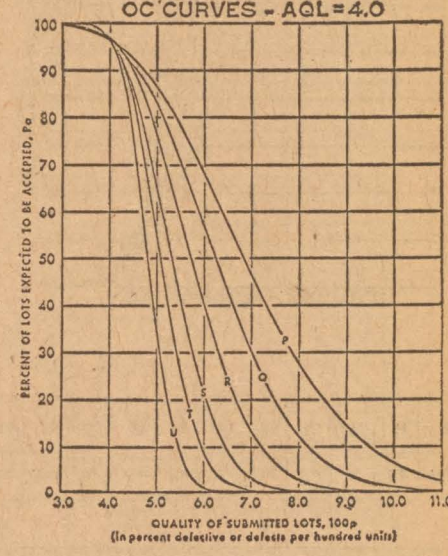
[Sampling plans—AQL=4.0]

Comparable sampling plans	Identification Letter of OC Curve																	
	D			G			J			K,L			M			N		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	5	0	1	11	1	2	21	2	3	48	4	5	84	6	7	126	9	10
Double										29	1	4						
										65	6	7						

	P			Q			R			S			T			U		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	200	13	14	315	19	20	500	28	29	800	42	43	1250	63	64	2000	96	97

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.





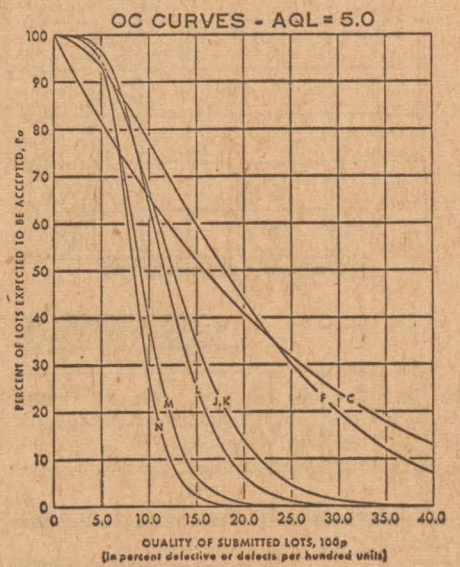
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=5.0 PERCENT DEFECTIVE (OR AQL=5.0 DEFECTS PER HUNDRED UNITS)

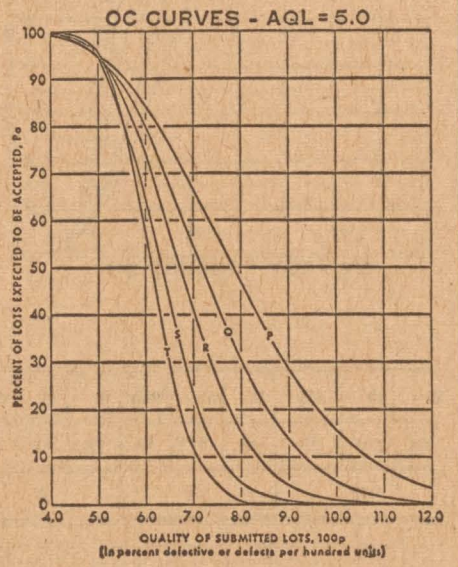
[Sampling plans—AQL=5.0]

Comparable sampling plans	Identification letter of OC curve																	
	C			F			J,K			L			M			N		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	4	0	1	9	1	2	29	3	4	48	5	6	84	7	8	126	10	11
Double							21	1	4									
							31	3	4									

	P			Q			R			S			T		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	200	15	16	315	22	23	500	33	34	800	50	51	1250	76	77

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.





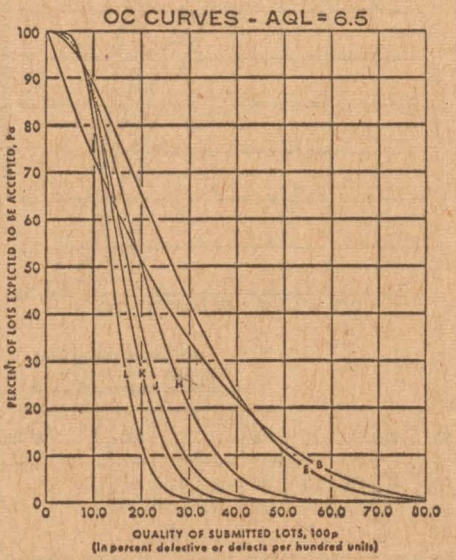
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=6.5 PERCENT DEFECTIVE (OR AQL=6.5 DEFECTS PER HUNDRED UNITS)

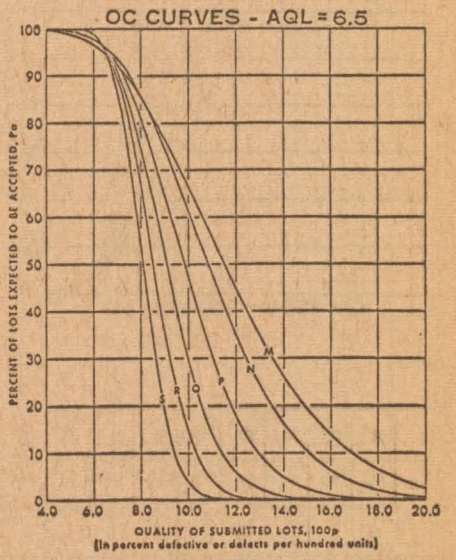
[Sampling plans—AQL=6.5]

Comparable sampling plans	Identification letter of OC curve																	
	B			E			H			J			K			L		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	3	0	1	6	1	2	13	2	3	21	3	4	29	4	5	48	6	7

	M			N			P			Q			R			S		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	84	9	10	126	13	14	200	19	20	315	28	29	500	42	43	800	64	65

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.





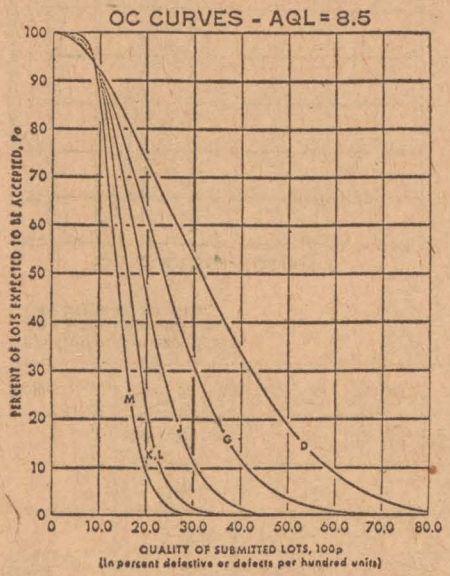
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=8.5 PERCENT DEFECTIVE (OR AQL=8.5 DEFECTS PER HUNDRED UNITS)

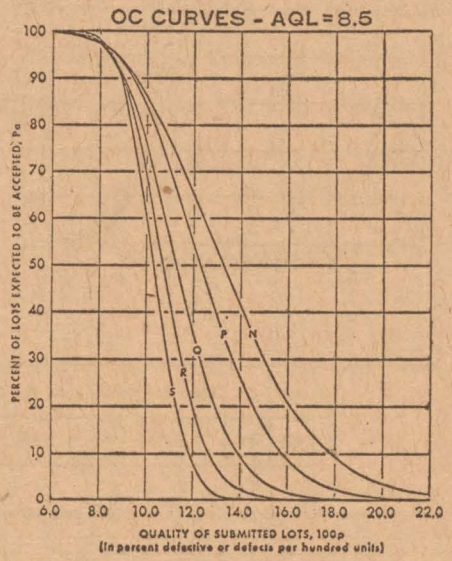
[Sampling plans—AQL=8.5]

Comparable sampling plans	Identification letter of OC curve														
	D			G			J			K,L			M		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	5	1	2	11	2	3	24	4	5	48	7	8	84	11	12
Double							21	3	5	29	3	7			
							31	5	6	65	9	10			

	N			P			Q			R			S		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	126	16	17	200	24	25	315	35	36	500	53	54	800	82	83

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.





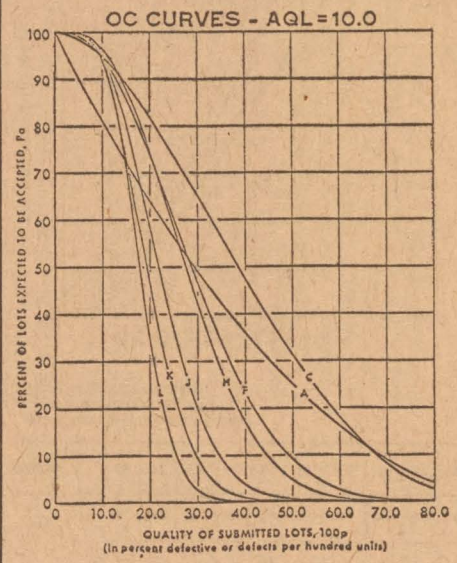
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=10.0 PERCENT DEFECTIVE (OR AQL=10.0 DEFECTS PER HUNDRED UNITS)

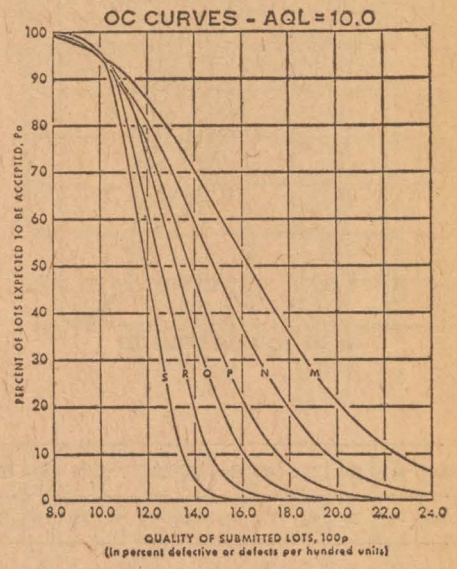
[Sampling plans—AQL=10.0]

Comparable sampling plans	Identification letter of OC curve																				
	A			C			F			H			J			K			L		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	2	0	1	4	1	2	9	2	3	13	3	4	21	4	5	29	5	6	48	8	9

	M			N			P			Q			R			S		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	84	13	14	126	18	19	200	27	28	315	41	42	500	62	63	800	95	96

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.





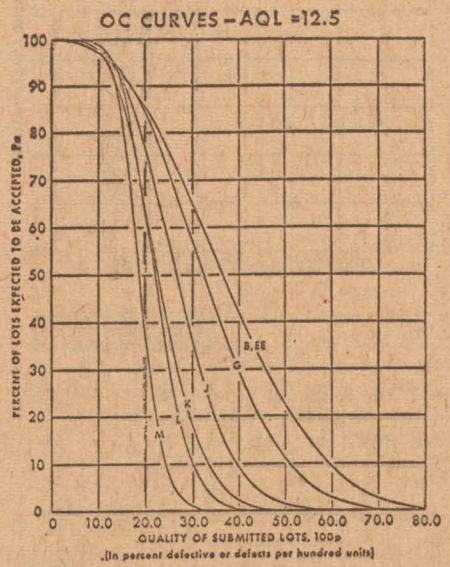
SAMPLING PLANS AND OPERATING CHARACTERISTICS (OC) CURVES FOR AQL=12.5 PERCENT DEFECTIVE (OR AQL=12.5 DEFECTS PER HUNDRED UNITS)

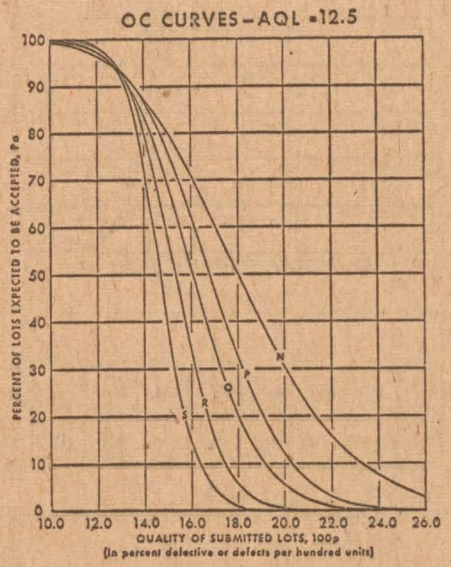
[Sampling plans—AQL=12.5]

Comparable sampling plans	Identification letter of OC curve																	
	B,EE			G			J			K			L			M		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	7	2	3	11	3	4	21	5	6	29	6	7	48	10	11	84	15	16
Double	3	0	3	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----
	8	2	3	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----

	N			P			Q			R			S		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	126	22	23	200	33	34	315	50	51	500	76	77	800	117	118

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.





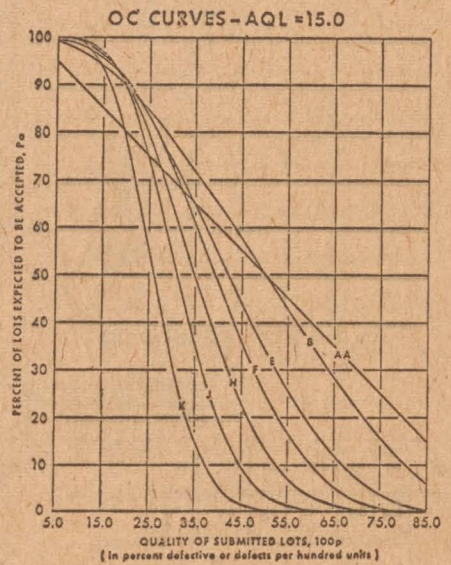
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=15.0 PERCENT DEFECTIVE (OR AQL=15.0 DEFECTS PER HUNDRED UNITS)

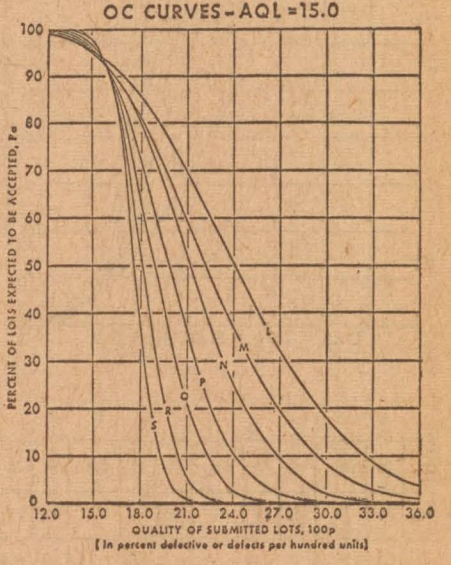
[Sampling plans—AQL=15.0]

Comparable sampling plans	Identification letter of OC curve																	
	AA			B			E			F			H			J			K		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	1	0	1	3	1	2	6	2	3	9	3	4	13	4	5	21	6	7	29	7	8

	L			M			N			P			Q			R			S		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single	48	11	12	84	18	19	126	26	27	200	39	40	315	59	60	500	90	91	800	140	141

n_c=Cumulative sample size.
Ac=Acceptance number.
Re=Rejection number.





It is hereby found that it is impracticable and unnecessary, to the public interest to give preliminary notice, engage in public rule making procedure, and to postpone the effective date of these standards until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003) in that:

(1) The standards are a rule of practice and would not be operative until included in other standards or specifications with the supplemental information necessary for their use;

(2) Promulgation of these standards is necessary as a procedure for administrative use which does not affect the public; and

(3) No preparation on the part of the public, or interest therein, is involved.

Done at Washington, D.C., this 24th day of April 1964.

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

[F.R. Doc. 64-4287; Filed, May 1, 1964; 8:45 a.m.]

PART 58—GRADING AND INSPECTION, MINIMUM SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

Subpart T—United States Sediment Standards for Milk and Milk Products [1]

On February 29, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 2891) regarding proposed additions to the United States Sediment Standards for Milk and Milk products and interested persons were given an opportunity to submit written data, views or arguments in connection therewith.

Statement of considerations leading to the standards. No data or information have been received since publication of the proposed standards under proposed rule making which warrants a change in the standards as published. One State agency suggested including levels of sediment such as 1.0 mg. and 2.0 mgs., in addition to the 1.5 mgs. level as proposed. The different levels of sediment to be shown in the standards were given consideration by the committee representing various segments of the industry cooperating with the Department when the standards were developed and it was concluded that those levels as proposed in the standards would be sufficient and that a minimum number of levels would promote more uniformity in application.

After consideration of all relevant matters presented including proposals set forth in the aforesaid notice of rule making, the following additions to the U.S. Sediment Standards in the same form and manner as set forth in the aforesaid notice are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

The additions to the standards are as follows:

§ 58.2728 United States sediment standards for milk and milk products: six 1⅛" diameter filtering area (coarse sediment).

(a) The standards contained in this section consist of six (6) sediment discs prepared as hereinafter indicated, each of which is numbered consecutively 0 to 5 representing one of the following amounts of sediment on a 1⅛" diameter filtering area.

0—0.0 mg.
1—0.5 mg.
2—1.5 mgs.
3—2.5 mgs.
4—3.0 mgs.
5—6.0 mgs.

(b) Each sediment disc was prepared from "coarse" sediment in accordance with the procedure set forth in paragraph 15.06 of "Standard Methods for the Examination of Dairy Products," Eleventh Edition 1960, published by the American Public Health Association, 1790 Broadway, New York, New York. To facilitate the use and availability of these standards, a composite photograph of the six (6) sediment discs is attached hereto and made a part hereof.[2]

§ 58.2729 United States sediment standards for milk and milk products: three 1⅛" diameter filtering area (coarse sediment).

The standards contained in this section are those most commonly used for the examination of raw milk by the "off-the-bottom method," and are the same three (3) sediment discs numbered as 1, 2 and 3 showing 0.5 mg., 1.5 mgs. and 2.5 mgs. of sediment, respectively, as designated in § 58.2728. To facilitate the use and availability of these standards, a composite photograph of these three (3) sediment discs is attached hereto and made a part hereof.[2]

§ 58.2730 United States sediment standards for milk and milk products: six 0.40" diameter filtering area (fine sediment).

(a) The standards contained in this section consist of six (6) sediment discs prepared as hereinafter indicated, each of which is numbered 0 to 5 representing one of the following amounts of sediment on a 0.40 inch diameter filtering area and is equivalent to the respective amounts of sediment on the 1⅛ inch diameter filtering area as described in § 58.2728:

0—0.0 mg. (0.0 mg. equivalent)
1—0.0625 mg. (0.5 mg. equivalent)
2—0.1875 mg. (1.5 mgs. equivalent)
3—0.3125 mg. (2.5 mgs. equivalent)
4—0.3750 mg. (3.0 mgs. equivalent)
5—0.7500 mg. (6.0 mgs. equivalent)

(b) Each sediment disc was prepared from "fine" sediment in accordance with the procedure set forth in paragraph 15.07 of "Standard Methods for the Examination of Dairy Products," Eleventh Edition 1960. To facilitate the use and availability of these standards, a composite photograph of the six (6) sediment discs is attached hereto and made a part hereof.[2]

§ 58.2731 United States sediment standards for milk and milk products: three 0.40" diameter filtering area (fine sediment).

The standards contained in this section are those most commonly used for the examination of raw milk by the "stirred sample method" and are the same three (3) sediment discs numbered as 1, 2 and 3 showing 0.0625 mg., 0.1875 mg. and 0.3125 mg. of sediment, respectively, as designated in § 58.2730. To facilitate the use and availability of these standards, a composite photograph of these three (3) sediment discs is attached hereto and made a part hereof.[2]

Copies of the photographs of any of the sediment standards may be obtained from the Photography Division, Office of Information, U.S. Department of Agriculture, Washington, D.C., 20250. The price will be $1.00 each for the photographs covering § 58.2728 and § 58.2730, respectively, and $.75 for those in § 58.2729 and § 58.2731, respectively. Prices are subject to change without notice.

Because the comments received after publication under proposed rule making were not sufficient to warrant changes in the standards as proposed, it is considered to be to the best interest of all concerned that the standards as heretofore set forth shall become effective immediately upon publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of April 1964.

G. R. GRANGE,
Deputy Administrator,
Agricultural Marketing Service.

[F.R. Doc. 64-4452; Filed, May 4, 1964; 8:48 a.m.]

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

[Lemon Reg. 108, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 27 F.R. 8346), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

[2] Filed as part of the original document.

[2] Filed as part of the original document.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b)(1)(ii) of § 910.408 (Lemon Regulation 108, 29 F.R. 5538) are hereby amended to read as follows:

(ii) District 2: 348,750 cartons.

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

Dated: April 30, 1964.

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

[F.R. Doc. 64-4453; Filed, May 4, 1964; 8:48 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 30—LICENSING OF BYPRODUCT MATERIAL

General Licenses for Americium 241

On September 20, 1963, the Commission published in the FEDERAL REGISTER (28 F.R. 10300) for public comment proposed amendments of 10 CFR Part 30 to (1) issue general licenses for the receipt, acquisition, possession, ownership, use and transfer of americium 241 in calibration or reference sources, and for the export of americium 241, and (2) specify requirements for a specific license for persons who manufacture such sources for distribution to persons generally licensed. This action was taken in response to a request for rule making submitted to the Commission by the National Bureau of Standards.

The general license in § 30.21(e) below for the receipt, acquisition, possession, ownership, use and transfer of americium 241 in calibration or reference sources would be issued only to the following persons:

(1) Any person in a non-agreement State (any State with which the Commission has not entered into an effective agreement under subsection 274b. of the Act) who holds a specific license issued by the Commission which authorizes him to receive, possess, use and transfer byproduct material, source material, or special nuclear material; and

(2) Any Government agency, as defined in § 30.4(v), which holds a specific license issued by the Commission which authorizes it to receive, possess, use and transfer byproduct material, source material, or special nuclear material.

In § 30.24(n) below the requirements for a specific license would be established for persons who manufacture or import sources for distribution to persons generally licensed under § 30.21(e).

In § 30.33(g) below the Commission would issue a general license authorizing the export of americium 241 to countries or destinations other than the areas listed in § 30.75, Schedule E.

The amendments published below retain the substantive provisions set forth in the proposed rule although a number of minor revisions have been made for purposes of clarification. These revisions reflect Commission consideration of the comments and suggestions received in response to the notice of proposed rule making. One of the revisions is a modification of the wording on the label required to be affixed to the source or source container to make the label appropriate for use in both agreement States and non-agreement States. The change in wording on the label should simplify labeling requirements for manufacturers who distribute sources.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, the following amendment of Title 10, Chapter I, Part 30, "Licensing of Byproduct Material," is published as a document subject to codification to be effective thirty (30) days after publication in the FEDERAL REGISTER.

1. A new paragraph (v) is added to § 30.4 to read as follows:

§ 30.4 Definitions.

* * * * *

(v) "Government agency" means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

2. A new paragraph (e) is added to § 30.21 to read as follows:

§ 30.21 General licenses.

* * * * *

(e)(1) A general license is hereby issued to those persons listed below to own, receive, acquire, possess, use and transfer, in accordance with the provisions of subparagraphs (2) and (3) of this paragraph (e), americium 241 in the form of calibration or reference sources:

(i) Any person in a non-agreement State who holds a specific license issued by the Commission which authorizes him to receive, possess, use and transfer byproduct material, source material, or special nuclear material; and

(ii) Any Government agency, as defined in § 30.4(v), which holds a specific license issued by the Commission which authorizes it to receive, possess, use and transfer byproduct material, source material, or special nuclear material.

(2) The general license in subparagraph (1) of this paragraph applies only to calibration or reference sources which have been manufactured in accordance with the specifications contained in a specific license issued by the Commission to the manufacturer or importer of the sources pursuant to § 30.24(n) or in accordance with the specifications contained in a specific license issued to the manufacturer by an agreement State which authorizes manufacture of the sources for distribution to persons generally licensed by the agreement State.

(3) The general license in subparagraph (1) of this paragraph is subject to the provisions of §§ 30.32, 30.41, 30.43, 30.44, 30.51, 30.52, and 30.61, and to the provisions of Part 20 of this chapter. In addition, persons who own, receive, acquire, possess, use and transfer one or more calibration or reference sources pursuant to this general license:

(i) Shall not possess at any one time, at any one location of storage or use, more than 5 microcuries of americium 241 in such sources;

(ii) Shall not receive, possess, use or transfer such source unless the source, or the storage container, bears a label which includes the following statement or a substantially similar statement which contains the information called for in the following statement:

The receipt, possession, use and transfer of this source, Model ------, Serial No. ------, are subject to a general license and the regulations of the United States Atomic Energy Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION—RADIOACTIVE MATERIAL—THIS SOURCE CONTAINS AMERICIUM 241. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

(Name of Manufacturer or Importer)

(iii) Shall not transfer, abandon, or dispose of such source except by transfer to a person authorized by a license from the Commission or an agreement State to receive the source.

(iv) Shall store such source, except when the source is being used, in a closed container adequately designed and constructed to contain americium 241 which might otherwise escape during storage.

(v) Shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(4) This general license does not authorize the manufacture or import of calibration or reference sources containing americium 241.

(5) This general license does not authorize the export of calibration or reference sources containing americium 241.

3. A new paragraph (n) is added to § 30.24 to read as follows:

§ 30.24 Special requirements for issuance of specific licenses.

* * * * *

(n) *Calibration or reference sources.* (1) An application for a specific license to manufacture or import calibration or reference sources containing americium 241, for distribution to persons generally licensed under § 30.21(e), will be approved if:

(i) The applicant satisfies the general requirements of § 30.23;

(ii) The applicant submits sufficient information regarding each type of calibration or reference source pertinent to

evaluation of the potential radiation exposure, including:

(a) Chemical and physical form and maximum quantity of americium 241 in the source;

(b) Details of construction and design;

(c) Details of the method of incorporation and binding of the americium 241 in the source;

(d) Procedures for and results of prototype testing of sources, which are designed to contain more than 0.005 microcurie of americium 241, to demonstrate that the americium 241 contained in each source will not be released or be removed from the source under normal conditions of use;

(e) Details of quality control procedures to be followed in manufacture of the source;

(f) Description of labeling to be affixed to the source or the storage container for the source;

(g) Any additional information, including experimental studies and tests, required by the Commission to facilitate a determination of the safety of the source.

(iii) Each source will contain no more than 5 microcuries of americium 241.

(iv) The Commission determines, with respect to any type of source containing more than 0.005 microcurie of americium 241, that:

(a) The method of incorporation and binding of the americium 241 in the source is such that the americium 241 will not be released or be removed from the source under normal conditions of use and handling of the source; and

(b) The source has been subjected to and has satisfactorily passed the prototype tests prescribed by subdivision (v) of this subparagraph.

(v) For any type of source which is designed to contain more than 0.005 microcurie of americium 241, the applicant has conducted prototype tests, in the order listed, on each of five prototypes of such source, which contains more than 0.005 microcurie of americium 241, as follows:

(a) *Initial measurement.* The quantity of radioactive material deposited on the source shall be measured by direct counting of the source.

(b) *Dry wipe test.* The entire radioactive surface of the source shall be wiped with filter paper with the application of moderate finger pressure. Removal of radioactive material from the source shall be determined by measuring the radioactivity on the filter paper or by direct measurement of the radioactivity on the source following the dry wipe.

(c) *Wet wipe test.* The entire radioactive surface of the source shall be wiped with filter paper, moistened with water, with the application of moderate finger pressure. Removal of radioactive material from the source shall be determined by measuring the radioactivity on the filter paper after it has dried or by direct measurement of the radioactivity on the source following the wet wipe.

(d) *Water soak test.* The source shall be immersed in water at room temperature for a period of 24 consecutive hours. The source shall then be removed from the water. Removal of radioactive material from the source shall be determined by direct measurement of the radioactivity on the source after it has dried or by measuring the radioactivity in the residue obtained by evaporation of the water in which the source was immersed.

(e) *Dry wipe test.* On completion of the preceding tests in this subdivision (v), the dry wipe test described in subdivision (v)(b) shall be repeated.

(f) *Observations.* Removal of more than 0.005 microcurie of radioactivity in any test prescribed by this subdivision (v) shall be cause for rejection of the source design. Results of prototype tests submitted to the Commission shall be given in terms of radioactivity in microcuries and percent of removal from the total amount of radioactive material deposited on the source.

(2) Each person licensed under this paragraph shall affix to each source, or storage container for the source, a label which shall contain sufficient information relative to safe use and storage of the source and shall include the following statement or a substantially similar statement which contains the information called for in the following statement:

The receipt, possession, use and transfer of this source, Model ------, Serial No. ------, are subject to a general license and the regulations of the United States Atomic Energy Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION—RADIOACTIVE MATERIAL—THIS SOURCE CONTAINS AMERICIUM 241. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

(Name of Manufacturer or Importer)

(3) Each person licensed under this paragraph shall perform a dry wipe test upon each source containing more than 0.1 microcurie of americium 241 prior to transferring the source to a general licensee under § 30.21(e). This test shall be performed by wiping the entire radioactive surface of the source with a filter paper with the application of moderate finger pressure. The radioactivity on the paper shall be measured by using radiation detection instrumentation capable of detecting 0.005 microcurie of americium 241. If any such test discloses more than 0.005 microcurie of radioactive material, the source shall be deemed to be leaking or losing americium 241 and shall not be transferred to a general licensee under § 30.21(e).

(4) Each person licensed under this paragraph shall file an annual report with the Director, Division of Materials Licensing, which shall state the total quantity of americium 241 transferred to persons generally licensed under § 30.21 (e). The report shall identify each general licensee by name and address, state the kinds and numbers of sources transferred, and specify the quantity (in microcuries) of americium 241 in each kind of source. Each report shall cover the calendar year and shall be filed within thirty (30) days after the end of each calendar year.

4. A new paragraph (g) is added to § 30.33 to read as follows:

§ 30.33 Exports of byproduct material.

* * * * *

(g) A general license designated AEC–GRO–BMG is hereby issued authorizing any person to export americium 241 from the United States to any countries or destinations not listed in § 30.75, Schedule E.

(Sec. 81, 68 Stat. 935; 42 U.S.C. 2111; sec. 82, 68 Stat. 935; 42 U.S.C. 2112; sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 13th day of April 1964.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 64–4770; Filed, May 4, 1964; 8:50 a.m.]

PART 70—SPECIAL NUCLEAR MATERIAL

General License for Plutonium in Calibration or Reference Sources

On September 20, 1963, the Commission published in the Federal Register (28 F.R. 10302) for public comment proposed amendments to 10 CFR Part 70 to (1) issue a general license authorizing the receipt, possession, use and transfer of plutonium in calibration or reference sources, and (2) specify requirements for a specific license for persons who manufacture such sources for distribution to persons generally licensed. This action was taken in response to a petition for rule making (PRM–70–1) submitted to the Commission by Eberline Instrument Corporation.

The general license in § 70.19 below would be issued only to the following persons:

(1) Any person in a non-agreement State (any State with which the Commission has not entered into an effective agreement under subsection 274b. of the Act) who holds a specific license issued by the Commission which authorizes him to receive, possess, use and transfer byproduct material, source material, or special nuclear material;

(2) Any Government agency, as defined in § 70.4(f), which holds a specific license issued by the Commission which authorizes it to receive, possess, use and transfer byproduct material, source material, or special nuclear material; and

(3) Any person in an agreement State (any State with which the Commission has entered into an effective agreement under subsection 274b. of the Act) who holds a specific license issued by the Commission which authorizes him to receive, possess, use and transfer special nuclear material.

In § 70.39 below the requirements for a specific license would be established for persons who manufacture sources for distribution to persons generally licensed under § 70.19.

The amendments published below retain the substantive provisions set forth in the proposed rule although a number of minor revisions have been made for

purposes of clarification. These revisions reflect Commission consideration of the comments and suggestions received in response to the notice of proposed rule making. One of the revisions is a modification of the wording on the label required to be affixed to the source or source container to make the label appropriate for use in both agreement States and non-agreement States. The change in wording on the label should simplify labeling requirements for manufacturers who distribute sources.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, the following amendment of Title 10, Chapter I, Part 70, "Special Nuclear Material", is published as a document subject to codification to be effective thirty (30) days after publication in the FEDERAL REGISTER.

1. A new paragraph (o) is added to § 70.4 to read as follows:

§ 70.4 Definitions.

* * * * *

(o) "Agreement State" as designated in Part 150 of this chapter means any State with which the Commission has entered into an effective agreement under subsection 274b. of the Act. "Non-agreement State" means any other State.

2. A new undesignated center head "General Licenses" and a new § 70.18 are added to read as follows:

GENERAL LICENSES

§ 70.18 Types of licenses.

Licenses for special nuclear material are of two types: general and specific. Any general license provided in this part is effective without the filing of applications with the Commission or the issuance of licensing documents to particular persons. Specific licenses are issued to named persons upon applications filed pursuant to the regulations in this part.

3. A new § 70.19 is added to read as follows:

§ 70.19 General license for calibration or reference sources.

(a) A general license is hereby issued to those persons listed below to receive, possess, use and transfer, in accordance with the provisions of paragraphs (b) and (c) of this section, plutonium in the form of calibration or reference sources:

(1) Any person in a non-agreement State who holds a specific license issued by the Commission which authorizes him to receive, possess, use and transfer byproduct material, source material, or special nuclear material;

(2) Any Government agency, as defined in § 70.4(f), which holds a specific license issued by the Commission which authorizes it to receive, possess, use and transfer byproduct material, source material, or special nuclear material; and

(3) Any person in an agreement State who holds a specific license issued by the Commission which authorizes him to receive, possess, use and transfer special nuclear material.

(b) The general license in paragraph (a) of this section applies only to calibration or reference sources which have been manufactured in accordance with the specifications contained in a specific license issued by the Commission to the manufacturer of the sources pursuant to § 70.39 or in accordance with the specifications contained in a specific license issued to the manufacturer by an agreement State which authorizes manufacture of the sources for distribution to persons generally licensed by the agreement State.

(c) The general license in paragraph (a) of this section is subject to the provisions of §§ 70.32, 70.51, 70.52, 70.55, 70.56, 70.61, 70.62, and 70.71, and to the provisions of Part 20 of this chapter. In addition, persons who receive, possess, use or transfer one or more calibration or reference sources pursuant to this general license:

(1) Shall not possess at any one time, at any one location of storage or use, more than 5 microcuries of plutonium in such sources;

(2) Shall not receive, possess, use or transfer such source unless the source, or the storage container, bears a label which includes the following statement or a substantially similar statement which contains the information called for in the following statement:

The receipt, possession, use and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of the United States Atomic Energy Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION — RADIOACTIVE MATERIAL — THIS SOURCE CONTAINS PLUTONIUM. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

(Name of Manufacturer)

(3) Shall not transfer, abandon, or dispose of such source except by transfer to a person authorized by a license from the Commission or an agreement State to receive the source.

(4) Shall store such source, except when the source is being used, in a closed container adequately designed and constructed to contain plutonium which might otherwise escape during storage.

(5) Shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(d) The general license in paragraph (a) of this section does not authorize the manufacture, import, or export of calibration or reference sources containing plutonium.

4. A new § 70.39 is added to read as follows:

§ 70.39 Specific licenses for the manufacture of calibration or reference sources.

(a) An application for a specific license to manufacture calibration or reference sources containing plutonium, for distribution to persons generally licensed under § 70.19, will be approved if:

(1) The applicant satisfies the general requirements of § 70.23.

(2) The applicant submits sufficient information regarding each type of calibration or reference source pertinent to evaluation of the potential radiation exposure, including:

(i) Chemical and physical form and maximum quantity of plutonium in the source;

(ii) Details of construction and design;

(iii) Details of the method of incorporation and binding of the plutonium in the source;

(iv) Procedures for and results of prototype testing of sources, which are designed to contain more than 0.005 microcurie of plutonium, to demonstrate that the plutonium contained in each source will not be released or be removed from the source under normal conditions of use;

(v) Details of quality control procedures to be followed in manufacture of the source;

(vi) Description of labeling to be affixed to the source or the storage container for the source;

(vii) Any additional information, including experimental studies and tests, required by the Commission to facilitate a determination of the safety of the source.

(3) Each source will contain no more than 5 microcuries of plutonium.

(4) The Commission determines, with respect to any type of source containing more than 0.005 microcurie of plutonium, that:

(i) The method of incorporation and binding of the plutonium in the source is such that the plutonium will not be released or be removed from the source under normal conditions of use and handling of the source; and

(ii) The source has been subjected to and has satisfactorily passed the prototype tests prescribed by subparagraph (5) of this paragraph.

(5) For any type of source which is designed to contain more than 0.005 microcurie of plutonium, the applicant has conducted prototype tests, in the order listed, on each of five prototypes of such source, which contains more than 0.005 microcurie of plutonium, as follows:

(i) *Initial measurement.* The quantity of radioactive material deposited on the source shall be measured by direct counting of the source.

(ii) *Dry wipe test.* The entire radioactive surface of the source shall be wiped with filter paper with the application of moderate finger pressure. Removal of radioactive material from the source shall be determined by measuring the radioactivity on the filter paper or by direct measurement of the radioactivity on the source following the dry wipe.

(iii) *Wet wipe test.* The entire radioactive surface of the source shall be wiped with filter paper, moistened with water, with the application of moderate finger pressure. Removal of radioactive material from the source shall be determined by measuring the radioactivity on the filter paper after it has dried or by direct measurement of the radioactivity on the source following the wet wipe.

(iv) *Water soak test.* The source shall be immersed in water at room temperature for a period of 24 consecutive hours. The source shall then be removed from the water. Removal of radioactive material from the source shall be determined by direct measurement of the

radioactivity on the source after it has dried or by measuring the radioactivity in the residue obtained by evaporation of the water in which the source was immersed.

(v) *Dry wipe test.* On completion of the preceding tests in subdivisions (i) through (iv) of this subparagraph, the dry wipe test described in subdivision (ii) of this subparagraph shall be repeated.

(vi) *Observations.* Removal of more than 0.005 microcurie of radioactivity in any test prescribed by this subparagraph shall be cause for rejection of the source design. Results of prototype tests submitted to the Commission shall be given in terms of radioactivity in microcuries and percent of removal from the total amount of radioactive material deposited on the source.

(b) Each person licensed under this section shall affix to each source, or storage container for the source, a label which shall contain sufficient information relative to safe use and storage of the source and shall include the following statement or a substantially similar statement which contains the information called for in the following statement:

The receipt, possession, use and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of the United States Atomic Energy Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION — RADIOACTIVE MATERIAL — THIS SOURCE CONTAINS PLUTONIUM. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

(Name of Manufacturer)

(c) Each person licensed under this section shall perform a dry wipe test upon each source containing more than 0.1 microcurie of plutonium prior to transferring the source to a general licensee under § 70.19. This test shall be performed by wiping the entire radioactive surface of the source with a filter paper with the application of moderate finger pressure. The radioactivity on the paper shall be measured by using radiation detection instrumentation capable of detecting 0.005 microcurie of plutonium. If any such test discloses more than 0.005 microcurie of radioactive material, the source shall be deemed to be leaking or losing plutonium and shall not be transferred to a general licensee under § 70.19.

(d) Each person licensed under this section shall file an annual report with the Director, Division of Materials Licensing, which shall state the total quantity of plutonium transferred to persons generally licensed under § 70.19. The report shall identify each general licensee by name and address, state the kinds and numbers of sources transferred, and specify the quantity (in microcuries) of plutonium in each kind of source. Each report shall cover the calendar year and shall be filed within thirty (30) days after the end of each calendar year.

(Sec. 58, 68 Stat. 930; 42 U.S.C. 2073; sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 13th day of April 1964.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 64-4471; Filed, May 4, 1964; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER E—AIRSPACE [NEW]

[Airspace Docket No. 63-CE-119]

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

Designation of Federal Airway Segment

On February 11, 1964, a notice of proposed rule making was published in the Federal Register (29 F.R. 2352) stating that the Federal Aviation Agency was considering an amendment to Part 71 [New] of the Federal Aviation Regulations which would designate a VOR Federal airway from South Bend, Ind., to Grand Rapids, Mich.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments, but no comments were received.

In consideration of the foregoing, the following action is taken:

Section 71.123 (29 F.R. 1009) is amended as follows:

In V-285 the following is added: "From South Bend, Ind., via Kalamazoo, Mich.; INT of Kalamazoo 014° and Grand Rapids, Mich., 167° radials; to Grand Rapids."

This amendment shall become effective 0001 e.s.t., June 25, 1964.

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

Issued in Washington, D.C., on April 27, 1964.

Daniel E. Barrow,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64-4420; Filed, May 4, 1964; 8:45 a.m.]

[Airspace Docket No. 63-SO-79]

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

Revocation of Federal Airway Segment

On February 15, 1964, a notice of proposed rule making was published in the Federal Register (29 F.R. 2508) stating that the Federal Aviation Agency was considering an amendment to Part 71 [New] of the Federal Aviation Regulations which would revoke VOR Federal airway No. 18 south alternate from Allendale, S.C., to Charleston, S.C.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, the following action is taken:

Section 71.123 (29 F.R. 1009, 3226) is amended as follows:

In V-18 all after "Allendale;" is deleted and "to Charleston, S.C." is substituted therefor.

This amendment shall become effective 0001 e.s.t., June 25, 1964.

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

Issued in Washington, D.C., on April 27, 1964.

Daniel E. Barrow,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64-4421; Filed, May 4, 1964; 8:45 a.m.]

[Airspace Docket No. 63-SW-61]

PART 73—SPECIAL USE AIRSPACE [NEW]

Designation of Restricted Area/ Military Climb Corridor

On October 3, 1963, a notice of proposed rule making was published in the Federal Register (28 F.R. 10680) stating that the Federal Aviation Agency was considering an amendment to § 73.51 of the Federal Aviation Regulations which would designate the Albuquerque, N. Mex. (Kirtland AFB), Restricted Area/Military Climb Corridor R-5111. The notice stated also that the description of the Albuquerque, N. Mex., control zone (§ 71.171), the Albuquerque, N. Mex., transition area (§ 71.181), low altitude airways V-12, V-12S, V-19, V-19W, V-60, V-60S, V-68, V-68N, V-68S, V-187, V-190, V-190N (§ 71.123) and intermediate altitude airways V-1624, V-1532, V-1550 and V-1543 (§ 71.143) would be altered to require approval from appropriate authority prior to operation within those portions of these areas which coincide with R-5111. The descriptions of these areas are not changed herein since this requirement is specified in § 91.95 of the Federal Aviation Regulations.

Since the restricted area at Elephant Butte, N. Mex., has been designated as R-5111, the number of the restricted area/military climb corridor at Albuquerque, N. Mex. (Kirtland AFB), is changed to R-5115.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. Due consideration was given to all relevant matter presented.

In commenting on the notice, the Air Transport Association suggested that the Federal Aviation Agency thoroughly explore the feasibility of meeting the air defense and air traffic control requirements at Albuquerque by the fullest use of radar and thereby possibly eliminate the requirement for designating the Restricted Area/Military Climb Corridor as proposed in the notice.

A restricted area/military climb corridor affords continuous segregation between ADC and other air traffic. The use of radar data does not provide this

capability since the provision of radar services are subject to interruption by atmospheric conditions and planned and unplanned outages. Also, there is no assurance that VFR air traffic detected by radar would be in communications with an air traffic control facility. Segregating ADC and other air traffic when these conditions occur would not be possible.

In consideration of the foregoing and for the reasons stated in the notice, the following action is taken:

In § 73.51 New Mexico (29 F.R. 1264), the following is added:

R–5115 Albuquerque, N. Mex. (Kirtland AFB), Restricted Area/Military Climb Corridor.

Boundaries. From a point of beginning at latitude 35°02'30" N., longitude 106°39'30" W., the area centered on a bearing therefrom of 245° extending to a point 23 nmi SW, having a width of 2 nmi at the beginning and expanding uniformly to a width of 6 nmi at the outer extremity.

Designated altitudes.

7,000 feet MSL to 23,000 feet MSL from point of beginning to 2 nmi SW.

8,000 feet MSL to 23,000 feet MSL from 2 to 4 nmi SW of point of beginning.

10,000 feet MSL to 23,000 feet MSL from 4 to 6 nmi SW of point of beginning.

12,000 feet MSL to 23,000 feet MSL from 6 to 8 nmi SW of point of beginning.

14,000 feet MSL to 23,000 feet MSL from 8 to 13 nmi SW of point of beginning.

17,000 feet MSL to 23,000 feet MSL from 13 to 18 nmi SW of point of beginning.

20,000 feet MSL to 23,000 feet MSL from 18 to 23 nmi SW of point of beginning.

Time of designation. Continuous.

Controlling agency. Federal Aviation Agency, Albuquerque Approach Control.

Using agency. Commander, Kirtland AFB, N. Mex.

This amendment will become effective 0001 e.s.t., June 25, 1964.

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

Issued in Washington, D.C., on April 27, 1964.

LEE E. WARREN,
Director, Air Traffic Service.

[F.R. Doc. 64–4422; Filed, May 4, 1964; 8:45 a.m.]

[Airspace Docket No. 63–SW–62]

PART 73—SPECIAL USE AIRSPACE [NEW]

Designation of Restricted Area/ Military Climb Corridor

On October 3, 1963, a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 10680) stating that the Federal Aviation Agency was considering an amendment to § 73.38 of the Federal Aviation Regulations which would designate the New Orleans, La. (Alvin Callender Field), Restricted Area/Military Climb Corridor R–3805. The notice stated also that the descriptions of the New Orleans, La., transition area (§ 71.181) and the NAS New Orleans, La., Alvin Callender Field control zone (§ 71.171) would be amended to require approval from appropriate authority prior to operation within those portions of these areas which coincide with R–3805. The descriptions of these areas are not changed herein since this requirement is specified in § 91.95 of the Federal Aviation Regulations.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. Due consideration was given to all relevant matter presented.

In commenting on the notice, the Air Transport Association suggested that the Federal Aviation Agency thoroughly explore the feasibility of meeting the air defense and air traffic control requirements at New Orleans by the fullest use of radar and thereby possibly eliminate the requirement for designating the Restricted Area/Military Climb Corridor as proposed in the notice.

A restricted area/military climb corridor affords continuous segregation between ADC and other air traffic. The use of radar data does not provide this capability since the provision of radar services are subject to interruption by atmospheric conditions and planned and unplanned outages. Also, there is no assurance that VFR air traffic detected by radar would be in communications with an air traffic control facility. Segregating ADC and other air traffic when these conditions occur would not be possible.

In consideration of the foregoing and for the reasons stated in the notice, the following action is taken:

In § 73.38 Louisiana (29 F.R. 1253), the following is added:

R–3805 New Orleans, La. (Alvin Callender Field) Restricted Area/Military Climb Corridor.

Boundaries. From a point of beginning at latitude 29°48'00" N., longitude 90°04'00" W., the area centered on a bearing therefrom of 201°, extending to a point 30 nmi S, having a width of 2 nmi at the beginning and expanding uniformly to a width of 6 nmi at the outer extremity.

Designated altitudes.

2,000 feet MSL to 14,000 feet MSL from point of beginning to 1 nmi S.

2,000 feet MSL to 17,000 feet MSL from 1 to 2 nmi S of point of beginning.

2,000 feet MSL to 19,000 feet MSL from 2 to 3 nmi S of point of beginning.

2,000 feet MSL to 21,000 feet MSL from 3 to 4 nmi S of point of beginning.

2,000 feet MSL to 23,000 feet MSL from 4 to 5 nmi S of point of beginning.

4,000 feet MSL to 23,000 feet MSL from 5 to 8 nmi S of point of beginning.

7,000 feet MSL to 23,000 feet MSL from 8 to 13 nmi S of point of beginning.

12,000 feet MSL to 23,000 feet MSL from 13 to 18 nmi S of point of beginning.

15,000 feet MSL to 23,000 feet MSL from 18 to 25 nmi S of point of beginning.

20,000 feet MSL to 23,000 feet MSL from 25 to 30 nmi S of point of beginning.

Time of designation. Continuous.

Controlling agency. Federal Aviation Agency, New Orleans Approach Control.

Using agency. Commander, Alvin Callender NAS.

This amendment shall become effective 0001 e.s.t., June 25, 1964.

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

Issued in Washington, D.C., on April 27, 1964.

LEE E. WARREN,
Director, Air Traffic Service.

[F.R. Doc. 64–4423; Filed, May 4, 1964; 8:45 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 4024; Amdt. 725]

PART 507—AIRWORTHINESS DIRECTIVES

Davis Aircraft Products Safety Belts

A proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring inspection of the belt assemblies and replacement and relubrication of the components on Davis Aircraft P/N FDC–2700 Series safety belts was published in 29 F.R. 2950.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

DAVIS AIRCRAFT PRODUCTS. Applies to all aircraft equipped with Davis Aircraft P/N FDC–2700 Series safety belts manufactured prior to September 1, 1963.

Compliance required within 125 hours' time in service after the effective date of this AD.

As the result of the investigation of reports of the failure of Davis Aircraft P/N FDC–2700 Series safety belts to latch properly, it has been determined that binding of the latching mechanism has resulted from the loss of lubricant during belt cleaning processes and also from certain manufacturing and assembly errors.

(a) Inspect each belt assembly as follows:

(1) Determine whether the buckle cover P/N FD–2674 is fully closed. If the buckle cover is fully opened and does not automatically snap back into the completely closed position when released, it may be assumed that the spring is damaged.

(2) Slowly raise the buckle cover taking careful note of any tendency of binding of the latching mechanism components. The buckle cover P/N FD–2674 and release latch P/N FD–2668 must be free to snap into the fully closed position when the buckle cover is opened and released.

(b) If any of the deficiencies specified in (a) are found, disassemble and further inspect the components to determine whether they meet the following requirements:

(1) The tangs or straight ends of the coil spring P/N FD–3007 shall be $\frac{9}{32} \pm \frac{1}{32}$ inch and be straight throughout this length. (A bent tang will result in binding of the latching mechanism.)

(2) The release latch P/N FD–2668, shall be counterbored in one end to receive spring P/N FD–3007. The counterbored depth shall be $\frac{15}{32} \pm \frac{1}{32}$ inch.

(c) Replace any components found to be defective under the inspection required in paragraph (b).

(d) Clean latch components and relubricate hexagonal headed hinge bolt and spring of the latching mechanism as required using Alemite No. 33 lubricant or equivalent.

(e) After reassembly inspect the spring to determine that it is seated in the release latch retaining groove and apply spring tension by rotating the hexagonal headed hinge bolt from the unloaded position through two to three flats of the hexagonal head. Secure the hinge bolt in the hexagonal cutout in the buckle frame.

This amendment shall become effective June 5, 1964.

(Secs. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on April 29, 1964.

W. LLOYD LANE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 64-4424; Filed, May 4, 1964; 8:45 a.m.]

[Reg. Docket No. 4040; Amdt. 724]

PART 507 AIRWORTHINESS DIRECTIVES

Pratt & Whitney R-2800 "B" Series Engines

A proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring replacement of the original exhaust valves with improved valves on Pratt & Whitney Aircraft R-2800 "B" Series engines was published in 29 F.R. 3367.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

PRATT & WHITNEY. Applies to all Models R-2800-21, -27, -31, -43, -51, -51M4, -59, -63, -71, -75, -75M2, and -79 Series engines.

Compliance required within 800 hours' time in service after the effective date of this AD.

Because of instances of exhaust valve failures, replace the P/N 44764 exhaust valves with P/N's 50724 or 158175 exhaust valves.

This amendment shall become effective June 5, 1964.

(Secs. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on April 29, 1964.

W. LLOYD LANE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 64-4425; Filed, May 4, 1964; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Animal Feed or Animal-Feed Supplements

Subpart D—Food Additives Permitted in Food for Human Consumption

NICKEL SULFATE; EDITORIAL CHANGES

Effective on the date of signature of this order, the food additive regulations (21 CFR 121.242, 121.1122; 28 F.R. 3694) are amended as follows:

1. Section 121.242 *Nickel sulfate* is amended by changing the expiration date of the experimental permit issued by the U.S. Department of Agriculture to read "April 6, 1965."

2. Section 121.1122 *Nickel sulfate* is amended by changing the expiration date of the experimental permit issued by the U.S. Department of Agriculture to read "April 6, 1965."

Notice and public procedure and delayed effective date are not necessary prerequisites to the promulgation of this order since the amendments are in the nature of editorial changes.

(Sec. 701, 52 Stat. 1055; 21 U.S.C. 371)

Dated: April 29, 1964.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 64-4445; Filed, May 4, 1964; 8:47 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Yosemite National Park, California; Fishing

On page 3403 of the FEDERAL REGISTER of March 14, 1964, there was published a notice and text of a proposed amendment to § 7.16 of Title 36, Code of Federal Regulations. The purpose of the amendment is to establish suitable fishing regulations to conform to those of the State of California for the Central Sierra Region, and to set aside certain portions of park waters as fish management research areas. These areas will furnish data for use to improve fish conservation practices.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received, and the proposed amendment is hereby adopted without change and is set forth below. This amendment shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

Paragraph (a) of § 7.16 is amended to read as follows, and new paragraph (k) is added thereto:

§ 7.16 Yosemite National Park.

(a) *Fishing*—(1) *Open season and limit of catch.* The open season for fishing and the daily bag limit and possession limit shall conform to that of the State of California for the Central Sierra Region, except as otherwise provided by Paragraph (k) of this section.

(3) [Deleted]

* * * * *

(k) *Experimental fish management waters.* The Superintendent in his discretion may set aside certain portions of park waters as experimental fish management areas and may temporarily establish specific fishing regulations for such areas as necessary to achieve project objectives: *Provided,* That said areas must be posted by appropriate signs, and public notices must be published through local information media which designate the boundaries and define the temporary regulations applicable thereto.

(39 Stat. 535; 16 U.S.C. 3)

JOHN C. PRESTON,
Superintendent,
Yosemite National Park.

[F.R. Doc. 64-4426; Filed, May 4, 1964; 8:46 a.m.]

Title 46—SHIPPING

Chapter IV—Federal Maritime Commission

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[Docket No. 973 (Sub. 1) General Order 4, Amdt. 5]

PART 510—PRACTICES OF LICENSED INDEPENDENT OCEAN FREIGHT FORWARDERS, OCEAN FREIGHT BROKERS, AND OCEAN GOING COMMON CARRIERS

Compensation and Freight Forwarder Certification; Restraining Order

On April 25, 1964, the Federal Maritime Commission published in the FEDERAL REGISTER (29 F.R. 5559) its revised paragraph (g) of § 510.24 *Compensation and freight forwarder certification,* of the Commission's General Order 4 (46 CFR 510.24(g)).

Notice is hereby given that this rule falls within the restraining order dated May 28, 1963, of the United States Court of Appeals for the Second Circuit.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 64-4461; Filed, May 4, 1964; 8:49 a.m.]

[General Order No. 10; Docket No. 1099]

PART 534—GREEN HIDE WEIGHING PRACTICES

On February 7, 1964, the Commission caused to be published in the FEDERAL REGISTER (29 F.R. 1853-1854) a tariff rule covering the exportation of green hides in the foreign commerce of the United States, and invited comments thereon. The necessity of and justification for the proposed rule were set forth in the Report of the Commission, Docket 1099, General Investigation of Weighing Practices In Re Green Hide Shipments, issued February 3, 1964.

No comments addressed to the proposed rule itself were received. However, the Pacific Westbound Conference submitted certain proposed modifications to its own tariff rule, which it suggested would bring its present tariff provision into conformity with the Commission's

proposed rule. This proceeding is, of course, not the proper place for such a submission and the republication of the rule here in final form is in no way to be construed as permitting the Pacific Westbound Conference to implement its suggested tariff modifications.

No comments having been received suggesting revision of the proposed rule, the Commission, for the reasons set forth in its Report in Docket 1099, supra, and the notice of proposed rulemaking published in the FEDERAL REGISTER on February 7, 1964, and pursuant to its authority under sections 16, 17 and 43 of the Shipping Act, 1916 (39 Stat. 734, 75 Stat. 766), adopts the rule hereinafter set forth.

Title 46 is hereby amended by the addition of a new part, Part 534, reading as follows:

Sec.
534.1 General weighing provisions.
534.2 Weighing certificates and dock receipts.

AUTHORITY: The provisions of this Part 534 issued under sec. 16 of the Shipping Act, 1916 (39 Stat. 734; 75 Stat. 766); sec. 17 of the Shipping Act, 1916 (39 Stat. 734); sec. 43 of the Shipping Act, 1916 (76 Stat. 766, 46 Stat. 841(a)).

§ 534.1 General weighing provisions.

In order to insure a uniform method of declaring shipping weights on green salted hides for export in the foreign commerce of the United States, all water carriers having commodity rates on green salted hides shall file with the Federal Maritime Commission within 30 days amendments to their tariffs setting forth tariff rules which require that the shipping weight for purposes of assessing transportation charges shall be either a scale weight or a scale weight minus a deduction whose amount and method of computation are specified in said tariff rule.

§ 534.2 Weighing certificates and dock receipts.

The tariff rules shall further require that the shippers furnish to the carrier a weighing certificate or dock receipt from an inland carrier for each shipment of green salted hides at or before the time the shipment is tendered to the ocean carrier. The weighing certificate, if furnished, shall either be certified or attested by the signature of the shipper's supplier of the hides. For purchase lots which are split by the shipper after purchase into two or more shipments, a weighing certificate covering the entire purchase lot may be provided, and the shipping weight shall be determined from a computation of the average weight of the hides in said purchase lot.

Effective date. This rule shall become effective 30 days from date of publication in the FEDERAL REGISTER, pursuant to section 4(c) of the Administrative Procedure Act (5 U.S.C. 1003).

By order of the Federal Maritime Commission, April 28, 1964.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 64-4462; Filed, May 4, 1964; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 31]

EMPLOYMENT TAXES

Taxes Under the Federal Insurance Contributions Act

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 a 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] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

In order to conform the Employment Tax Regulations (26 CFR Part 31) to the provisions of Title II of the Social Security Amendments of 1956 (70 Stat. 839), Title IV, Part B of the Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 878), Title IV of the Social Security Amendments of 1958 (72 Stat. 1041), section 22(a) of the Alaska Omnibus Act (73 Stat. 146), sections 104(h) and 202 (a) of the Farm Credit Act of 1959 (73 Stat. 387 and 389), section 18(c) of the Hawaii Omnibus Act (74 Stat. 416), Title I of the Social Security Amendments of 1960 (74 Stat. 926), Title II of the Social Security Amendments of 1961 (75 Stat. 140), section 110(e) of the Mutual Educational and Cultural Exchange Act of 1961 (75 Stat. 536), section 2(c) of the Act of September 21, 1961 (Public Law 87-262, 75 Stat. 543), section 202(a) of the Peace Corps Act (75 Stat. 626), and the Act of December 13, 1963 (Public Law 88-203, 77 Stat. 363) such regulations are amended as follows:

PARAGRAPH 1. Paragraph (a) of § 31.0-3 of Subpart A of the regulations in this part is amended to read as follows:

§ 31.0-3 Scope of regulations.

(a) *Subpart B.* The regulations in Subpart B of this part relate to the imposition of the employee tax and the employer tax under the Federal Insurance Contributions Act with respect to wages paid and received after 1954 for employment performed after 1936. In addition to employment in the case of remuneration therefor paid and received after 1954, the regulations in Subpart B of this part relate also to employment performed after 1954 in the case of remuneration therefor paid and received before 1955. The regulations in Subpart B of this part include provisions relating to the definition of terms applicable in the determination of the taxes under the Federal Insurance Contributions Act, such as "employee", "wages", and "employment". The provisions of Subpart B of this part relating to "employment" are applicable also, (1) to the extent provided in § 31.3121(b)-2, to services performed before 1955 the remuneration for which is paid after 1954, and (2) to the extent provided in § 31.3121(k)-3, to services performed before 1955 the remuneration for which was paid before 1955. (For prior regulations on similar subject matter, see 26 CFR (1939) Part 408 (Regulations 128).)

* * * * *

PAR. 2. Section 31.3101 is amended to read as follows:

§ 31.3101 Statutory provisions; rate of tax.

SEC. 3101. *Rate of tax.* In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121 (b))—

(1) With respect to wages received during the calendar year 1962, the rate shall be 3⅛ percent;

(2) With respect to wages received during the calendar years 1963 to 1965, both inclusive, the rate shall be 3⅝ percent;

(3) With respect to wages received during the calendar years 1966 to 1967, both inclusive, the rate shall be 4⅛ percent; and

(4) With respect to wages received after December 31, 1967, the rate shall be 4⅝ percent.

[Sec. 3101 as amended by sec. 208(b), Social Security Amendments 1954; sec. 202(b), Social Security Amendments 1956; sec. 401(b), Social Security Amendments 1958; sec. 201 (b), Social Security Amendments 1961]

PAR. 3. Section 31.3101-1 is amended to read as follows:

§ 31.3101-1 Measure of employee tax.

The employee tax is measured by the amount of wages received after 1954 with respect to employment after 1936. See § 31.3121(a)-1, relating to wages; and §§ 31.3121(b)-1 to 31.3121(b)-4, inclusive, relating to employment. For provisions relating to the time of receipt of wages, see § 31.3121(a)-2.

PAR. 4. Section 31.3101-2 is amended by revising paragraph (a) to read as follows:

§ 31.3101-2 Rates and computation of employee tax.

(a) The rates of employee tax with respect to wages received in calendar years after 1954 are as follows:

Calendar years	*Percent*
1955 and 1956	2
1957 and 1958	2¼
1959	2½
1960 and 1961	3
1962	3⅛
1963 to 1965, both inclusive	3⅝
1966 and 1967	4⅛
1968 and subsequent calendar years	4⅝

* * * * *

PAR. 5. Section 31.3102 is amended by revising subsection (a) of section 3102 and the historical note to read as follows:

§ 31.3102 Statutory provisions; deduction of tax from wages.

SEC. 3102. *Deduction of tax from wages*—(a) *Requirement.* The tax imposed by section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. An employer who in any calendar quarter pays to an employee cash remuneration to which paragraph (7) (B) or (C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar quarter is less than $50; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (8)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than $150 and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis.

* * * * *

[Sec. 3102 as amended by sec. 205A, Social Security Amendments 1954; sec. 201(h)(3), Social Security Amendments 1956]

PAR. 6. Section 31.3102-1 is amended by revising paragraph (b) to read as follows:

§ 31.3102-1 Collection of, and liability for, employee tax.

* * * * *

(b) The employer is permitted, but not required, to deduct amounts equivalent to employee tax from payments to an employee of cash remuneration to which the sections referred to in this paragraph are applicable prior to the time that the sum of such payments equals:

(1) $50 in the calendar quarter, for service not in the course of the employer's trade or business, to which § 31.3121(a)(7)-1 is applicable; or

(2) $50 in the calendar quarter, for domestic service in a private home of the employer, to which § 31.3121(a)(7)-1 is applicable; or

(3) (i) $100 in the calendar year 1955 or 1956, for agricultural labor, to which § 31.3121(a)(8)-1 is applicable; or

(ii) $150 in any calendar year after 1956, for agricultural labor, to which § 31.3121(a)(8)-1 is applicable, but only to the extent that such payments are made prior to the twentieth day in such calendar year on which the employee has performed such agricultural labor

for the employer for cash remuneration computed on a time basis; or

(4) $50 in the calendar quarter, for service performed as a home worker, to which § 31.3121(a)(10)–1 is applicable.

At such time as the sum of the cash payments in the calendar quarter or the calendar year, as the case may be, for a type of service referred to in this paragraph equals or exceeds the amount specified, the employer is required to collect from the employee any amount of employee tax not previously deducted. Further, at such time in any calendar year after 1956 as the employee has performed agricultural labor for the employer on 20 days during such year for cash remuneration computed on a time basis, the employer is required, regardless of the amount of remuneration paid by him to the employee in the calendar year, to collect from the employee any amount of employee tax not previously deducted. If an employer pays cash remuneration to an employee for two or more of the types of service referred to in this paragraph, the provisions of this paragraph are to be applied separately to the amount of remuneration attributable to each type of service. For provisions relating to the repayment to an employee, or other disposition, of amounts deducted from an employee's remuneration in excess of the correct amount of employee tax, see § 31.6413(a)–1. The application of this paragraph may be illustrated by the following examples:

Example (1). In the calendar year 1957 employer X makes several payments of cash remuneration to employee A for agricultural labor which constitutes employment. In March employee A works on some part of each of 8 days for which employer X makes his first payment of such cash remuneration to A in the amount of $40. X deducts 90 cents (2¼ percent of $40) as an amount equivalent to employee tax. In June A works 5 days for which X makes his second payment of cash remuneration to A in the amount of $50. X does not deduct from this payment an amount equivalent to employee tax. In October A works 6 days for which X makes his third payment of cash remuneration to A in the amount of $60. This amount brings the sum of such payments in 1957 to $150, and X is now required to collect employee tax from A even though A has performed agricultural labor for X on only 19 days in 1957 and regardless of whether the cash remuneration for A's services is computed on a time basis. The amount of employee tax applicable to the $150 paid by X to A is $3.38 (2¼ percent of $150). Inasmuch as X previously deducted 90 cents in March 1957, X is required to deduct $2.48 ($3.38 minus 90 cents) from the $60 paid in October 1957.

Example (2). In the calendar year 1957 employer Y makes several payments of cash remuneration to employee B for agricultural labor which constitutes employment. B's cash remuneration is computed on a time basis. In January employer Y makes his first payment to employee B in the amount of $20 for work performed in 1957 on each of 5 days. Y deducts 45 cents (2¼ percent of $20) as an amount equivalent to employee tax. In April Y makes his second payment of cash remuneration to B in the amount of $40 for work performed in 1957 on each of 10 days. Y deducts 90 cents (2¼ percent of $40) as an amount equivalent to employee tax. In May B works, for Y on each of 5 days and on the last of such days Y makes his third payment of cash remuneration to B in the amount of $20 for such work. This period of work brings to 20 the number of days in the calendar year 1957 on which B has performed agricultural labor for Y for cash remuneration computed on a time basis, and Y is required to collect employee tax from B even though the amount of remuneration paid is less than $150. The amount of employee tax applicable to the $80 paid by Y to B is $1.80 (2¼ percent of $80). Inasmuch as Y previously deducted $1.35 in 1957 (45 cents in January and 90 cents in April), Y is required to deduct 45 cents ($1.80 minus $1.35) from the $20 paid in May 1957.

* * * * *

PAR. 7. Section 31.3111 is amended to read as follows:

§ 31.3111 Statutory provisions; rate of tax.

SEC. 3111. *Rate of tax.* In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b))—

(1) With respect to wages paid during the calendar year 1962, the rate shall be 3⅛ percent;

(2) With respect to wages paid during the calendar years 1963 to 1965, both inclusive, the rate shall be 3⅝ percent;

(3) With respect to wages paid during the calendar years 1966 to 1967, both inclusive, the rate shall be 4⅛ percent; and

(4) With respect to wages paid after December 31, 1967, the rate shall be 4⅝ percent.

[Sec. 3111 as amended by sec. 208(c) Social Security Amendments 1954; sec. 202(c), Social Security Amendments 1956; sec. 401(c), Social Security Amendments 1958; sec. 201(c), Social Security Amendments 1961]

PAR. 8. Section 31.3111–1 is amended to read as follows:

§ 31.3111–1 Measure of employer tax.

The employer tax is measured by the amount of wages paid after 1954 with respect to employment after 1936. See § 31.3121(a)–1, relating to wages, and §§ 31.3121(b)–1 to 31.3121(b)–4, inclusive, relating to employment. For provisions relating to time of payment of wages, see § 31.3121(a)–2.

PAR. 9. Section 31.3111–2 is amended by revising paragraph (a) to read as follows:

§ 31.3111–2 Rates and computation of employer tax.

(a) The rates of employer tax with respect to wages paid in calendar years after 1954 are as follows:

Calendar years	*Percent*
1955 and 1956	2
1957 and 1958	2¼
1959	2½
1960 and 1961	3
1962	3⅛
1963 to 1965, both inclusive	3⅝
1966 and 1967	4⅛
1968 and subsequent calendar years	4⅝

* * * * *

PAR. 10. Immediately after § 31.3112–1 there is inserted the following:

§ 31.3113 Statutory provisions; District of Columbia credit unions.

SEC. 3113. *District of Columbia credit unions.* Notwithstanding the provisions of section 16 of the Act of June 23, 1932 (D.C. Code, sec. 26–516; 47 Stat. 331), or any other provision of law (whether enacted before or after the enactment of this section) which grants to any credit union chartered pursuant to such Act of June 23, 1932, an exemption from taxation, such credit union shall not be exempt from the tax imposed by section 3111.

[Sec. 3113 as added by sec. 201(a)(1), Social Security Amendments 1956, effective with respect to remuneration paid after 1956]

PAR. 11. Section 31.3121(a)–1 is amended by revising paragraph (d) and subparagraph (1) of paragraph (j) to read as follows:

§ 31.3121(a)–1 Wages.

* * * * *

(d) Generally the basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus, it may be paid on the basis of piecework, or a percentage of profits; and it may be paid hourly, daily, weekly, monthly, or annually. See, however, § 31.3121(a)(8)–1 which relates to the treatment of cash remuneration computed on a time basis for agricultural labor.

* * * * *

(j) * * *

(1) Remuneration for services which do not constitute employment under section 3121(b) and which are not deemed to be employment under section 3121(c) (see § 31.3121(c)–1).

* * * * *

PAR. 12. Section 31.3121(a)–2 is amended by revising subparagraph (2) of paragraph (c) to read as follows:

§ 31.3121(a)–2 Wages; when paid and received.

* * * * *

(c) * * *

(2)(i) The first $100 of cash remuneration paid, either actually or constructively, by an employer to an employee in the calendar year 1955 or 1956 for agricultural labor to which § 31.3121(a)(8)–1 is applicable shall be deemed to be paid by the employer to the employee at the first moment of time in such calendar year that the sum of such cash payments made within such year is at least $100.

(ii) Cash remuneration paid, either actually or constructively, by an employer to an employee in a calendar year after 1956 for agricultural labor to which § 31.3121(a)(8)–1 is applicable, and before either of the events described in (*a*) or (*b*) of this subdivision has occurred, shall be deemed to be paid upon the occurrence of the earlier of such events, as follows:

(*a*) The first moment of time in such calendar year that the sum of the payments of such remuneration is at least $150, or

(*b*) The twentieth day in such calendar year on which the employee has performed such agricultural labor for the employer for cash remuneration computed on a time basis.

* * * * *

PAR. 13. Section 31.3121(a)(1) is amended to read as follows:

§ 31.3121(a)(1) Statutory provisions; definitions; wages; annual wage limitation.

SEC. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages"

means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) That part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to $4,800 with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to $4,800 to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

[Sec. 3121(a)(1) as amended by sec. 204(a), Social Security Amendments 1954, sec. 402 (b), Social Security Amendments 1958]

PAR. 14 Section 31.3121(a)(1)–1 is amended by revising the heading, paragraph (a), subparagraphs (1), (3), and (6) of paragraph (b), so much of subparagraph (2) of paragraph (b) as precedes subdivision (i) thereof, and the example in subparagraph (5) of paragraph (b). These amended provisions read as follows:

§ 31.3121(a)(1)–1 Annual wage limitation.

(a) *In general.* (1) The term "wages" does not include that part of the remuneration paid by an employer to an employee within any calendar year—

(i) After 1954 and before 1959 which exceeds the first $4,200 of remuneration or

(ii) After 1958 which exceeds the first $4,800 of remuneration

(exclusive of remuneration excepted from wages in accordance with paragraph (j) of § 31.3121(a)–1 or §§ 31.3121 (a)(2)–1 to 31.3121(a)(10)–1, inclusive) paid within the calendar year by an employer to the employee for employment performed for him at any time after 1936.

(2) The annual wage limitation applies only if the remuneration received during any one calendar year by an employee from the same employer for employment performed after 1936 exceeds the amount of such limitation. The limitation in such case relates to the amount of remuneration received during any one calendar year for employment after 1936 and not to the amount of remuneration for employment performed in any one calendar year.

Example. Employee A, in 1958, receives $4,500 from employer B in part payment of $5,000 due him for employment performed in 1958. In 1959 A receives from employer B the balance of $500 due him for employment performed in 1958, and thereafter in 1959 also receives $4,500 for employment performed in 1959 for employer B. The first $4,200 of the $4,500 received during 1958 is subject to the taxes in 1958. The remaining $300 received in 1958 is not included as wages and is not subject to the taxes. The balance of $500 received in 1959 for employment during 1958 is subject to the taxes during 1959, as is also the first $4,300 of the $4,500 thereafter received in 1959 ($500 plus $4,300 totaling $4,800, which is the annual wage limitation applicable to remuneration received in 1959 by an employee from any one employer). The remaining $200 received in 1959 is not included as wages and is not subject to the taxes.

(3) If during a calendar year the employee receives remuneration from more than one employer, the annual wage limitation does not apply to the aggregate remuneration received from all of such employers, but instead applies to the remuneration received during such calendar year from each employer with respect to employment after 1936. In such case the first $4,800 received in any calendar year after 1958 (the first $4,200 received in any calendar year after 1954 and before 1959) from each employer constitutes wages and is subject to the taxes, even though, under section 6413 (c), the employee may be entitled to a special credit or refund of any amount of employee tax deducted from his wages which exceeds the employee tax with respect to the first $4,800 (or $4,200, as the case may be) of wages received during the calendar year from all employers. In this connection and in connection with the two examples immediately following, see § 31.6413(c)–1, relating to special credits or refunds of employee tax. In connection with the annual wage limitation in the case of remuneration paid for services performed in the employ of the United States or a wholly owned instrumentality thereof, see § 31.3122. In connection with the application of the annual wage limitation, see also paragraph (b) of this section, relating to the circumstances under which wages paid by a predecessor employer are deemed to be paid by his successor.

Example (1). During 1959 employee C receives from employer D a salary of $800 a month for employment performed for D during the first 7 months of 1959, or total remuneration of $5,600. At the end of the sixth month C has received $4,800 from employer D, and only that part of his total remuneration from D constitutes wages subject to the taxes. The $800 received by employee C from employer D in the seventh month is not included as wages and is not subject to the taxes. At the end of the seventh month C leaves the employ of D and enters the employ of E. C receives remuneration of $960 a month from employer E in each of the remaining 5 months of 1959, or total remuneration of $4,800 from employer E. The entire $4,800 received by C from employer E constitutes wages and is subject to the taxes. Thus, the first $4,800 received from employer D and the entire $4,800 received from employer E constitute wages.

Example (2). During the calendar year 1959 F is simultaneously an officer (an employee) of the X Corporation, the Y Corporation, and the Z Corporation and during such year receives a salary of $4,800 from each corporation. Each $4,800 received by F from each of the Corporations X, Y, and Z (whether or not such corporations are related) constitutes wages and is subject to the taxes.

(b) *Wages paid by predecessor attributed to successor.* (1) If an employer (hereinafter referred to as a successor) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and if immediately after the acquisition the successor employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for purposes of the application of the annual wage limitation set forth in paragraph (a) of this section, any remuneration (exclusive of remuneration excepted from wages in accordance with paragraph (j) of § 31.3121(a)–1 or §§ 31.3121 (a)(2)–1 to 31.3121(a)(10)–1, inclusive) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by the predecessor during such calendar year and prior to the acquisition shall be considered as having been paid by the successor.

(2) The wages paid, or considered as having been paid, by a predecessor to an employee shall, for purposes of the annual wage limitation, be treated as having been paid to such employee by a successor, if:

* * * * *

(3) The method of acquisition by an employer of the property of another employer is immaterial. The acquisition may occur as a consequence of the incorporation of a business by a sole proprietor or a partnership, the continuance without interruption of the business of a previously existing partnership by a new partnership or by a sole proprietor, or a purchase or any other transaction whereby substantially all the property used in a trade or business, or used in a separate unit of a trade or business, of one employer is acquired by another employer.

* * * * *

(5) * * *

Example. The Y Corporation in 1959 acquires by purchase all the property of the X Company and immediately after the acquisition employs in its trade or business employee A, who, immediately prior to the acquisition, was employed by the X Company. The X Company has in 1959 (the calendar year in which the acquisition occurs) and prior to the acquisition paid $3,000 of wages to A. The Y Corporation in 1959 pays to A remuneration of $3,000 with respect to employment. Only $1,800 of the remuneration paid by the Y Corporation is considered to be wages. For purposes of the $4,800 limitation, the Y Corporation is credited with the $3,000 paid to A by the X Company. If, in the same calendar year, the Z Company acquires the property by purchase from the Y Corporation and A immediately after the acquisition is employed by the Z Company in its trade or business, no part of the remuneration paid to A by the Z Company in the year of the acquisition will be considered to be wages. The Z Company will be credited with the remuneration paid to A by the Y Corporation and also with the wages paid

to A by the X Company (considered for purposes of the application of the $4,800 limitation as having also been paid by the Y Corporation).

(6) Where a corporation described in section 501(c)(3) which is exempt from income tax under section 501(a) has in effect a certificate filed pursuant to section 3121(k), or pursuant to section 1426 (l) of the Internal Revenue Code of 1939, waiving its exemption from the taxes imposed by the Act, the activity in which such corporation is engaged is considered to be its trade or business for the purpose of determining whether the transferred property was used in the trade or business of the predecessor and for the purpose of determining whether the employment by the predecessor and the successor of an individual whose services were retained by the successor constitute employment in a trade or business. Thus, if a charitable or religious organization, subject to the taxes by virtue of its certificate, acquires all the property of another such organization likewise subject to the taxes and retains the services of employees of the predecessor, wages paid to such employees by the predecessor in the year of the acquisition (and prior to such acquisition) will be attributed to the successor for purposes of the annual wage limitation.

PAR. 15. Section 31.3121(a)(8) is amended by revising section 3121(a)(8)(B) and the historical note to read as follows:

§ 31.3121(a)(8) Statutory provisions; definitions; wages; payments for agricultural labor.

SEC. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

* * * * *

(8) * * *

(B) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless (i) the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or (ii) the employee performs agricultural labor for the employer on 20 days or more during such year for cash remuneration computed on a time basis;

[Sec. 3121(a)(8) as amended by sec. 204(b)(3), Social Security Amendments 1954; sec. 201(h)(1), Social Security Amendments 1956]

PAR. 16. Section 31.3121(a)(8)–1 is amended to read as follows:

§ 31.3121(a)(8)–1 Payments for agricultural labor.

(a) *Scope of this section.* For purposes of the regulations in this section, the term "agricultural labor" means only such agricultural labor (see § 31.3121(g)–1) as constitutes employment or is deemed to constitute employment by reason of the rules relating to included and excluded services contained in section 3121(c) (see § 31.3121(c)–1) or the corresponding section of prior law.

(b) *Payments other than in cash.* The term "wages" does not include remuneration paid in any medium other than cash for agricultural labor. For meaning of the term "cash remuneration", see paragraph (f) of the regulations in this section.

(c) *Cash payments.* (1) The term "wages" does not include cash remuneration paid by an employer in the calendar year 1955 or 1956 to an employee for agricultural labor unless the cash remuneration paid in such year by the employer to the employee for such labor is $100 or more.

(2)(i) The term "wages" does not include cash remuneration paid by an employer in any calendar year after 1956 to an employee for agricultural labor unless the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or unless the employee performs agricultural labor for the employer on 20 days or more during such year for cash remuneration computed on a time basis.

(ii) The application of the provisions of this subparagraph may be illustrated by the following example:

Example. On 18 days in 1957 A performs agricultural labor for X for cash remuneration of $8 per day, and X pays A $144 in such year. A performs no further service for X. Neither the $150-cash-remuneration test nor the 20-day test is met. Accordingly, the remuneration paid by X to A is not subject to the taxes. If in 1957 A had performed agricultural labor for X on 20 days for cash remuneration of $7.20 per day, the $144 paid by X to A would have been subject to the taxes because the 20-day test would have been met. Or if A had performed the 18 days of agricultural labor for cash remuneration of $8.50 per day and had been paid in full therefor in 1957, his cash remuneration of $153 would have been subject to the taxes because the $150-cash-remuneration test would have been met.

(d) *Application of cash-remuneration test.* (1) If an employee receives cash remuneration from an employer both for services which constitute agricultural labor and for services which do not constitute agricultural labor, only the amount of such remuneration which is attributable to agricultural labor shall be included in determining whether cash remuneration of $150 or more ($100 or more in 1955 or 1956) has been paid in the calendar year by the employer to the employee for agricultural labor.

Example. Employer X operates a store and also is engaged in farming operations. Employee A, who regularly performs services for X in connection with the operation of the store, works on X's farm when additional help is required for the farm activities. In the calendar year 1957, X pays A $140 in cash computed on a time basis for agricultural labor performed on 19 different days in such year, and $2,260 for services performed in connection with the operation of the store. Since the cash remuneration paid by X to A in the calendar year 1957 for agricultural labor is less than $150, the cash-remuneration test is not met. Since A performed agricultural labor for X on less than 20 days in 1957, the 20-day test set forth in section 3121(a)(8) is not met. The $140 paid by X to A in 1957 for agricultural labor does not constitute wages and is not subject to the taxes.

(2) The test relating to cash remuneration of $150 or more ($100 or more in 1955 or 1956) is based on the cash remuneration paid in a calendar year rather than on the remuneration earned during a calendar year. It is immaterial if such cash remuneration is paid in a calendar year other than the year in which the agricultural labor is performed.

Example. Employer X pays cash remuneration of $150 in the calendar year 1957 to employee A for agricultural labor. Such remuneration constitutes wages even though $10 of such amount represents payment for agricultural labor performed by A for X in December 1956.

(3) In determining whether $150 or more ($100 or more in 1955 or 1956) has been paid to an employee for agricultural labor, only cash remuneration for such labor shall be taken into account. If an employee receives cash remuneration in any one calendar year from more than one employer for agricultural labor, the cash-remuneration test is to be applied with respect to the remuneration received by the employee from each employer in such calendar year for such labor.

(e) *Application of 20-day test.* (1) Only agricultural labor for which cash remuneration is computed on a time basis is taken into account in determining whether an employee performs such labor for such remuneration on 20 days or more during a calendar year after 1956. For purposes of the 20-day test, the amount of such remuneration is immaterial, and it is immaterial if, in addition to cash remuneration computed on a time basis, the remuneration for such labor also includes remuneration other than cash or remuneration which is not computed on a time basis. If cash remuneration paid to an employee after 1956 for agricultural labor is computed on a time basis, such cash remuneration does not constitute "wages" unless it is paid in a calendar year in which either the 20-day test or the $150-cash-remuneration test is met.

Example. Employer X employs A to construct fences on a farm owned by X. The work constitutes agricultural labor and is performed on 50 days in November and December 1957. A is not employed by X at any other time. A's remuneration consists of meals and lodging, $5 cash per day, and additional cash measured by the amount of fence constructed. X pays A $140 cash in December 1957 and $160 cash in January 1958, in full payment for the work. Inasmuch as A has performed agricultural labor for X on 50 days in 1957, for remuneration computed on a time basis, the 20-day test is met for 1957 and the $140 cash paid in 1957 is subject to the taxes. It is immaterial that the $150-cash-remuneration test is not met for 1957. Inasmuch as X has paid A $160 cash remuneration in 1958 for agricultural labor, the $150-cash-remuneration test is met for 1958 and the $160 cash paid in 1958 is subject to the taxes. It is immaterial that the 20-day test is not met for 1958. If the remuneration paid by X to A in January 1958 had been in an amount less than $150, neither the $150-cash-remuneration test nor the 20-day test would have been met for the calendar year 1958, and the remuneration paid by X to A in such year would not have been subject to the taxes.

(2) For the purpose of determining whether an employee performs agricultural labor for an employer on 20 days or more during any calendar year after 1956, for cash remuneration computed on a time basis, there shall be counted as one day—

(i) Any day or portion thereof on which the employee actually performs

such labor for cash remuneration computed on a time basis; and

(ii) Any day or portion thereof on which the employee does not perform agricultural labor but with respect to which cash remuneration is paid or payable to the employee for such labor, such as a day on which the employee is sick or on vacation.

An employee who on a particular day reports for work and, at the direction of his employer, holds himself in readiness to perform agricultural labor shall be considered to be engaged in the actual performance of such labor on that day. For purposes of the regulations in this section, a day is a period of 24 hours commencing at midnight and ending at midnight.

Example. During the period of 20 days beginning April 11, 1957 and ending April 30, 1957, employee A was employed by employer X to perform agricultural labor on X's farm. The agreement provided that A would be furnished room and board at the farm and would be paid cash wages of $150 per month. On one day during the 20-day period A was sick and unable to work, and on another day X directed A to refrain from work because of weather conditions. At the termination of A's employment X paid A cash wages of $100 for the full 20-day period. The 20-day test had been met and the $100 cash wages were subject to the taxes.

(3) If in any one calendar year an employee performs agricultural labor for more than one employer, the 20-day test is to be applied with respect to the agricultural labor performed by the employee in such year for each employer.

(f) *Meaning of "cash remuneration."* Cash remuneration includes checks and other monetary media of exchange. Cash remuneration does not include payments made in any other medium, such as lodging, food, clothing, car tokens, transportation passes or tickets, farm products, or other goods or commodities.

(g) *Cross references.* (1) For provisions relating to deduction of employee tax or amounts equivalent to the tax from cash payments for agricultural labor, see § 31.3102–1.

(2) For provisions relating to the time of payment of wages for agricultural labor, see § 31.3121(a)–2.

(3) For provisions relating to records to be kept with respect to agricultural labor, see paragraph (b) of § 31.6001–2.

PAR. 17. Section 31.3121(a)(9) is amended to read as follows:

§ 31.3121(a)(9) Statutory provisions; definitions; wages; payments to employees for non-work periods.

SEC. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

* * * * *

(9) Any payment (other than vacation or sick pay) made to an employee after the month in which—

(A) In the case of a man, he attains the age of 65, or

(B) In the case of a woman, she attains the age of 62,

if such employee did not work for the employer in the period for which such payment is made; or

[Sec. 3121(a)(9) as amended by sec. 210(b), Social Security Amendments 1956]

PAR. 18. Section 31.3121(a)(9)–1 is amended to read as follows:

§ 31.3121(a)(9)–1 Payments to employees for non-work periods.

(a) The term "wages" does not include any payment (other than vacation or sick pay) made by an employer to an employee for a period throughout which the employment relationship exists between the employer and the employee, but in which the employee does no work (other than being subject to call for the performance of work) for the employer, if such payment is made after the calendar month in which—

(1) The employee attains age 65, if the employee is a man, or if the employee is a woman to whom the payment is made before November 1956, or

(2) The employee attains age 62, if the employee is a woman to whom the payment is made after October 1956.

(b) Vacation or sick pay is not within this exclusion from wages. If the employee does any work for the employer in the period for which the payment is made, no remuneration paid by such employer to such employee with respect to such period is within this exclusion from wages.

Example. Mrs. A, an employee of X, attained the age of 62 on September 15, 1956, and discontinued the performance of regular work for X on September 30, 1956. Their employment relationship continued for several years until Mrs. A's death, and X paid Mrs. A $50 per month as consideration for Mrs. A's agreement to work when asked by X. The payment for each month was made on the first day of each succeeding month. After September 30, 1956, the only work performed by Mrs. A for X was performed on one day in October 1956. The payment made by X to Mrs. A on November 1 (for October 1956) is not excluded from wages under this exception, but the payments made thereafter are excluded from wages. The payment on November 1 was not excluded because Mrs. A worked for X on one day in October 1956. (Inasmuch as Mrs. A had attained age 62 in September 1956, the November 1 payment would have been excluded if Mrs. A had not performed any work for X in October 1956.)

PAR. 19. Section 31.3121(b) is amended by striking the provisions of section 205 of the Social Security Amendments of 1954. The section as so amended reads as follows:

§ 31.3121(b) Statutory provisions; definitions; employment.

SEC. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means any service performed after 1936 and prior to 1955 which was employment for purposes of subchapter A of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1954 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee for an American employer (as defined in subsection (h)); except that, in the case of service performed after 1954, such term shall not include—

PAR. 20. Paragraph (b)(2) of § 31.3121(b)–2 is amended to read as follows:

§ 31.3121(b)–2 Employment; services performed before 1955.

* * * * *

(b) *Certain services performed before 1955 the remuneration for which is paid after 1954.* * * *

(2) Services of the character described in paragraphs (a) and (b) of § 31.3121(b)(1)–1, which were performed by certain foreign agricultural workers before 1955 and the remuneration for which is paid after 1954, do not constitute employment under section 3121(b) irrespective of whether they constituted employment under section 1426(b) of the 1939 Code, as in effect at the time the services were performed.

* * * * *

PAR. 21. Section 31.3121(b)–3 is amended by revising paragraph (b) and subparagraphs (1) and (2) (i) of paragraph (c) to read as follows:

§ 31.3121(b)–3 Employment; services performed after 1954.

* * * * *

(b) *Services performed within the United States.* Services performed after 1954 within the United States (see § 31.3121(e)–1) by an employee for his employer, unless specifically excepted by section 3121(b), constitute employment. With respect to services performed within the United States, the place where the contract of service is entered into is immaterial. The citizenship or residence of the employee or of the employer also is immaterial except to the extent provided in any specific exception from employment. Thus, the employee and the employer may be citizens and residents of a foreign country and the contract of service may be entered into in a foreign country, and yet, if the employee under such contract performs services within the United States, there may be to that extent employment.

(c) *Services performed outside the United States*—(1) *In general.* Except as provided in subparagraphs (2) and (3) of this paragraph, services performed outside the United States (see § 31.3121(e)–1) do not constitute employment.

(2) *On or in connection with an American vessel or American aircraft.* (i) Services performed after 1954 by an employee for an employer "on or in connection with" an American vessel or American aircraft outside the United States (see § 31.3121(e)–1) constitute employment if:

(a) The employee is also employed "on and in connection with" such vessel or aircraft when outside the United States; and

(b) The services are performed under a contract of service, between the employee and the employer, which is entered into within the United States, or during the performance of the contract under which the services are performed and while the employee is employed on the vessel or aircraft it touches at a port within the United States; and

(c) The services are not excepted under section 3121(b).

* * * * *

PAR. 22. Section 31–31.21(b)–4 is amended by revising paragraph (a) to read as follows:

§ 31.3121(b)–4 Employment; excepted services in general.

(a) Services performed by an employee for an employer do not constitute employment for purposes of the taxes if they are specifically excepted from employment under any of the numbered paragraphs of section 3121(b). Services so excepted do not constitute employment for purposes of the taxes even though they are performed within the United States, or are performed outside the United States on or in connection with an American vessel or American aircraft, or are performed outside the United States by a citizen of the United States for an American employer. If not otherwise provided in the regulations relating to the numbered paragraphs of section 3121(b), such regulations apply to services performed after 1954.

* * * * *

PAR. 23. Section 31.3121(b)(1) is amended to read as follows:

§ 31.3121(b)(1) Statutory provisions; definitions; employment; agricultural services.

SEC. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

(1) Service performed by foreign agricultural workers (A) under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended (65 Stat. 119; 7 U.S.C. 1461–1468), or (B) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor.

[Sec. 3121(b)(1) as amended by sec. 205(a), Social Security Amendments 1954; sec. 201(c), Social Security Amendments 1956; sec. 404(a), Social Security Amendments 1958]

SEC. 501. [*Title V, Agricultural Act of 1949*]. For the purpose of assisting in such production of agricultural commodities and products as the Secretary of Agriculture deems necessary, by supplying agricultural workers from the Republic of Mexico (pursuant to arrangements between the United States and the Republic of Mexico or after every practicable effort has been made by the United States to negotiate and reach agreement on such agreements), the Secretary of Labor—

(1) To recruit such workers (including any such workers who have resided in the United States for the preceding five years, or who are temporarily in the United States under legal entry);

* * * * *

(5) To assist such workers and employers in negotiating contracts for agricultural employment (such workers being free to accept or decline agricultural employment with any eligible employer and to choose the type of agricultural employment they desire, and eligible employers being free to offer agricultural employment to any workers of their choice not under contract to other employers);

* * * * *

[Sec. 501 as amended by Act of Mar. 16, 1954 (Pub. Law 309, 83d Cong., 68 Stat. 28)]

* * * * *

SEC. 508 [*Title V, Agricultural Act of 1949*]. For the purposes of this title—

(1) The term "agricultural employment" includes services or activities included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, as amended [52 Stat. 1060; 29 U.S.C. 203(f)], or section 1426(h) of the Internal Revenue Code, as amended [section 3121(g) of the Internal Revenue Code of 1954].

* * * * *

[Sec. 507 as renumbered sec. 508 and amended by Act of Oct. 3, 1961 (Pub. Law 87–345, 75 Stat. 761)]

* * * * *

SEC. 510. [*Title V, Agricultural Act of 1949*]. No workers will be made available under this title for employment after December 31, 1964.

[Sec. 509 as renumbered sec. 510 and amended by Act of Oct. 3, 1961 (Pub. Law 87–345, 75 Stat. 761); further amended by Act of Dec. 13, 1963 (Pub. Law 88–203, 77 Stat 363)]

SEC. 3. Definitions [*Fair Labor Standards Act of 1938*]. As used in this Act—

* * * * *

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

* * * * *

SEC. 15. Miscellaneous provisions [*Agricultural Marketing Act*]. * * *

(g) As used in this Act, the term "agricultural commodity" includes * * * crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum spirits of turpentine, and gum rosin, as defined in the Naval Stores Act, approved March 3, 1923 [42 Stat. 1435; 7 U.S.C. 92 (c), (h)].

SEC. 2. [*The Naval Stores Act*]. That, when used in this Act—

* * * * *

(c) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living tree.

* * * * *

(h) "Gum rosin" means rosin remaining after the distillation of gum spirits of turpentine.

PAR. 24. Section 31.3121(b)(1)–1 is amended to read as follows:

§ 31.3121(b)(1)–1 Certain services performed by foreign agricultural workers, or performed before 1959 in connection with oleoresinous products.

(a) *Services of workers from Mexico.* Services performed before 1965 by foreign agricultural workers from the Republic of Mexico under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended, are excepted from employment. Contracts entered into pursuant to the provisions of such title V may provide for the performance only of services which constitute "agricultural employment". The term "agricultural employment" includes certain services which do not constitute "agricultural labor" as that term is defined in section 3121(g) (see § 31.3121(g)–1). For purposes of title V of the Agricultural Act of 1949, as amended, the term "agricultural employment" includes services or activities included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, as amended, or section 3121(g) of the Internal Revenue Code. Under section 507 of the Agricultural Act of 1949, as amended, and as in effect before October 3, 1961, the term "agricultural employment" include also horticultural employment, cotton ginning, compressing and storing, crushing of oil seeds, and the packing, canning, freezing, drying, or other processing of perishable or seasonable agricultural products.

(b) *Services of workers from British West Indies.* Services performed by a foreign agricultural worker lawfully admitted to the United States from the Bahamas, Jamaica, or the other British West Indies, on a temporary basis to perform agricultural labor are excepted from employment.

(c) *Services performed after 1956 by foreign workers.* Services performed after 1956 by a foreign agricultural worker lawfully admitted to the United States from any foreign country or possession thereof, including the Republic of Mexico, on a temporary basis to perform agricultural labor are excepted from employment.

(d) *Services performed before 1959 in connection with the production or harvesting of certain oleoresinous products.* Services performed before 1959 in connection with the production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into gum spirits of turpentine and gum rosin, provided the processing is carried on by the original producer of the crude gum, are excepted from employment. However, the services to which this paragraph relates constitute agricultural labor as defined in section 3121(g) (see paragraph (d) of § 31.3121(g)–1). Thus, any cash remuneration paid for such services, to the extent that the services are deemed to constitute employment by reason of the rules relating to included and excluded services contained in section 3121(c) (see § 31.3121(c)–1), is taken into account in applying the test prescribed in section 3121(a)(8)(B) for determining whether cash remuneration paid for agricultural labor constitutes wages (see paragraph (c) of § 31.3121(a)(8)–1).

(e) *Cross-reference.* See paragraph (b) of § 31.3121(b)–2 for provisions relating to the status of services of the character to which paragraphs (a) and (b) of this section apply which were performed before 1955 and the remuneration for which is paid after 1954.

PAR. 25. Section 31.3121(b)(3) is amended to read as follows:

§ 31.3121(b)(3) Statutory provisions; definitions; employment; family employment.

SEC. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

* * * * *

(3)(A) Service performed by an individual in the employ of his spouse, and service performed by a child under the age of 21 in the employ of his father or mother;

(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his son or daughter;

[Sec. 3121(b)(4) redesignated paragraph (3) by sec. 205(b), Social Security Amendments 1954; as amended by sec. 104(b), Social Security Amendments 1960]

PAR. 26. Section 31.3121(b)(3)–1 is amended by revising paragraphs (a)(2) and (b) to read as follows:

§ 31.3121(b)(3)–1 Family employment.

(a) * * *

(2)(i) Services performed before 1961 by a father or mother in the employ of his or her son or daughter;

(ii) Services not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed after 1960 by a father or mother in the employ of his or her son or daughter; and

* * * * *

(b) Under paragraph (a)(1) and (2)(i) of this section, the exception is conditioned solely upon the family relationship between the employee and the individual employing him. Under paragraph (a)(2)(ii) of this section, in addition to the family relationship, there is a further requirement that the services, performed after 1960, shall be services not in the course of the employer's trade or business or shall be domestic service in a private home of the employer. The terms "services not in the course of the employer's trade or business" and "domestic service in a private home of the employer" have the same meaning as when used in § 31.3121(a)(7)–1, except that it is immaterial under subsection (a)(2)(ii) of this section whether or not such services are performed on a farm operated for profit. Under paragraph (a)(3) of this section, in addition to the family relationship, there is a further requirement that the son or daughter shall be under the age of 21, and the exception continues only during the time that the son or daughter is under the age of 21.

* * * * *

PAR. 27. Section 31.3121(b)(6) is amended by revising subparagraphs (B)(ii) and (C)(vi) of section 3121(b)(6) and the historical note to read as follows:

§ 31.3121(b)(6) Statutory provisions; definitions; employment; service in employ of United States or instrumentality thereof.

SEC. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

* * * * *

(6) * * *

(B) * * *

(ii) Service performed in the employ of a Federal land bank, a Federal intermediate credit bank, a bank for cooperatives, a Federal land bank association, a production credit association, a Federal Reserve Bank, * * * [see note at end of this section] * * * or a Federal Credit Union;

* * * * *

(C) * * *

(vi) By any individual to whom the Civil Service Retirement Act does not apply because such individual is subject to another retirement system (other than the retirement system of the Tennessee Valley Authority);

[Paragraph (7), sec. 3121(b), as redesignated paragraph (6) and amended by sec. 205(b), (d), Social Security Amendments 1954; sec. 201(d)(1), (2), Social Security Amendments 1956; secs. 104(h), 202(a), Farm Credit Act 1959 (73 Stat. 387, 389). Sec. 201(d)(1), Social Security Amendments 1956, amended sec. 3121(b)(6)(B)(ii) by inserting "a Federal Home Loan Bank". Such amendment had no effect, however, for the reason that conditions set forth in sec. 104(i)(2)(A) and (B), Social Security Amendments 1956, were not met.]

SEC. 2. [*Act of September 21, 1961 (Public Law 87–262)*]. * * *

(c) Each individual who is an employee of Freedmen's Hospital on the date of enactment of this Act, and who transfers to Howard University shall, so long as he is continuously in the employ of Howard University, be regarded as continuing in the employ of the United States for the purposes of the Civil Service Retirement Act, the Federal Employees' Group Life Insurance Act of 1954. For purposes of section 3121(b) of the Internal Revenue Code of 1954 and section 210 of the Social Security Act, service performed by such individual during the period of his employment at Howard University shall be regarded as though performed in the employ of the United States.

[Sec. 2(c), Act of Sept. 21, 1961 (Pub. Law 87–262, 75 Stat. 543)]

PAR. 28. Paragraphs (a), (c)(4)(ii), and (d)(6) of § 31.3121(b)(6)–1 are amended to read as follows:

§ 31.3121(b)(6)–1 Services in employ of United States or instrumentality thereof.

(a) *In general.* This section relates to services performed in the employ of the United States Government or in the employ of an instrumentality of the United States. Particular services which are not excepted from employment under one rule set forth in this section may nevertheless be excepted under another rule set forth in this section or under § 31.3121(b)(5)–1, relating to services in the employ of an instrumentality of the United States specifically exempted from the employer tax. Moreover, services performed in the employ of the United States or of any instrumentality thereof which are not excepted from employment under paragraph (5) or (6) of section 3121(b) may nevertheless be excepted under some other paragraph of such section. For provisions relating generally to the application of the taxes in the case of services performed in the employ of the United States or a wholly owned instrumentality thereof, see § 31.3122. For provisions relating to the computation of remuneration for service performed by an individual as a member of a uniformed service or for service performed by an individual as a volunteer or volunteer leader within the meaning of the Peace Corps Act, see § 31.3121(i)–2 and § 31.3121(i)–3, respectively.

* * * * *

(c) * * *

(4) * * *

(ii) Services performed in the employ of a production credit association, a Federal Reserve Bank, or a Federal Credit Union; services performed before December 31, 1959, in the employ of a national farm loan association; services performed after December 30, 1959, in the employ of a Federal land bank association; and services performed after December 31, 1959, in the employ of a Federal land bank, a Federal intermediate credit bank, or a bank for cooperatives;

* * * * *

(d) * * *

(6)(i) Except as provided in subdivision (ii) of this subparagraph, services performed by an individual to whom the Civil Service Retirement Act does not apply because he is, with respect to such services, subject to another retirement system, established either by a law of the United States or by the agency or instrumentality of the United States for which such services are performed.

(ii) The provisions of subdivision (i) of this subparagraph have no application to service performed by an individual to whom the Civil Service Retirement Act does not apply because such individual is subject to the retirement system of the Tennessee Valley Authority, if such service is subject to the plan approved by the Secretary of Health, Education, and Welfare on December 28, 1956, pursuant to section 104(i)(2) of the Social Security Amendments of 1956 (70 Stat. 827). See section 201(m)(4) of such Amendments for provisions relating to the timeliness of payment of tax with respect to remuneration paid before 1957 for such services, and barring the imposition of interest on the amount of any such tax due for any period before December 28, 1956.

PAR. 29. Section 31.3121(b)(7) is amended to read as follows:

§ 31.3121(b)(7) Statutory provisions; definitions; employment; services in employ of States or their political subdivisions or instrumentalities.

SEC. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

* * * * *

(7) Service performed in the employ of a State, or any political subdivision thereof,

or any instrumentality of any one or more of the foregoing which is wholly owned thereby, except that this paragraph shall not apply in the case of—

(A) Service which, under subsection (j), constitutes covered transportation service, or

(B) Service in the employ of the Government of Guam [see historical note at end of this section] or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, performed by an officer or employee thereof (including a member of the legislature of any such Government or political subdivision), and, for purposes of this title with respect to the taxes imposed by this chapter—

(i) Any person whose service as such an officer or employee is not covered by a retirement system established by a law of the United States shall not, with respect to such service, be regarded as an employee of the United States or any agency or instrumentality thereof, and

(ii) The remuneration for service described in clause (i) (including fees paid to a public official) shall be deemed to have been paid by the Government of Guam [see historical note at end of this section] or the Government of American Samoa or by a political subdivision thereof or an instrumentality of any one or more of the foregoing which is wholly owned thereby, whichever is appropriate;

[Sec. 3121(b)(8) redesignated paragraph (7) by sec. 205(b), Social Security Amendments 1954; as amended by sec. 103(n), Social Security Amendments 1960. The provisions of section 3121(b)(7)(B) are not applicable to service performed in the employ of the Government of Guam, of any political subdivision thereof, or of any wholly owned instrumentality of one or more of the foregoing, for the reason that a certification by the Governor of Guam, for which there is provision in sec. 103(v)(1), Social Security Amendments 1960, has not been received by the Secretary of the Treasury. Such a certification was made by the Governor of American Samoa and was received by the Secretary of the Treasury on December 29, 1960]

PAR. 30. Section 31.3121(b)(7)–1 is amended to read as follows:

§ 31.3121(b)(7)–1 Services in employ of States or their political subdivisions or instrumentalities.

(a) *In general.* Except as provided in other paragraphs of this section, services performed in the employ of any State, any political subdivision of a State, or any instrumentality of one or more States or political subdivisions thereof which is wholly owned by one or more States or political subdivisions are excepted from employment. For the definition of the term "State", as used in this section, see § 31.3121(e)–1.

(b) *Covered transportation service.* The exception from employment under section 3121(b)(7) does not apply to covered transportation service as defined in section 3121(j). See §§ 31.3121(j) and 31.3121(j)–1.

(c) *Government of American Samoa.* The exception from employment under section 3121(b)(7) does not apply to services performed after 1960 in the employ of the Government of American Samoa, any political subdivision thereof, or any instrumentality of such Government or political subdivision, or combination thereof, which is wholly owned thereby, performed by an officer or employee thereof (including a member of the legislature of such Government or political subdivision).

PAR. 31. Section 31.3121(b)(8) is amended to read as follows:

§ 31.3121(b)(8) Statutory provisions; definitions; employment; services performed by a minister of a church or a member of a religious order; services in employ of religious, charitable, educational, or certain other organizations exempt from income tax.

SEC. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

* * * * *

(8)(A) Service performed 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;

(B) Service performed in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) which is exempt from income tax under section 501(a), but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to subsection (k) (or the corresponding subsection of prior law), is in effect if such service is performed by an employee—

(i) Whose signature appears on the list filed by such organization under subsection (k) (or the corresponding subsection of prior law),

(ii) Who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii)) was filed, or

(iii) Who, after the calendar quarter in which the certificate was filed with respect to a group described in section 3121(k)(1)(E), became a member of such group,

except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in section 3121(k)(1)(E) with respect to which no certificate is in effect;

[Paragraph (9), sec. 3121(b), redesignated paragraph (8) by sec. 205(b), Social Security Amendments 1954; as amended by sec. 405 (b), Social Security Amendments 1958]

SEC. 105. [*Social Security Amendments of 1960*]. * * *

(b)(1) If—

(A) An individual performed service in the employ of an organization after 1950 with respect to which remuneration was paid before July 1, 1960, and such service is expected from employment under section 210(a)(8)(B) of the Social Security Act.

(B) Such service would have constituted employment as defined in section 210 of such Act if the requirements of section 3121(k)(1) of the Internal Revenue Code of 1954 (or corresponding provisions of prior law) were satisfied,

(C) Such organization paid before August 11, 1960, any amount, as taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 (or corresponding provisions of prior law), with respect to such remuneration paid by the organization to the individual for such service,

(D) 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)) requests that such remuneration be deemed to constitute remuneration for employment for purposes of title II of the Social Security Act, and

(E) The request is made in such form and manner, and with such official, as may be prescribed by regulations made by the Secretary of Health, Education, and Welfare,

then, subject to the conditions stated in paragraphs (2), (3), and (4), the remuneration with respect to which the amount has been paid as taxes shall be deemed to constitute remuneration for employment for purposes of title II of the Social Security Act.

(2) Paragraph (1) shall not apply with respect to an individual unless the organization referred to in paragraph (1)(A)—

(A) On or before the date on which the request described in paragraph (1) is made, has filed a certificate pursuant to section 3121(k)(1) of the Internal Revenue Code of 1954 (or corresponding provisions of prior law), or

(B) No longer has any individual in its employ for remuneration at the time such request is made.

(3) Paragraph (1) shall not apply with respect to an individual who was in the employ of the organization referred to in paragraph (2)(A) at any time during the 24-month period following the calendar quarter in which the certificate was filed, unless the organization paid an amount as taxes under sections 3101 and 3111 of the Internal Revenue Code of 1954 (or corresponding provisions of prior law) with respect to remuneration paid by the organization to the employee during some portion of such 24-month period.

(4) If credit or refund of any portion of the amount referred to in paragraph (1)(C) (other than a credit or refund which would be allowed if the service constituted employment for purposes of chapter 21 of the Internal Revenue Code of 1954) has been obtained, paragraph (1) shall not apply with respect to the individual unless the amount credited or refunded (including any interest under section 6611) is repaid before January 1, 1963.

(5) If—

(A) Any remuneration for service performed by an individual is deemed pursuant to paragraph (1) to constitute remuneration for employment for purposes of title II of the Social Security Act.

(B) Such individual performs service, on or after the date on which the request is made, in the employ of the organization referred to in paragraph (1)(A), and

(C) The certificate filed by such organization pursuant to section 3121(k)(1) of the Internal Revenue Code of 1954 (or corresponding provisions of prior law) is not effective with respect to service performed by such individual before the first day of the calendar quarter following the quarter in which the request is made,

then, for purposes of clauses (ii) and (iii) of section 210(a)(8)(B) of the Social Security Act and of clauses (ii) and (iii) of section 3121(b)(8)(B) of the Internal Revenue Code of 1954, 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 such Code) on the first day of the calendar quarter following the quarter in which the request is made.

* * * * *

[Sec. 105(b), Social Security Amendments 1960]

PAR. 32. Immediately after § 31.3121(b)(15)–1(*b*)(2) the following sections are inserted:

§ 31.3121(b)(16) Statutory provisions; definitions; employment; services performed under share-farming arrangement.

SEC. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

* * * * *

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

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

(B) 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

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

[Sec. 3121(b)(16) as added by sec. 201(e)(1), Social Security Amendments 1956]

§ 31.3121(b)(16)–1 Services performed under share-farming arrangement.

(a) The term "employment" does not include services 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.

For purposes of this exception, the arrangement pursuant to which the individual's services are performed must meet the specified statutory conditions.

(b) If the arrangement between the parties provides that the individual who undertakes to produce a crop or livestock is to be compensated at a specified rate of pay or is to receive a fixed sum of money or a stipulated quantity of the commodities to be produced, without regard to the amount actually produced, as distinguished from a proportionate share of the crop or livestock, or the proceeds therefrom, the services performed by such individual in the production of such crop or livestock is not within the exception.

(c) For provisions relating to the status, under the Self-Employment Contributions Act of 1954, of the services which are excepted from "employment" under this section, see the regulations under section 1402(a) in Part 1 of this chapter (Income Tax Regulations).

§ 31.3121(b)(17) Statutory provisions; definitions; employment; services in employ of Communist organization.

SEC. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

* * * * *

(17) Service in the employ of any organization which is performed (A) in any quarter during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956;

[Sec. 3121(b)(17) as added by sec. 121(d), Social Security Amendments 1956]

§ 31.3121(b)(17)–1 Services in employ of Communist organization.

The term "employment" does not include services performed in the employ of any organization in any calendar quarter beginning after June 30, 1956, and during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950 (50 U.S.C. 781 et seq.), as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization.

§ 31.3121(b)(18) Statutory provisions; definitions; employment; services performed by a resident of the Republic of the Philippines while temporarily in Guam.

SEC. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

* * * * *

(18) Service performed in Guam by a resident of the Republic of the Philippines while in Guam on a temporary basis as a nonimmigrant alien admitted to Guam pursuant to section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)); or

[Sec. 3121(b)(18) as added by sec. 103(o)(3), Social Security Amendments 1960]

§ 31.3121(b)(18)–1 Services performed by a resident of the Republic of the Philippines while temporarily in Guam.

(a) Services performed after 1960 by a resident of the Republic of the Philippines while in Guam on a temporary basis as a nonimmigrant alien admitted to Guam pursuant to section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101) are excepted from employment.

(b) Section 101(a)(15)(H) of the Immigration and Nationality Act provides as follows:

SEC. 101. *Definitions.* [Immigration and Nationality Act (66 Stat. 166)]

(a) As used in this chapter—

* * * * *

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens—

* * * * *

(H) An alien having a residence in a foreign country which he has no intention of abandoning (i) who is of distinguished merit and ability and who is coming temporarily to the United States to perform temporary services of an exceptional nature requiring merit and ability; or (ii) who is coming temporarily to the United States to perform other temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country; or (iii) who is coming temporarily to the United States as an industrial trainee;

§ 31.3121(b)(19) Statutory provisions; definitions; employment; services performed by certain nonresident alien individuals.

SEC. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

* * * * *

(19) Service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be.

[Sec. 3121(b)(19) as added by sec. 110(e)(1)(C), Mutual Educational and Cultural Exchange Act 1961 (75 Stat. 537)]

§ 31.3121(b)(19)–1 Services of certain nonresident aliens.

(a)(1) Services performed after 1961 by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101), as amended, are excepted from employment if the services are performed to carry out a purpose for which the individual was admitted. For purposes of this section an alien individual who is temporarily present in the United States as a nonimmigrant under such subparagraph (F) or (J) is deemed to be a nonresident alien individual. A nonresident alien individual who is temporarily present in the United States as a nonimmigrant under such subparagraph (J) includes an alien individual admitted to the United States as an "exchange visitor" under section 201 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1446).

(2) If services are performed by a nonresident alien individual's alien spouse or minor child, who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, the services are not deemed for purposes of this section to be performed to carry out a purpose for which such individual was admitted. The services of such spouse or child are excepted from employment under this section only if the spouse or child was admitted for a purpose specified in such subparagraph (F) or (J) and if the services are performed to carry out such purpose.

(b) Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101), as amended, provides in part as follows:

SEC. 101. *Definitions.* [Immigration and Nationality Act (66 Stat. 166)]

(a) As used in this chapter * * *

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of non-immigrant aliens—

* * * * *

(F) (i) An alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by him and approved by the Attorney General after consultation with the Office of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student, and if any such istitution of learning or place of study fails to make reports promptly the approval shall be withdrawn, and (ii) the alien spouse and minor children of any such alien if accompanying him or following to join him;

* * * * *

(J) An alien having a residence in a foreign country which he has no intention of abandoning who is a bona fide student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, who is coming temporarily to the United States as a participant in a program designated by the Secretary of State, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training, and the alien spouse and minor children of any such alien if accompanying him or following to join him.

* * * * *

[Sec. 101, Immigration and Nationality Act, as amended by sec. 101, Act of June 27, 1952, 66 Stat. 166; sec. 109, Act of Sept. 21, 1961, 75 Stat. 534]

PAR. 33. Section 31.3121(c)–1 is amended by revising paragraph (d) to read as follows:

§ 31.3121(c)–1 Included and excluded services.

* * * * *

(d) The application of the provisions of paragraphs (a), (b), and (c) of this section may be illustrated by the following example:

Example. The AB Club, which is a local college club within the meaning of section 3121(b)(2), employs D, a student who is enrolled and is regularly attending classes at a university, to perform domestic service for the club and to keep the club's books. The domestic services performed by D for the AB Club do not constitute employment, and his services as the club's bookkeeper constitute employment. D receives a payment at the end of each month for all services which he performs for the club. During a particular month D spends 60 hours in performing domestic service for the club and 40 hours as the club's bookkeeper. None of D's services during the month are deemed to be employment, since less than one-half of his services during the month constitutes employment. During another month D spends 35 hours in the performance of domestic services and 60 hours in keeping the club's books. All of D's services during the month are deemed to be employment, since one-half or more of his services during the month constitutes employment.

* * * * *

PAR. 34. Section 31.3121(d)–1 is amended by revising paragraph (c)(2) to read as follows:

§ 31.3121(d)–1 Who are employees.

* * * * *

(c) *Common law employees.* * * *

(2) Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee under the usual common law rules. Individuals such as physicians, lawyers, dentists, veterinarians, construction contractors, public stenographers, and auctioneers, engaged in the pursuit of an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees.

* * * * *

PAR. 35. Section 31.3121(e) is amended to read as follows:

§ 31.3121(e) Statutory provisions; definitions; State, United States, and citizen.

SEC. 3121. *Definitions.* * * *

(e) *State, United States, and citizen.* For purposes of this chapter—

(1) *State.* The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(2) *United States.* The term "United States" when used in a geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

An individual who is a citizen of the Commonwealth of Puerto Rico (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.

[Sec. 3121(e) as amended by sec. 22(a), Alaska Omnibus Act (73 Stat. 146); sec. 18(c), Hawaii Omnibus Act (74 Stat. 416); sec. 103(p), Social Security Amendments 1960]

PAR. 36. Section 31.3121(e)–1 is amended to read as follows:

§ 31.3121(e)–1 State, United States, and citizen.

(a) When used in the regulations in this subpart, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Territories of Alaska and Hawaii before their admission as States, and (when used with respect to services performed after 1960) Guam and American Samoa.

(b) When used in the regulations in this subpart, the term "United States", when used in a geographical sense, means the several states (including the Territories of Alaska and Hawaii before their admission as States), the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. When used in the regulations in this subpart with respect to services performed after 1960, the term "United States" also includes Guam and American Samoa when the term is used in a geographical sense. The term "citizen of the United States" includes a citizen of the Commonwealth of Puerto Rico or the Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa.

PAR. 37. Section 31.3121(f)–1 is amended by revising paragraph (a) to read as follows:

§ 31.3121(f)–1 American vessel and aircraft.

(a) The term "American vessel" means any vessel which is documented (that is, registered, enrolled, or licensed) or numbered in conformity with the laws of the United States. It also includes any vessel which is neither documented nor numbered under the laws of the United States, nor documented under the laws of any foreign country, if the crew of such vessel is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State. (For provisions relating to the terms "State" and "citizen", see § 31.3121(e)–1.)

* * * * *

PAR. 38. Section 31.3121(g)–1 is amended by revising paragraphs (a)(3) and (f)(1) to read as follows:

§ 31.3121(g)–1 Agricultural labor.

(a) *In general.* * * *

(3) For provisions relating to the exception from employment provided with respect to services performed by certain foreign agricultural workers and to services performed before 1959 in connection with the production or harvesting of certain oleoresinous products, see § 31.3121(b)(1)–1. For provisions relating to the exclusion from wages of remuneration paid in any medium other than cash for agricultural labor and to the test for determining whether cash remuneration paid for agricultural labor constitutes wages, see § 31.3121(a)(8)–1.

* * * * *

(f) *Services described in section 3121(g)(5).* (1) Service not in the course of the employer's trade or business (see paragraph (a)(1) of § 31.3121(a)(7)–1) or domestic service in a private home of the employer (see paragraph (a)(2) of § 31.3121(a)(7)–1) constitutes agricultural labor if such service is performed on a farm operated for profit. The determination whether remuneration for any such service performed on a farm operated for profit constitutes wages is to be made under § 31.3121(a)(8)–1 rather than under § 31.3121(a)(7)–1. For provisions relating to the exception from employment provided with respect to any such service performed after 1960 by a father or mother in the employ of

his or her son or daughter, see § 31.3121 (b)(3)–1.

* * * *

PAR. 39. Section 31.3121(h)–1 is amended by revising paragraph (a) to read as follows:

§ 31.3121(h)–1 American employer.

(a) The term "American employer" means an employer which is (1) the United States or any instrumentality thereof, (2) an individual who is a resident of the United States, (3) a partnership, if two-thirds or more of the partners are residents of the United States, (4) a trust, if all of the trustees are residents of the United States, or (5) a corporation organized under the laws of the United States or of any State. For provisions relating to the terms "State" and "United States", see § 31.3121(e)–1.

* * * * *

PAR. 40. Section 31.3121(i) is amended to read as follows:

§ 31.3121(i) Statutory provisions; definitions; computation of wages in certain cases.

SEC. 3121. *Definitions.* * * *

(i) *Computation of wages in certain cases*—(1) *Domestic service.* For purposes of this chapter, in the case of domestic service described in subsection (a)(7)(B), any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this chapter, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to $1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (a)(7)(B).

(2) *Service in the uniformed services.* For purposes of this chapter, in the case of an individual performing service, as a member of a uniformed service, to which the provisions of subsection (m)(1) are applicable, the term "wages" shall, subject to the provisions of subsection (a)(1) of this section, include as such individual's remuneration for such service only his basic pay as described in section 102(10) of the Servicemen's and Veterans' Survivor Benefits Act.

(3) *Peace Corps volunteer service.* For purposes of this chapter, in the case of an individual performing service, as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 312(p) are applicable, the term "wages" shall, subject to the provisions of subsection (a)(1) of this section, include as such individual's remuneration for such service only amounts paid pursuant to section 5(c) or 6(1) of the Peace Corps Act.

[Sec. 3121(i) as amended by sec. 410, Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 878); sec. 202(a)(1), Peace Corps Act (75 Stat. 626)]

PAR. 41. Immediately after § 31.3121 (i)–1 the following sections are inserted:

§ 31.3121(i)–2 Computation of remuneration for service performed by an individual as a member of a uniformed service.

In the case of an individual performing service after December 31, 1956, as a member of a uniformed service (see § 31.3121(n)), to which the provisions of section 3121(m)(1) (see § 31.3121(m)) are applicable, the term "wages" shall, subject to the provisions of section 3121(a)(1) (see § 31.3121(a)–1), include as the individual's remuneration for such service only his basic pay as described in section 102(10) of the Servicemen's and Veterans' Survivor Benefits Act (38 U.S.C., 401(1), 403; 72 Stat. 1126).

§ 31.3121(i)–3 Computation of remuneration for service performed by an individual as a volunteer or volunteer leader within the meaning of the Peace Corps Act.

In the case of an individual performing service in his capacity as a volunteer or volunteer leader within the meaning of the Peace Corps Act (see § 31.3121 (p)), the term "wages" shall, subject to the provisions of section 3121(a)(1) (see § 31.3121(a)–1), include as such individual's remuneration for such service only amounts paid pursuant to section 5(c) or section 6(1) of the Peace Corps Act (22 U.S.C. 2501; 75 Stat. 612).

PAR. 42. Section 31.3121(k) is amended to read as follows:

§ 31.3121(k) Statutory provisions; definitions; waiver of exemption by religious, charitable, and certain other organizations.

SEC. 3121. *Definitions.* * * *

(k) *Exemption of religious, charitable, and certain other organizations*—(1) *Waiver of exemption by organization.* (A) An organization described in section 501(c)(3) which is exempt from income tax under section 501(a) 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 it desires to have the insurance system established by title II of the Social Security Act extended to service performed by its employees. Such certificate may be filed only if it is accompanied by a list containing the signature, address, and social security account number (if any) of each employee (if any) who concurs in the filing of the certificate. Such list may be amended at any time prior to the expiration of the twenty-fourth month following the calendar quarter in which the certificate is filed by filing with the prescribed official a supplemental list or lists containing the signature, address, and social security account number (if any) of each additional employee who concurs in the filing of the certificate. The list and any supplemental list shall be filed in such form and manner as may be prescribed by regulations made under this chapter.

(B) The certificate shall be in effect (for purposes of subsection (b)(8)(B) and for purposes of section 210(a)(8)(B) of the Social Security Act) for the period beginning with whichever of the following may be designated by the organization:

(i) The first day of the calendar quarter in which the certificate is filed,

(ii) The first day of the calendar quarter succeeding such quarter, or

(iii) The first day of any calendar quarter preceding the calendar quarter in which the certificate is filed, except that, in the case of a certificate filed prior to January 1, 1960, such date may not be earlier than January 1, 1956, and in the case of a certificate filed after 1959, such date may not be earlier than the first day of the fourth calendar quarter preceding the quarter in which such certificate is filed.

(C) In the case of service performed by an employee whose name appears on a supplemental list filed after the first month following the calendar quarter in which the certificate is filed, the certificate shall be in effect (for purposes of subsection (b)(8)(B) and for purposes of section 210(a)(8)(B) of the Social Security Act) only with respect to service performed by such individual for the period beginning with the first day of the calendar quarter in which such supplemental list is filed.

(D) The period for which a certificate field pursuant to this subsection or the corresponding subsection of prior law is effective may be terminated by the organization, effective at the end of a calendar quarter, upon giving 2 years' advance notice in writing, but only if, at the time of the receipt of such notice, the certificate has been in effect for a period of not less than 8 years. The notice of termination may be revoked by the organization by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. Notice of termination or revocation thereof shall be filed in such form and manner, and with such official, as may be prescribed by regulations made under this chapter.

(E) If an organization described in subparagraph (A) employs both individuals who are in positions covered by a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof and individuals who are not in such positions, the organization shall divide its employees into two separate groups. One group shall consist of all employees who are in positions covered by such a fund or system and (i) are members of such fund or system, or (ii) are not members of such fund or system but are eligible to become members thereof; and the other group shall consist of all remaining employees. An organization which has so divided its employees into two groups may file a certificate pursuant to subparagraph (A) with respect to the employees in either group, or may file a separate certificate pursuant to such subparagraph with respect to the employees in each group.

(F) An organization which filed a certificate under this subsection after 1955 but prior to the enactment of this subparagraph may file a request at any time before 1960 to have such certificate effective, with respect to the service of individuals who concurred in the filing of such certificate (initially or through the filing of a supplemental list) prior to enactment of this subparagraph and who concur in the filing of such new request, for the period beginning with the first day of any calendar quarter preceding the first calendar quarter for which it was effective and following the last calendar quarter of 1955. Such request shall be filed with such official and in such form and manner as may be prescribed by regulations made under this chapter. If a request is filed pursuant to this subparagraph—

(i) For purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return), the due date for the return and payment of the tax for any calendar quarter resulting from the filing of such request shall be the last day of the calendar month following the calendar quarter in which the request is filed; and

(ii) The statutory period for the assessment of such tax shall not expire before the expiration of 3 years from such due date.

(G) If a certificate filed pursuant to this paragraph is effective for one or more calendar quarters prior to the quarter in which the certificate is filed, then—

(i) For purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return), the due date for the return and payment of the tax for such prior calendar quarters resulting from the filing of such certificate

shall be the last day of the calendar month following the calendar quarter in which the certificate is filed; and

(ii) The statutory period for the assessment of such tax shall not expire before the expiration of 3 years from such due date.

(2) *Termination of waiver period by Secretary or his delegate.* If the Secretary or his delegate finds that any organization which filed a certificate pursuant to this subsection or the corresponding subsection of prior law has failed to comply substantially with the requirements applicable with respect to the taxes imposed by this chapter or the corresponding provisions of prior law or is no longer able to comply with the requirements applicable with respect to the taxes imposed by this chapter, the Secretary or his delegate shall give such organization not less than 60 days' advance notice in writing that the period covered by such certificate will terminate at the end of the calendar quarter specified in such notice. Such notice of termination may be revoked by the Secretary or his delegate by giving, prior to the close of the calendar quarter specified in the notice of termination, written notice of such revocation to the organization. No notice of termination or of revocation thereof shall be given under this paragraph to an organization without the prior concurrence of the Secretary of Health, Education, and Welfare.

(3) *No renewal of waiver.* In the event the period covered by a certificate filed pursuant to this subsection or the corresponding subsection of prior law is terminated by the organization, no certificate may again be filed by such organization pursuant to this subsection.

[Sec. 3121(k) as amended by secs. 205(b), 207, and 402, Social Security Amendments 1954; sec. 201 (k) and (l), Social Security Amendments 1956; sec. 405(a), Social Security Amendments 1958; sec. 105(a), Social Security Amendments 1960]

SEC. 403. [Social Security Amendments of 1954.] (a) In any case in which—

(1) An individual has been employed, at any time subsequent to 1950 and prior to the enactment of the Social Security Amendments of 1956, by an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1954 and which is exempt from income tax under section 501(a) of such Code but which did not have in effect, during the entire period in which the individual was so employed, a valid waiver certificate under section 1426(l)(1) of the Internal Revenue Code of 1939 or section 3121(k)(1) of the Internal Revenue Code of 1954;

(2) The service performed by such individual as an employee of such organization during the period subsequent to 1950 and prior to 1957 would have constituted employment (as defined in section 210 of the Social Security Act and section 1426(b) of the Internal Revenue Code of 1939 or section 3121(b) of the Internal Revenue Code of 1954, as the case may be, at the time such service was performed) if such organization had filed prior to the performance of such service such a certificate accompanied by a list of the signatures of employees who concurred in the filing of such certificate and such individual's signature had appeared on such list;

(3) The taxes imposed by sections 1400 and 1410 of the Internal Revenue Code of 1939 or sections 3101 and 3111 of the Internal Revenue Code of 1954, as the case may be, have been paid with respect to any part of the remuneration paid to such individual by such organization for such service performed during the period in which such organization did not have a valid waiver certificate in effect;

(4) Part of such taxes have been paid prior to the enactment of the Social Security Amendments of 1956;

(5) So much of such taxes as have been paid prior to the enactment of the Social Security Amendments of 1956 have been paid by such organization in good faith and without knowledge that a waiver certificate was necessary or upon the assumption that a valid waiver certificate had been filed by it under section 1426(l)(1) of the Internal Revenue Code of 1939 or section 3121(k)(1) of the Internal Revenue Code of 1954, as the case may be; and

(6) No refund of such taxes has been obtained,

the amount of such remuneration with respect to which such taxes have been paid shall, upon the request of such individual (filed on or before the date of the enactment of the Social Security Amendments of 1960 [September 13, 1960] and in such form and manner, and with such official, as may be prescribed by regulations under chapter 21 of the Internal Revenue Code of 1954), be deemed to constitute remuneration for employment as defined in section 210 of the Social Security Act and section 1426(b) of the Internal Revenue Code of 1939 or section 3121(b) of the Internal Revenue Code of 1954, as the case may be.

(b) In any case in which—

(1) An individual has been employed, at any time subsequent to 1950 and prior to the enactment of the Social Security Amendments of 1956, by an organization which has filed a valid waiver certificate under section 1426(l)(1) of the Internal Revenue Code of 1939 or section 3121(k)(1) of the Internal Revenue Code of 1954;

(2) The service performed by such individual during the time he was so employed would have constituted employment (as defined in section 210 of the Social Security Act and section 1426(b) of the Internal Revenue Code of 1939 or section 3121(b) of the Internal Revenue Code of 1954, as the case may be, at the time such service was performed) if such individual's signature had appeared on the list of signatures of employees who concurred in the filing of such certificate;

(3) The taxes imposed by sections 1400 and 1410 of the Internal Revenue Code of 1939 or sections 3101 and 3111 of the Internal Revenue Code of 1954, as the case may be, have been paid prior to the enactment of the Social Security Amendments of 1956 with respect to any part of the remuneration paid to such individual by such organization for such service; and

(4) No refund of such taxes has been obtained,

the amount of such remuneration with respect to which such taxes have been paid shall, upon the request of such individual (filed on or before January 1, 1959, and in such form and manner, and with such official, as may be prescribed by regulations made under chapter 21 of the Internal Revenue Code of 1954), be deemed to constitute remuneration for employment as defined in section 210 of the Social Security Act and section 1426(b) of the Internal Revenue Code of 1939 or section 3121(b) of the Internal Revenue Code of 1954, as the case may be, and such individual shall be deemed to have concurred in the filing of the waiver certificate filed by such organization under section 1426(l)(1) of the Internal Revenue Code of 1939 or section 3121(k)(1) of the Internal Revenue Code of 1954.

[Sec. 403, Social Security Amendments 1954 as amended by sec. 401, Social Security Amendments 1956; Act of Aug. 27, 1958 (Pub. Law 85-785, 72 Stat. 938); sec. 105(b)(6), Social Security Amendments 1960]

PAR. 43. Section 31.3121(k)-1 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 31.3121(k)-1 Waiver of exemption from taxes.

(a) *Who may file a waiver certificate*—(1) *In general.* If services performed in the employ of an organization are excepted from employment under section 3121(b)(8)(B), the organization may file a waiver certificate on Form SS-15, together with a list on Form SS-15a, certifying that it desires to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to services performed by its employees. (For provisions relating to the exception under section 3121(b)(8)(B), see §§ 31.3121(b)(8) and 31.3121(b)(8)-2.) A certificate in effect under section 1426(l) of the Internal Revenue Code of 1939 on December 31, 1954, remains in effect under, and is subject to the provisions of, section 3121(k). If the period covered by a certificate filed under section 3121(k), or under section 1426(l) of the Internal Revenue Code of 1939, is terminated by an organization, a certificate may not thereafter be filed by the organization under section 3121(k). For regulations relating to certificates filed under section 1426(l) of the Internal Revenue Code of 1939, see 26 CFR (1939) 408.216 (Regulations 128).

(2) *Organizations having two separate groups of employees.* If an organization is eligible to file a certificate under section 3121(k), and the organization employs both individuals who are in positions covered by a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof and individuals who are not in such positions, the organization shall divide its employees into two separate groups for purposes of any certificate filed after August 28, 1958. One group shall consist of all employees who are in positions covered by such a fund or system and (i) are members of such fund or system, or (ii) are not members of such fund or system but are eligible to become members thereof. The other group shall consist of all remaining employees. An organization which has so divided its employees into two groups may file a certificate after August 28, 1958, with respect to the employees in either group, or may file a separate certificate after such date with respect to employes in each group.

(3) *Certificates filed before September 14, 1960.* A certificate filed before September 14, 1960, is void unless at least two-thirds of the employees, determined on the basis of the facts which existed as of the date the certificate was filed, concurred in the filing of the certificate, and the organization certified to such concurrence in the certificate. All individuals who were employees of the organization within the meaning of section 3121(d) (see § 31.3121(d)-1) shall be included in determining whether two-thirds of the employees of the organization concurred in the filing of the certificate; except that there shall not be included (i) those employees who at the time of the filing of the certificate were performing for the organization services only of the character specified in paragraphs (8)(A), (10)

(B), and (13) of section 3121(b) (see §§ 31.3121(b)(8)–1, 31.3121(b)(10)–2, and 31.3121(b)(13)–1, respectively), (ii) those alien employees who at the time of the filing of the certificate were performing services for such organization under an arrangement which provided for the performance only of services outside the United States not on or in connection with an American vessel or American aircraft, and (iii) in connection with certificates filed after August 28, 1958, those employees who at the time of the filing of the certificate were in a group to which such certificate was not applicable because of the provisions of section 3121(k)(1)(E). (See subparagraph (2) of this paragraph.) As used in this subparagraph, the term "alien employee" does not include an employee who was a citizen of the Commonwealth of Puerto Rico or a citizen of the Virgin Islands, and the term "United States" includes Puerto Rico and the Virgin Islands.

(b) *Execution and amendment of certificate*—(1) *Use of prescribed forms.* An organization filing a certificate pursuant to section 3121(k) shall use Form SS–15, in accordance with the regulations and instructions applicable thereto. The certificate may be filed only if it is accompanied by a list on Form SS–15a, containing the signature, address, and social security account number, if any, of each employee, if any, who concurs in the filing of the certificate. (For provisions relating to account numbers, see § 31.6011(b)–2.) If no employee concurs in a certificate filed after September 13, 1960, that fact should be stated on the Form SS–15a. (For provisions relating to the concurrence of employees in certificates filed before September 14, 1960, see paragraph (a)(3) of this section.)

(2) *Amendment of list on Form SS–15a*—(i) *Certificate filed after August 28, 1958.* The list on Form SS–15a accompanying a certificate filed after August 28, 1958, under section 3121(k), may be amended at any time before the expiration of the twenty-fourth month following the calendar quarter in which the certificate is filed, by filing a supplemental list or lists on Form SS–15a Supplement, containing the signature, address, and social security account number, if any, of each additional employee who concurs in the filing of the certificate.

(ii) *Certificate filed before August 29, 1958.* The list on Form SS–15a which accompanied a certificate filed before August 29, 1958, under section 3121(k) or under section 1426(l) of the Internal Revenue Code of 1939, may be amended by filing a supplemental list or lists on Form SS–15a Supplement at any time after August 31, 1954, and before the expiration of the twenty-fourth month following the first calendar quarter for which the certificate was in effect, or before January 1, 1959, whichever is the later.

(3) *Where to file certificate or amendment.* The certificate on Form SS–15 and accompanying list on Form SS–15a of an organization which is required to make a return on Form 941 pursuant to § 31.6011(a)–1 or § 31.6011(a)–4 shall be filed with the district director with whom such return is filed. The Form SS–15 and Form SS–15a of any other organization shall be filed in accordance with the provisions of § 31.6091–1 which are otherwise applicable to returns. Each Form SS–15a Supplement shall be filed with the district director with whom the related Forms SS–15 and SS–15a were filed.

(c) *Effect of waiver*—(1) *In general.* The exception from employment under section 3121(b)(8)(B) does not apply to services with respect to which a certificate, filed pursuant to section 3121(k), or section 1426(l) of the Internal Revenue Code of 1939, is in effect. (See §§ 31.3121(b)(8) and 31.3121(b)(8)–2.) If an organization has divided its employees into two groups, as set forth in paragraph (a)(2) of this section, a certificate filed with respect to either group shall have no effect with respect to services performed by an employee as a member of the other group; and the provisions of this subsection shall apply as if each group were separately employed by a different organization. A certificate is not terminated if the organization loses its exemption under section 501(a) as an organization of the character described in section 501(c)(3), but continues effective with respect to any subsequent periods during which the organization is so exempt. The certificate of an organization may be in effect without being applicable to services performed by every employee of the organization. Subparagraph (2) of this paragraph relates to the beginning of the period for which a certificate is in effect. Subparagraph (3) of this paragraph relates to the services with respect to which a certificate is in effect. Even though a certificate is in effect with respect to the services of an employee, such services may be excepted from employment under some provision of section 3121(b) other than paragraph (8)(B) thereof. For example, service performed in any calendar quarter in the employ of an organization described in section 501(c)(3) and exempt from income tax under section 501(a) is excepted from employment under section 3121(b)(10)(A) if the remuneration for such service is less than $50, regardless of whether the organization files a certificate.

(2) *Beginning of effective period of waiver*—(i) *Certificate filed after August 28, 1958.* A certificate filed after August 28, 1958, by an organization pursuant to section 3121(k) shall be in effect for the period beginning with one of the following dates, which shall be designated by the organization on the certificate:

(*a*) The first day of the calendar quarter in which the certificate is filed,

(*b*) The first day of the calendar quarter immediately following the quarter in which the certificate is filed, or

(*c*) The first day of any calendar quarter preceding the calendar quarter in which the certificate is filed, except that, in the case of a certificate filed before 1960, such date may not be earlier than January 1, 1956, and in the case of a certificate filed after 1959, such date may not be earlier than the first day of the fourth calendar quarter preceding the quarter in which the certificate is filed. Thus, a certificate filed in December 1959 may be made effective for the calendar quarter beginning January 1, 1956; but a certificate filed in January 1960 may not be made effective for a calendar quarter beginning before January 1, 1959.

(ii) *Certificate filed after 1956 and before August 29, 1958.* A certificate filed by an organization after 1956 and before August 29, 1958, pursuant to section 3121(k), became effective for the period beginning with one of the following dates, as designated by the organization on the certificate:

(*a*) The first day of the calendar quarter in which the certificate was filed, or

(*b*) The first day of the calendar quarter immediately following the quarter in which the certificate was filed.

(iii) *Certificate filed before 1957.* A certificate filed before 1957 pursuant to section 3121(k) became effective for the period beginning with the first day following the close of the calendar quarter in which the certificate was filed. In no case, however, shall a certificate filed under the provisions of section 3121(k) be in effect with respect to services performed before January 1, 1955. (For regulations relating to waiver certificates filed under section 1426(l) of the Internal Revenue Code of 1939, see 26 CFR (1939) 408.216 (Regulations 128).)

(3) *Services to which certificate applies*—(i) *In general.* If an organization's certificate is in effect (see subparagraph (2) of this paragraph), the certificate becomes effective with respect to services performed in its employ by each individual (*a*) who enters the employ of the organization after the calendar quarter in which the certificate is filed, as set forth in subdivision (ii) of this subparagraph, or (*b*) whose signature appears on the list on Form SS–15a, as set forth in subdivision (iii) of this subparagraph, or (*c*) whose signature appears on a Form SS–15a Supplement, as set forth in subdivision (iv) or (v) of this subparagraph. The first date on which such a certificate becomes effective with respect to an employee's services shall be the earliest date applicable under this subparagraph. An organization's certificate is not effective with respect to the services of an employee who is in its employ in the calendar quarter in which the certificate is filed and who does not sign Form SS–15a or Form SS–15a Supplement, so long as his employment relationship with the organization, at the close of the calendar quarter in which the certificate is filed and thereafter, continues without interruption.

(ii) *Employee hired after quarter in which certificate is filed.* If an individual enters the employ of an organization on or after the first day following the close of the calendar quarter in which the organization files a certificate pursuant to section 3121(k), the certificate shall be in effect with respect to services performed by the individual in the employ of the organization on and after the day he enters the employ of the organization. A former employee of the

organization who is rehired on or after the first day following the close of the calendar quarter in which such a certificate is filed shall be considered to have entered the employ of the organization after such calendar quarter, regardless of whether such individual concurred in the filing of the certificate.

(iii) *Employee who signs Form SS–15a.* A certificate on Form SS–15 filed by an organization pursuant to section 3121(k) shall be in effect with respect to services performed by an individual in the employ of the organization on and after the first day for which the certificate is in effect, if such individual's signature appears on the list on Form SS–15a which accompanies such certificate.

(iv) *Employee who signs Form SS–15a Supplement to concur in certificate filed after August 28, 1958.* If the list on Form SS–15a accompanying a certificate filed after August 28, 1958, by an organization pursuant to section 3121(k) is amended in accordance with paragraph (b)(2)(i) of this section by the filing of a supplemental list on Form SS–15a Supplement, the certificate shall be in effect with respect to the services of each individual whose signature appears on the supplemental list, performed in the employ of the organization—

(*a*) On and after the first day for which the certificate is in effect, if the supplemental list is filed on or before the last day of the month following the calendar quarter in which the certificate is filed, or

(*b*) On and after the first day of the calendar quarter in which the supplemental list is filed, if such list is filed after the close of the first month following the calendar quarter in which the certificate is filed.

(v) *Employee who signed Form SS–15a Supplement to concur in certificate filed before August 29, 1958.* If the list on Form SS–15a which accompanied a certificate filed before August 29, 1958, by an organization pursuant to section 3121(k), or pursuant to section 1426(l) of the Internal Revenue Code of 1939, was amended in accordance with paragraph (b)(2)(ii) of this section by the filing of a supplemental list on Form SS–15a Supplement, the certificate shall be in effect with respect to the services of each individual whose signature appears on the supplemental list, performed in the employ of the organization—

(*a*) On and after the first day for which the certificate is in effect, if the supplemental list was filed on or before the last day of the month following the first calendar quarter for which the certificate was in effect, or

(*b*) On and after the first day following the close of the calendar quarter in which the supplemental list was filed, but not before January 1, 1955, if such list was filed after the close of the first month following the first calendar quarter for which the certificate is in effect.

(4) *Administrative provisions applicable when certificate has retroactive effect.* For purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return), in any case in which a certificate filed pursuant to section 3121(k)(1) is effective pursuant to section 3121(k)(1)(B)(iii) for one or more calendar quarters prior to the quarter in which the certificate is filed, the due date for the return and payment of the tax for such prior calendar quarters resulting from the filing of such certificate shall be the last day of the calendar month following the calendar quarter in which the certificate is filed. The statutory period for the assessment of the tax for such prior calendar quarters shall not expire before the expiration of 3 years from such due date.

* * * * *

PAR. 44. Immediately after § 31.3121(k)–1 the following sections are inserted:

§ 31.3121(k)–2 Requests before 1960 for retroactive application of waivers of exemption.

(a) An organization which filed a certificate under section 3121(k) after 1955 and before August 29, 1958, may file a request on Form SS–15b at any time before 1960 to have such certificate made effective, with respect to the services of individuals who concurred in the filing of such certificate (initially, or by signing a supplemental list on Form SS–15a Supplement which was filed before August 29, 1958) and whose signatures also appeared on such request on Form SS–15b, for the period beginning with the first day of any calendar quarter after 1955 which preceded the first calendar quarter for which the certificate originally was effective.

(b) For purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return), the due date for the return and payment of the tax for any calendar quarter resulting from the filing of a request referred to in paragraph (a) of this section shall be the last day of the calendar month following the calendar quarter in which the request is filed. The statutory period for the assessment of such tax shall not expire before the expiration of 3 years from such due date.

§ 31.3121(k)–3 Request for coverage of individual employed by exempt organization before August 1, 1956.

(a) *Application of this section.* This section is applicable to requests made after July 31, 1956, and before September 14, 1960, under section 403 of the Social Security Amendments of 1954, as amended, except that nothing in this section shall render invalid any act performed pursuant to, and in accordance with, Revenue Ruling 57–11, Cumulative Bulletin 1957–1, page 344, or Revenue Ruling 58–514, Cumulative Bulletin 1958–2, page 733. (For regulations relating to requests made before August 1, 1956, under section 403 of the Social Security Amendments of 1954, see 26 CFR (1939) 408.216 (e) and (d) (Regulations 128).)

(b) *Organization which did not have waiver certificate in effect—(1) Coverage requested by employee before August 27, 1958.* Pursuant to section 403(a) of the Social Security Amendments of 1954, as amended by section 401 of the Social Security Amendments of 1956, any individual who, as an employee, performed services after December 31, 1950, and before August 1, 1956, for an organization described in section 501(c)(3) which was exempt from income tax under section 501(a), or which was exempt from income tax under section 101(6) of the Internal Revenue Code of 1939, but which failed to file, before August 1, 1956, a valid waiver certificate under section 3121(k), or under section 1426(l) of the Internal Revenue Code of 1939, may request after July 31, 1956, and before August 27, 1958, that such part of the remuneration received by him for services performed in the employ of the organization after 1950 and before 1957 with respect to which employee and employer taxes were paid be deemed to constitute remuneration for employment, if:

(i) Any of the services performed by the individual after December 31, 1950, and before January 1, 1957, would have constituted employment if such a certificate on Form SS–15 filed by the organization had been in effect for the period during which the services were performed and the individual's signature had appeared on the accompanying list on Form SS–15a;

(ii) The employee and employer taxes were paid with respect to any part of the remuneration received by the individual from the organization for such services;

(iii) A part of such taxes was paid before August 1, 1956;

(iv) Such taxes as were paid before August 1, 1956, were paid by the organization in good faith and upon the assumption that it had filed a valid certificate under section 3121(k), or under section 1426(l) of the Internal Revenue Code of 1939; and

(v) No refund (or credit) of such taxes had been obtained by either the employee or the employer, exclusive of any refund (or credit) which would have been allowable if the services performed by the individual had constituted employment.

(2) *Coverage requested by employee after August 26, 1958, and before September 14, 1960.* Requests may be made after August 26, 1958, and before September 14, 1960, pursuant to section 403(a) of the Social Security Amendments of 1954, as amended by section 401 of the Social Security Amendments of 1956, by the Act of August 27, 1958 (Public Law 85–785, 72 Stat. 938), and by section 105(b)(6) of the Social Security Amendments of 1960. Any individual who, as an employee, performed services after December 31, 1950, and before August 1, 1956, for an organization described in section 501(c)(3) which was exempt from income tax under section 501(a), or which was exempt from income tax under section 101(6) of the Internal Revenue Code of 1939, but which did not have in effect during the entire period in which the individual was so employed a valid waiver certificate under section 3121(k), or under section 1426(l) of the Internal Revenue Code of 1939, may request after August 26, 1958, and before September 14, 1960, that such part of the remuneration received by him for services performed in the employ of the organization after 1950 and before 1957

with respect to which employee and employer taxes were paid be deemed to constitute remuneration for employment, if:

(i) Any of the services performed by the individual after December 31, 1950, and before January 1, 1957, would have constituted employment if such a certificate on Form SS–15 filed by the organization had been in effect for the period during which the services were performed and the individual's signature had appeared on the accompanying list on Form SS–15a;

(ii) The employee and employer taxes were paid with respect to any part of the remuneration received by the individual from the organization for such services performed during the period in which the organization did not have a valid waiver certificate in effect;

(iii) A part of such taxes was paid before August 1, 1956;

(iv) Such taxes as were paid before August 1, 1956, were paid by the organization in good faith, and either without knowledge that a waiver certificate was necessary or upon the assumption that it had filed a valid certificate under section 3121(k), or under section 1426(l) of the Internal Revenue Code of 1939; and

(v) No refund (or credit) of such taxes has been obtained by either the employee or the employer, exclusive of any refund (or credit) which would be allowable if the services performed by the individual had constituted employment.

(3) *Execution and filing of request.* (i) Except where the alternative procedure set forth in subdivision (ii) of this subparagraph is followed, the request of an individual under section 403(a) of the Social Security Amendments of 1954, as amended, is required to be made and filed as provided in this subdivision. The request shall be made in writing, be signed and dated by the individual, and include:

(*a*) The name and address of the organization for which the services were performed;

(*b*) The name, address, and social security account number of the individual;

(*c*) A statement that the individual has not obtained refund or credit (other than a refund or credit which would have been allowable if the services had constituted employment) from the district director of any part of the employee tax paid with respect to remuneration received by him from the organization for services performed after 1950 and before 1957; and

(*d*) A request that all remuneration received by him from the organization for such services with respect to which employee and employer taxes had been paid shall be deemed to constitute remuneration for employment to the extent authorized by section 403(a) of the Social Security Amendments of 1954, as amended.

The request of an individual shall be accompanied by a statement of the organization incorporating the substance of each of the five conditions listed in subparagraph (1) or (2), whichever is appropriate, of this paragraph. The statement of the organization shall show also that the individual performed services for the organization after December 31, 1950, and before August 1, 1956; that the organization was an organization described in section 501(c)(3) which was exempt from income tax under section 501(a) or was exempt from income tax under section 101(6) of the Internal Revenue Code of 1939, and the district director with whom returns on Form 941 were filed. The organization's statement shall be signed by the president or other principal officer of the organization who shall certify that the statement is correct to the best of his knowledge and belief. If the statement of the organization is not submitted with the individual's request, the individual shall include in his request an explanation of his inability to submit the statement. Other information may be required, but should be submitted only upon receipt of a specific request therefor. No particular form is prescribed for the request of the individual or the statement of the organization required to be submitted with the request. The individual's request should be filed with the district director with whom the organization files returns on Form 941. If the individual is deceased or mentally incompetent and the request is made by the legal representative of the individual or other person authorized to act on his behalf, the request shall be accompanied by evidence showing such person's authority to make the request.

(ii) An organization which has or had in its employ individuals with respect to whom section 403(a) of the Social Security Amendments of 1954, as amended, is applicable may, if it so desires, prepare a form or forms for use by any such individual or individuals in making requests under such section. Any such form shall provide space for the signature of the individual or individuals and contain such information as required to be included in a request (see subdivision (i) of this subparagraph). Any such form used by more than one individual, and any such form used by one individual which is signed and returned to the organization, shall be submitted by the organization, together with its statement (as required in subdivision (i) of this subparagraph), to the district director with whom the organization files its returns on Form 941. An individual is not required to use a form prepared by the organization but may, at his election, file his request in accordance with the provisions of subdivision (i) of this subparagraph.

(4) *Optional tax payments by organization.* An organization which prior to August 1, 1956, reported and paid employee and employer taxes with respect to any portion of the remuneration paid to an individual, who is eligible to file a request under section 403(a) of the Social Security Amendments of 1954, as amended, for services performed by him after 1950 and before 1957, may report and pay such taxes before September 14, 1960, with respect to any remaining portion of such remuneration which would have constituted wages if a certificate had been in effect with respect to such services. Such taxes may be reported as an adjustment without interest in the manner prescribed in subpart G of the regulations in this part.

(5) *Effect of request.* If a request is made and filed under the conditions stated in this paragraph with respect to one or more individuals, remuneration for services performed by each such individual after 1950 and before 1957, with respect to which the employee and employer taxes are paid on or before the date on which the request was filed with the district director, will be deemed to constitute remuneration for employment to the extent that such services would have constituted employment as defined in section 3121(b), or in section 1426(b) of the Internal Revenue Code of 1939, if a certificate had been in effect with respect to such services. However, the provisions of section 3121(a) and §§ 31.3121(a)–1 to 31.3121(a)(10)–1, inclusive, of the regulations in this part or the provisions of section 1426(a) of the Internal Revenue Code of 1939 and the regulations in 26 CFR (1939) 408.226 and 408.227 (Regulations 128), as the case may be, are applicable in determining the extent to which such remuneration for employment constitutes wages for purposes of the employee and employer taxes.

(c) *Individual who failed to sign list of concurring employees*—(1) *In general.* Pursuant to section 403(b) of the Social Security Amendments of 1954, as amended, any individual who, as an employee, performed services after December 31, 1950, and before August 1, 1956, for an organization which filed a valid certificate under section 3121(k), or under section 1426(l) of the Internal Revenue Code of 1939, but who failed to sign the list of employees concurring in the filing of such certificate, may request on or before January 1, 1959, that the remuneration received by him for such services be deemed to constitute remuneration for employment, if:

(i) Any of the services performed by the individual after December 31, 1950, and before August 1, 1956, would have constituted employment if the signature of such individual had appeared on the list of employees who concurred in the filing of the certificate;

(ii) The employee and employer taxes were paid before August 1, 1956, with respect to any part of the remuneration received by the individual from the organization for such services; and

(iii) No refund (or credit) of such taxes has been obtained either by the employee or the employer, exclusive of any refund (or credit) which would be allowable if the services performed by the individual had constituted employment.

(2) *Execution and filing of request.* (i) Except where the alternative procedure set forth in subdivision (ii) of this subparagraph is followed, the request of an individual under section 403(b) of the Social Security Amendments of 1954, as amended, shall be made and filed as provided in this subdivision. The request shall be filed on or before January 1, 1959, be made in writing, be signed and dated by the individual, and include:

(*a*) The name and address of the organization for which the services were performed;

(b) The name, address, and social security account number of the individual;

(c) A statement that the individual has not obtained a refund or credit (other than a refund or credit which would be allowable if the services had constituted employment) from the district director of any part of the employee tax paid before August 1, 1956, with respect to remuneration received by him from the organization;

(d) A request that all remuneration received by the individual from the organization for services performed after 1950 and before August 1, 1956, with respect to which employee and employer taxes were paid before August 1, 1956, shall be deemed to constitute remuneration for employment to the extent authorized by section 403(b) of the Social Security Amendments of 1954, as amended; and

(e) A statement that the individual understands that, upon the filing of such request with the district director, (1) he will be deemed to have concurred in the certificate which was previously filed by the organization, and (2) the employee and employer taxes will be applicable to all wages received, and to be received, by him for services performed for the organization on or after the effective date of such certificate to the extent that such taxes would have been applicable if he had signed the list on Form SS–15a submitted with the certificate.

The request of an individual shall be accompanied by a statement of the organization incorporating the substance of each of the three conditions listed in subparagraph (1) of this paragraph. The statement of the organization should also show that the individual performed services for the organization after December 31, 1950, and before August 1, 1956; that the organization filed a valid certificate under section 3121(k), or under section 1426(l) of the Internal Revenue Code of 1939; and the district director with whom returns on Form 941 are filed. Such statement shall be signed by the president or other principal officer of the organization who shall certify that the statement is correct to the best of his knowledge and belief. If the statement of the organization is not submitted with the individual's request, the individual shall include in his request an explanation of his inability to submit such statement. Other information may be required, but should be submitted only upon receipt of a specific request therefor. No particular form is prescribed for the request of the individual or the statement of the organization required to be submitted with the request. The individual's request should be filed with the district director with whom the organization files returns on Form 941. If the individual is deceased or mentally incompetent and the request is made by the legal representative of the individual or other person authorized to act on his behalf, the request shall be accompanied by evidence showing such person's authority to make the request.

(ii) An organization which has or had in its employ individuals with respect to whom section 403(b) of the Social Security Amendments of 1954, as amended, is applicable, may, if it so desires, prepare a form or forms for use by any such individual or individuals in making requests under such section. Any such form shall provide space for the signature of the individual or individuals and contain such information as is required by subdivision (i) of this subparagraph to be included in a request. Any such form used by more than one individual, and any such form used by one individual which is signed and returned to the organization, shall be submitted by the organization, together with its statement (as required in subdivision (i) of this subparagraph), to the district director with whom the organization files returns on Form 941. An individual is not required to use a form prepared by the organization but may, at his election, file his request in accordance with the provisions of subdivision (i) of this subparagraph.

(3) *Effect of request.* An individual who makes and files a request under the conditions stated in this paragraph with respect to services performed as an employee of an organization described in section 501(c)(3) which was exempt from income tax under section 501(a), or which was exempt from income tax under section 101(6) of the Internal Revenue Code of 1939, will be deemed to have signed the list accompanying the certificate filed by the organization under section 3121(k), or under section 1426(l) of the Internal Revenue Code of 1939. Accordingly, all services performed by the individual for the organization on and after the effective date of the certificate will constitute employment to the same extent as if he had, in fact, signed the list. The employee tax and employer tax are applicable with respect to any remuneration paid to the employee by the organization which constitutes wages. If less than the correct amount of such taxes has been paid, the additional amount due should be reported as an adjustment without interest within the time specified in subpart G of the regulations in this part.

PAR. 45. Immediately after § 31.3121(l)–1 the following sections are inserted:

§ 31.3121(m) Statutory provisions; definitions; service in the uniformed services.

SEC. 3121. *Definitions.* * * *

(m) *Service in the uniformed services.* For purposes of this chapter—

(1) *Inclusion of service.* The term "employment" shall, notwithstanding the provisions of subsection (b) of this section, include service performed after December 1956 by an individual as a member of a uniformed service on active duty; but such term shall not include any such service which is performed while on leave without pay.

(2) *Active duty.* The term "active duty" means "active duty" as described in section 102 of the Servicemen's and Veterans' Survivor Benefits Act, except that it shall also include "active duty for training" as described in such section.

(3) *Inactive duty training.* The term "inactive duty training" means "inactive duty training" as described in such section 102.

[Sec. 3121(m) as added by sec. 411(a), Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 878)]

§ 31.3121(n) Statutory provisions; definitions; member of a uniformed service.

SEC. 3121. *Definitions.* * * *

(n) *Member of a uniformed service.* For purposes of this chapter, the term "member of a uniformed service" means any person appointed, enlisted, or inducted in a component of the Army, Navy, Air Force, Marine Corps, or Coast Guard (including a reserve component of a uniformed service as defined in section 102(3) of the Servicemen's and Veterans' Survivor Benefits Act), or in one of those services without specification of component, or as a commissioned officer of the Coast and Geodetic Survey or the Regular or Reserve Corps of the Public Health Service, and any person serving in the Army or Air Force under call or conscription. The term includes—

(1) A retired member of any of those services;

(2) A member of the Fleet Reserve or Fleet Marine Corps Reserve;

(3) A cadet at the United States Military Academy, a midshipman at the United States Naval Academy, and a cadet at the United States Coast Guard Academy or United States Air Force Academy;

(4) A member of the Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps, or the Air Force Reserve Officers' Training Corps, when ordered to annual training duty for fourteen days or more, and while performing authorized travel to and from that duty; and

(5) Any person while en route to or from, or at, a place for final acceptance or for entry upon active duty in the military or naval service—

(A) Who has been provisionally accepted for such duty; or

(B) Who, under the Universal Military Training and Service Act, has been selected for active military or naval service;

and has been ordered or directed to proceed to such place.

The term does not include a temporary member of the Coast Guard Reserve.

[Sec. 3121(n) as added by sec. 411(a), Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 878)]

§ 31.3121(o) Statutory provisions; definitions; crew leader.

SEC. 3121. Definitions. * * *

(o) *Crew leader.* For purposes of this chapter, the term "crew leader" means an individual who furnishes individuals to perform agricultural labor for another person, if such individual pays (either on his own behalf or on behalf of such person) the individuals so furnished by him for the agricultural labor performed by them and if such individual has not entered into a written agreement with such person whereby such individual has been designated as an employee of such person; and such individuals furnished by the crew leader to perform agricultural labor for another person shall be deemed to be the employees of such crew leader. For purposes of this chapter and chapter 2, a crew leader shall, with respect to service performed in furnishing individuals to perform agricultural labor for another person and service performed as a member of the crew, be deemed not to be an employee of such other person.

[Sec. 3121(o) as added by sec. 201(h)(2), Social Security Amendments 1956 (70 Stat. 841)]

§ 31.3121(o)–1 Crew leader.

The term "crew leader" means an individual who furnishes individuals to per-

form agricultural labor for another person, if such individual pays (either on his own behalf or on behalf of such person) the individuals so furnished by him for the agricultural labor performed by them and if such individual has not entered into a written agreement with such person whereby such individual has been designated as an employee of such person. For purposes of this chapter a crew leader is deemed to be the employer of the individuals furnished by him to perform agricultural labor, after 1956, for another person, and the crew leader is deemed not to be an employee of such other person with respect to the performance of services by him after 1956 in furnishing such individuals or as a member of the crew. An individual is not a crew leader within the meaning of section 3121(o) and of this section if he does not pay the agricultural workers furnished by him to perform agricultural labor for another person, or if there is an agreement between such individual and the person for whom the agricultural labor is performed whereby such individual is designated as an employee of such person. Whether or not such individual is an employee will be determined under the usual common-law rules (see paragraph (c) of § 31.3121(d)–1).

§ 31.3121(p) Statutory provisions; definitions; Peace Corps volunteer service.

SEC. 3121. *Definitions.* * * *

(p) *Peace Corps volunteer service.* For purposes of this chapter, the term "employment" shall, notwithstanding the provisions of subsection (b) of this section, include service performed by an individual as a volunteer or volunteer leader within the meaning of the Peace Corps Act.

[Sec. 3121(p) as added by sec. 202(a)(2), Peace Corps Act (75 Stat. 626)]

PAR. 46. Section 31.3122 is amended to read as follows:

§ 31.3122 Statutory provisions; Federal service.

SEC. 3122. *Federal service.* In the case of the taxes imposed by this chapter with respect to service performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, including service, performed as a member of a uniformed service, to which the provisions of section 3121(m)(1) are applicable, and including service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 3121(p) are applicable, the determination whether an individual has performed service which constitutes employment as defined in section 3121(b), the determination of the amount of remuneration for such service which constitutes wages as defined in section 3121(a), and the return and payment of the taxes imposed by this chapter, shall be made by the head of the Federal agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to such service without regard to the $4,800 limitation in section 3121(a)(1), and he shall not be required to obtain a refund of the tax paid under section 3111 on that part of the remuneration not included in wages by reason of section 3121(a)(1). Payments of the tax imposed under section 3111 with respect to service, performed by an individual as a member of a uniformed service, to which the provisions of section 3121(m)(1) are applicable, shall be made from appropriations available for the pay of members of such uniformed service. The provisions of this section shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of this section the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of this section shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of this section the Secretary shall be deemed to be the head of such instrumentality.

[Sec. 3122 as amended by secs. 202(c) and 203(a), Social Security Amendments 1954; sec. 411(b), Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 879); sec. 402(c), Social Security Amendments 1958; sec. 70, Technical Amendments Act of 1958 (72 Stat. 1660); sec. 202(a)(3), Peace Corps Act (75 Stat. 626)]

PAR. 47. Section 31.3125 is redesignated as § 31.3126 and as so redesignated reads as follows:

§ 31.3126 Statutory provisions; short title.

SEC. 3126. *Short title.* This chapter may be cited as the "Federal Insurance Contributions Act."

[Sec. 3126 as redesignated by sec. 103(q)(1), Social Security Amendments 1960]

PAR. 48. Immediately after § 31.3124 the following section is inserted:

§ 31.3125 Statutory provisions; returns in the case of governmental employees in Guam and American Samoa.

SEC. 3125. *Returns in the case of governmental employees in Guam and American Samoa*—(a) *Guam.* The return and payment of the taxes imposed by this chapter on the income of individuals who are officers or employees of the Government of Guam or any political subdivision thereof or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, and those imposed on such Government or political subdivision or instrumentality with respect to having such individuals in its employ, may be made by the Governor of Guam or by such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the $4,800 limitation in section 3121(a)(1).

(b) *American Samoa.* The return and payment of the taxes imposed by this chapter on the income of individuals who are officers or employees of the Government of American Samoa or any political subdivision thereof or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, and those imposed on such Government or political subdivision or instrumentality with respect to having such individuals in its employ, may be made by the Governor of American Samoa or by such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the $4,800 limitation in section 3121(a)(1).

[Sec. 3125 as added by sec. 103(q)(1), Social Security Amendments 1960]

[F.R. Doc. 64-4467; Filed, May 4, 1964; 8:50 a.m.]

[26 CFR Part 175]

TRAFFIC IN CONTAINERS OF DISTILLED SPIRITS

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 proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, 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 Director, Alcohol and Tobacco Tax Division, within the 30-day period. In such a 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] BERTRAND M. HARDING,
Acting Commissioner of Internal Revenue.

In order to: (1) Delete the requirement that the words "Federal Law Forbids Sale or Reuse of This Bottle" be marked on liquor bottles; (2) extend the definition of a liquor bottle to include containers of less than one-half pint; (3) exempt liquor bottles of less than one-half pint from indicia requirements; (4) remove any possible implication that specific bottle sizes are prescribed for liqueurs, cocktails, and certain other specialties; (5) extend existing permit requirements to include liquor bottles of less than one-half pint; (6) permit liquor bottles to be used for display purposes without drilling the bottles or obliterating indicia thereon; (7) permit manufacturers of bottling equipment to secure liquor bottles for use in testing bottling machinery; and (8) reduce the number of photographs required with an appli-

cation for approval of a distinctive liquor bottle, the regulations in 26 CFR Part 175, Traffic in Containers of Distilled Spirits, are amended as follows:

PARAGRAPH 1. Section 175.1 is amended to make the provisions of that part applicable to containers of less than one-half pint, and to provide for the use of liquor bottles for purposes other than packaging distilled spirits. As amended, § 175.1 reads as follows:

§ 175.1 Containers of distilled spirits.

The regulations in this part relate to the traffic in containers of distilled spirits of a capacity of not more than five wine gallons. This part covers the manufacture, sale, and use of liquor bottles for packaging distilled spirits for other than industrial use; use of liquor bottles for purposes other than packaging distilled spirits; reports and inventories of liquor bottles; imports and exports of liquor bottles; permits; and the purchase, sale, and possession of used liquor bottles.

PAR. 2. Section 175.11 is amended to include vessels of less than one-half pint in the definition of container. As amended, § 175.11 reads as follows:

§ 175.11 Container.

"Container" shall mean a vessel of a capacity of not more than 5 wine gallons designed or intended for use for the sale of distilled spirits for other than industrial use.

PAR. 3. Section 175.33 is amended to permit the shipment of liquor bottles to manufacturers of bottling equipment for use in testing such equipment, and to distributors for display purposes. As amended, § 175.33 reads as follows:

§ 175.33 Persons authorized to receive liquor bottles.

No person may ship, consign, or deliver liquor bottles except to authorized bottlers to whom the assistant regional commissioner, or the Director, Alcohol and Tobacco Tax Division, in the case of States, has assigned an appropriate symbol and number for marking liquor bottles: *Provided*, That liquor bottles may be shipped pursuant to Form 98 by the manufacturer to another person for additional processing, such as coloring or cutting, where a legal title and custody to such liquor bottles are retained by the manufacturer until they are delivered to the permittee-user: *Provided further*, That liquor bottles may be shipped to other persons for other uses, in accordance with §§ 175.65 and 175.66.

PAR. 4. Section 175.34 is amended to delete the requirement that the words "Federal Law Forbids Sale or Reuse of This Bottle" be marked on liquor bottles, to remove the reference to § 175.56 which is being deleted, and to exempt liquor bottles of less than one-half pint from the markings required by this section. As amended, § 175.34 reads as follows:

§ 175.34 Indicia for domestic liquor bottles.

There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, Alcohol and Tobacco Tax Division, in either the bottom or the body of each liquor bottle (a) the permit number of the manufacturer, (b) the year of the manufacture (which shall be indicated by the last two numerals), and (c) a symbol and number assigned by the assistant regional commissioner, or by the Director, Alcohol and Tobacco Tax Division, in the case of States, to represent the name of the bottler procuring the same: *Provided*, That liquor bottles of less than one-half pint and liquor bottles which are authorized by the Director, Alcohol and Tobacco Tax Division, under §§ 175.57 and 175.58 may be manufactured and shipped, consigned, or delivered, as excepted from the marking required by this section.

PAR. 5. Section 175.55 is amended to remove any possible implication that specific bottle sizes are prescribed for liqueurs, cocktails, and certain other specialties. As amended, § 175.55 reads as follows:

§ 175.55 General.

Distilled spirits packaged for sale in domestically manufactured containers (as defined by § 175.11) shall be packaged only in liquor bottles which conform to the requirements of this part. The bottles shall also conform to the specific standards of fill provided in 27 CFR Part 5 for bottled distilled spirits, unless the spirits were imported as vintage spirits, as provided in § 175.98, or are cordials or liqueurs, or cocktails, highballs, gin fizzes, or such other specialties as are specified from time to time by the Director as exempt from the standards of fill provisions of 27 CFR Part 5.

§ 175.56 [Revoked]

PAR. 6. Section 175.56 is revoked.

PAR. 7. Section 175.59 is amended to reduce the number of photographs required with an application for the approval of a distinctive liquor bottle, from 25 to 12. As amended, § 175.59 reads as follows:

§ 175.59 Approval of distinctive liquor bottles.

Application in letter form for the approval of any distinctive liquor bottle, accompanied by a specimen bottle (or an authentic model or other representation acceptable to the Director, Alcohol and Tobacco Tax Division), and 12 photographs thereof, size 5" x 7", shall be submitted to the Director, Alcohol and Tobacco Tax Division. In the case of liquor bottles which the applicant intends to qualify under the provisions of § 175.57, the application shall include a statement of the cost of each such bottle to the bottler. Approval of the distinctive bottle by the Director, Alcohol and Tobacco Tax Division, will be obtained, prior to submission of an application (Form 98) to the assistant regional commissioner. Such application (Form 98) shall specify the number of the bottle assigned by the Director, Alcohol and Tobacco Tax Division.

PAR. 8. Section 175.62 is amended to recognize that liquor bottles may be used for display or for testing purposes. As amended, § 175.62 reads as follows:

§ 175.62 Use and resale of liquor bottles.

No bottler shall use any liquor bottle except for packaging distilled spirits, or resell any liquor bottle except in connection with the sale of its contents, or divert any liquor bottle from his own use except upon application (Form 98) to and authorization by the assistant regional commissioner, as provided by § 175.111. (For provisions relating to furnishing of bottles for display or testing purposes, see § 175.65 or § 175.66.)

PAR. 9. A new section, § 175.65, is added to permit the use of liquor bottles for display purposes. The new § 175.65 reads as follows:

§ 175.65 Bottles to be used for display purposes.

Bottlers may furnish liquor bottles to liquor dealers for display purposes, provided that each bottle is marked to show that it is to be used for such purpose. Any paper strip used to seal the bottle shall be of solid color and without design or printing, except that the use of a border or a design, formed entirely of the legend "not genuine—for display purposes only" is permissible. The bottler shall keep records of the disposition of such bottles, showing names and addresses of consignees, dates of shipment, and size, quantity, and description of bottles.

PAR. 10. A new section, § 175.66, is added to permit the use of liquor bottles by manufacturers of bottling machinery in testing bottling machinery. The new § 175.66 reads as follows:

§ 175.66 Bottles to be used for testing bottling machinery.

Pursuant to letterhead application, the assistant regional commissioner may, with the approval of the Director, Alcohol and Tobacco Tax Division, authorize any manufacturer of bottling machinery in his region to procure a specific number of bottles from a bottler or a bottle manufacturer for use in testing bottling machinery.

PAR. 11. Section 175.75 is amended to provide for inspection of records and stocks of liquor bottles in the hands of persons other than manufacturers and bottlers. As amended, § 175.75 reads as follows:

§ 175.75 Inspection of stocks and records of liquor bottles.

The records required to be kept under the provisions of this subpart, and all stocks of liquor bottles in the hands of manufacturers, bottlers, and other persons who received bottles pursuant to this part, shall at all times be available for inspection by the assistant regional commissioner and other duly authorized officers of the Internal Revenue Service.

PAR. 12. Section 175.85 is amended to remove any possible implication that specific bottle sizes are prescribed for liqueurs, cocktails, and certain other specialties. As amended, § 175.85 reads as follows:

§ 175.85 General.

Distilled spirits packaged for sale in imported containers (as defined by § 175.11) shall be packaged only in liquor bottles which conform to the requirements of this part. The bottles shall also conform to the specific standards of fill provided in 27 CFR Part 5 for bottled distilled spirits, unless the spirits were imported as vintage spirits, as provided in § 175.98, or are cordials or liqueurs, or cocktails, highballs, gin fizzes, or such other specialties as are specified from time to time by the Director as exempt from the standards of fill provisions of 27 CFR Part 5.

PAR. 13. Section 175.86 is amended to remove the reference to § 175.88 which is being deleted. A printing error is corrected by changing the third word from the end of the section from "part" to "port." As amended, § 175.86 reads as follows:

§ 175.86 Permit required.

Empty liquor bottles may be imported into the United States only pursuant to a permit issued in accordance with the provisions of §§ 175.87, 175.89, and 175.90: *Provided*, That where a permit has been issued covering the importation of liquor bottles through one port of entry, an additional permit for importation of such liquor bottles through another port will not be required if the importer furnishes photographic copies of the original permit to the collector of customs of each such other port and to the assistant regional commissioner (if the permit was not originally issued by him) of the region in which such other port is located.

PAR. 14. Section 175.87 is amended to delete the requirement that the words "Federal Law Forbids Sale or Reuse of This Bottle" be marked on liquor bottles, to remove the reference to § 175.88 which is being deleted, and to exempt liquor bottles of less than one-half pint from the markings required by this section. As amended, § 175.87 reads as follows:

§ 175.87 Indicia for empty liquor bottles.

Upon application (Form 98) by any importer or bottler, the assistant regional commissioner of the region in which the applicant is situated may, by the issuance of an appropriate permit, authorize the importation, for the packaging of either domestic or imported distilled spirits, of empty liquor bottles. The assistant regional commissioner issuing the permit will furnish a copy to the assistant regional commissioner of the region in which the port of entry is situated. There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, Alcohol and Tobacco Tax Division, either in the bottom or in the body of each such bottle imported under this provision, the name, and the name of the city or country of address, of the manufacturer, and the permit symbol and number of the bottler: *Provided*, That liquor bottles of less than one-half pint and liquor bottles which are authorized by the Director, Alcohol and Tobacco Tax Division, under §§ 175.89 and 175.90 may be imported, as excepted from the markings required by this section.

§ 175.88 [Revoked]

PAR. 15. Section 175.88 is revoked.

PAR. 16. Section 175.93 is amended to remove the reference to § 175.95 which is being deleted and to add a reference to new § 175.98a. As amended, § 175.93 reads as follows:

§ 175.93 Permit required.

Liquor bottles containing distilled spirits, other than bottles conforming to the provisions of § 175.94, may be imported into the United States only pursuant to a permit issued in accordance with the provisions of §§ 175.96 to 175.98a and § 175.100: *Provided*, That, where a permit has been issued covering the importation of filled liquor bottles through one port of entry, an additional permit for importation of such liquor bottles through another port will not be required if the importer furnishes photographic copies of the original permit to the collector of customs at each such other port and to the assistant regional commissioner (if the permit was not originally issued by him) of the region in which such other port is located.

PAR. 17. Section 175.94 is amended to delete the requirement that the words "Federal Law Forbids Sale or Reuse of This Bottle" be marked on liquor bottles, to remove the reference to § 175.95 which is being deleted, and to add a reference to new § 175.98a. As amended, § 175.94 reads as follows:

§ 175.94 Indicia.

There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, Alcohol and Tobacco Tax Division, either in the bottom or in the body of all liquor bottles containing distilled spirits imported from foreign countries the name, and the name of the city or country of address, of the manufacturer of the spirits, or of the exporter abroad, or the name, and the name of the city of address, of the importer in the United States, except as provided in §§ 175.96 to 175.98a and § 175.100.

§ 175.95 [Revoked]

PAR. 18. Section 175.95 is revoked.

PAR. 19. A new section, § 175.98a, is added to extend the permit requirements contained in § 175.93 to liquor bottles, of a capacity of less than one-half pint, containing distilled spirits, and to exempt such bottles from the indicia requirements set forth in § 175.94. The new § 175.98a reads as follows:

§ 175.98a Containers of less than one-half pint.

Upon application (Form 98) the assistant regional commissioner of the region in which the port of entry is situated may issue a permit authorizing the importation of liquor bottles of a capacity of less than one-half pint, containing distilled spirits, not marked as required by § 175.94.

[F.R. Doc. 64-4458; Filed, May 4, 1964; 8:49 a.m.]

[26 CFR Parts 250, 251]

LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS AND IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

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 and the Commissioner of Customs, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, 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 Director, Alcohol and Tobacco Tax Division, within the 30-day period. In such a 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] BERTRAND M. HARDING,
Acting Commissioner of Internal Revenue.

In order to extend the provisions of 26 CFR Parts 250 and 251, as they relate to size of containers, to containers of less than one-half pint, the regulations in 26 CFR Parts 250 and 251 are amended as follows:

PARAGRAPH A. 26 CFR Part 250 is amended as follows:

1. Section 250.38 is amended by striking therefrom the phrase "not less than one-half pint and". As amended, § 250.38 reads as follows:

§ 250.38 Containers of distilled spirits.

Containers of distilled spirits brought into the United States from Puerto Rico, having a capacity of not more than 1 gallon, shall conform to the requirements of Part 175 of this chapter.

(72 Stat. 1374; 26 U.S.C. 5301)

2. Section 250.203 is amended by striking therefrom the phrase "not less than one-half pint and". As amended § 250.203 reads as follows:

§ 250.203 Containers of 1 gallon or less.

Containers of distilled spirits brought into the United States from the Virgin

Islands, having a capacity of not more than 1 gallon, shall conform to the requirements of Part 175 of this chapter.

(72 Stat. 1374; 26 U.S.C. 5301)

PARAGRAPH B. 26 CFR Part 251 is amended as follows:

1. Section 251.56 is amended so that it will apply to containers of less than one-half pint and to make clarifying changes. As amended, § 251.56 reads as follows:

§ 251.56 Distilled spirits containers of a capacity of not more than 1 gallon.

Bottled distilled spirits imported into the United States for sale shall be bottled in liquor bottles which conform to the requirements of Part 175 of this chapter and 27 CFR Part 5, and shall be stamped in accordance with this part. Empty containers imported for the packaging of distilled spirits shall conform to the requirements of Part 175 of this chapter. (For Customs requirements as to marking, see 19 CFR Parts 11 and 12.)

[F.R. Doc. 64-4459; Filed, May 4, 1964; 8:49 a.m]

FEDERAL AVIATION AGENCY

[14 CFR Part 71 [New]]

[Airspace Docket No. 63-CE-70]

CONTROLLED AIRSPACE

Proposed Alteration

In a notice of proposed rule making published in the FEDERAL REGISTER October 18, 1963 (28 F.R. 11198), it was stated that the Federal Aviation Agency (FAA) proposed to alter the control zone, designate a transition area and revoke the control area extension in the Alpena, Mich., terminal area.

Subsequent to the publication of the notice, it was determined by the FAA that the configuration proposed for the Alpena transition area with a floor of 700 feet above the surface would require expansion if existing instrument approach landing procedures were to be retained. The boundary recommended for the 700-foot portion proposed in the notice was predicated on raising the procedure turn altitude of the published Phelps Collins Airport ADF instrument approach procedure to 2,300 feet MSL from 2,000 feet MSL, raising the minimum altitude over the radio beacon to 1,900 feet MSL from 1,400 feet MSL and raising the missed approach altitude to 2,300 feet MSL from 2,000 feet MSL.

As was explained in the notice, the Phelps Collins Airport is utilized during summer months for the training of Air Force and Air National Guard Units during which time the Air Force provides control tower service. It is only during specific dates and times in the summer months, when the control tower service is provided, that the transition areas and the control zone at Alpena are effective. Raising of the procedure turn and missed approach altitudes and the minimum altitude over the radio beacon which, in turn, would require cancellation of straight-in minimums would be in effect at all times. Therefore, it appears prudent to alter the proposal by increasing the 700-foot portion of the proposed Alpena transition area to provide protection for the existing Phelps Collins Field ADF instrument approach procedure. In addition, it was proposed in the notice to alter the Alpena control zone, in part, by lengthening and realigning the control zone north extension to 8 miles north of the radio beacon within 2 miles each side of the 176° and 356° True bearings from the Alpena radio beacon. The approach course on which the 176° and 356° True bearings were based was in error and the bearings should be 180° and 360° True and a small spur added within 2 miles each side of the 176° True bearing from the Alpena radio beacon extending from the 5-mile radius zone to the radio beacon.

Accordingly, the notice is hereby amended to propose that the portion of the Alpena transition area extending upward from 700 feet above the surface be designated as that airspace within a 7-mile radius of the Phelps Collins Airport and within 5 miles east and 8 miles west of the 180° and 360° True bearings from the Alpena radio beacon extending from 2 miles south to 12 miles north of the radio beacon; and to propose that the Alpena control zone be redesignated within a 5-mile radius of the Phelps Collins Airport, within 2 miles each side of the Phelps Collins TACAN 350° True radial, extending from the 5-mile radius zone to 6 miles north of the TACAN, within 2 miles each side of the 180° and 360° True bearings from the Alpena radio beacon, extending from the 5-mile radius zone to 8 miles north of the radio beacon, and within 2 miles each side of the 176° True bearing from the Alpena radio beacon extending from the 5-mile radius zone to the radio beacon. This control zone would be effective during the specific dates and times established in advance by a notice to airmen, and continuously published in the Airman's Guide.

The description of the 1,200-foot portion of the transition area would remain as originally proposed in the notice.

In order to provide interested persons time to adequately evaluate this proposal, as modified herein, and an opportunity to submit additional written data, views or arguments, the time for filing such material is hereby extended until 30 days after publication of this supplemental notice in the FEDERAL REGISTER. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City, Mo., 64110.

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

Issued in Washington, D.C., on April 27, 1964.

DANIEL E. BARROW,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64-4427; Filed, May 4, 1964; 8:46 a.m.]

[14 CFR Parts 71 [New], 73 [New]]

[Airspace Docket No. 64-EA-10]

RESTRICTED AREA AND FEDERAL AIRWAYS

Proposed Alteration

Notice is hereby given that the Federal Aviation Agency is considering amendments to §§ 71.123 and 73.66 of the Federal Aviation Regulations, the substance of which is stated below.

The Camp Hill, Va., Restricted Area R-6601 is an area of 39 square miles assigned to the Commanding General, Second United States Army, Fort Meade, Md., for infantry weapons firing. The area is designated for continuous use from 0700 to 2300 e.s.t., June 1 through September 8 annually. The designated altitudes of the area are surface to 5,000 feet MSL. When not in use for its designated purpose, R-6601 is released to the Federal Aviation Agency, Washington ARTC Center for air traffic use.

The Department of the Army has requested that R-6601 be modified to encompass firing positions located adjacent to the west and northwest boundaries of the present restricted area. Under the Army proposal, the northeastern, eastern and southern boundaries of the restricted area would be modified to release practically the same amount of airspace as required for the westward expansion of R-6601. The controlling agency, using agency, time of designation and designated altitudes of the area would continue as presently designated.

The westward expansion of R-6601 as proposed herein would cause the restricted area during its time of designation to penetrate at 5,000 feet MSL and below by approximately one-half mile the eastern edge of VOR Federal airway No. 157W. Further, the reconfigured restricted area would continue to coincide by approximately one-half mile with a portion of the segment of VOR Federal airway No. 222 between Gordonsville, Va., and the Grubbs intersection. Since there would be approximately 3.5 nautical miles or more between the centerlines of the affected airway segments and western boundaries of the restricted area and because the Brooke VOR and Gordonsville VOR provide means for precise navigation guidance along the affected airway segments, adequate separation could be maintained between en route airway traffic and operations within R-6601. Accordingly, to reduce pilot and air traffic controller workload, the Federal Aviation Agency proposes to alter Victors 157W and 222 by excluding the airspace within R-6601 from the airways.

If these actions are taken:

1. R-6601 Camp Hill, Va., would be amended to read:

R-6601 Camp A. P. Hill, Va.

Boundaries. Beginning at latitude 38°-06'50" N., longitude 77°10'34" W.; to latitude 38°05'30" N., longitude 77°09'06" W.; to latitude 38°04'40" N., longitude 77°10'20" W.; to latitude 38°03'12" N., longitude 77°-09'35" W.; to latitude 38°02'22" N., longitude 77°11'40" W.; to latitude 38°02'30" N., longi-

tude 77°14'40" W.; to latitude 38°01'50" N., longitude 77°16'08" W.; to latitude 38°02'15" N., longitude 77°18'04" W.; to latitude 38°-03'40" N., longitude 77°18'45" W.; to latitude 38°04'30" N., longitude 77°18'45" W.; to latitude 38°05'35" N., longitude 77°17'32" W.; to latitude 38°05'35" N., longitude 77°-17'02" W.; to latitude 38°08'01" N., longitude 77°14'04" W.; to latitude 38°07'53" N., longitude 77°13'40" W.; to latitude 38°06'46" N., longitude 77°12'21" W.; to the point of beginning.

Designated altitudes. Surface to 5,000 feet MSL.

Time of designation. 0700 to 2300 EST, June 1 through September 8.

Controlling agency. Federal Aviation Agency, Washington ARTC Center.

Using agency. Commanding General, Second United States Army, Fort George G. Meade, Maryland.

2. The description of Victor airways 157W and 222 would be amended to exclude the airspace within R–6601.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica, N.Y., 11430. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Regulations and Procedures Division, Federal Aviation Agency, Washington, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel: Attention Rules Docket, 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.

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

Issued in Washington, D.C., on April 27, 1964.

DANIEL E. BARROW,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64–4428; Filed, May 4, 1964; 8:46 a. m.]

[14 CFR Parts 71 [New], 73 [New]]

[Airspace Docket No. 63–EA–111]

RESTRICTED AREA AND FEDERAL AIRWAYS

Proposed Alteration

Notice is hereby given that the Federal Aviation Agency is considering amendments to §§ 71.123 and 73.50 of the Federal Aviation Regulations, the substance of which is stated below.

The Warren Grove, N.J., Restricted Area R–5002 encompassing thirty square miles of airspace from the surface to 9,000 feet MSL is designated for use as an aircraft gunnery and bombing area by the 108th Tactical Fighter Wing (TFW) of the New Jersey Air National Guard during the daylight hours. When not in use for its designated purpose, R–5002 is released to the controlling agency, the New York ARTC Center for air traffic use.

The Department of the Air Force has requested that the ceiling over the greater portion of R–5002 be increased from 9,000 feet MSL to 14,000 feet MSL. Under the Air Force proposal, the ceiling of the area would be in three steps: 4,000 feet MSL north of latitude 39°45'00" N.; 14,000 feet MSL between latitude 39°45'-00" N., and a line from latitude 39°43'-45" N., longitude 74°18'00" W., to latitude 39°39'00" N., longitude 74°24'10" W., and 9,000 feet MSL to the southeast of the latter line. The Air Force advises that these changes in ceiling would permit the 108th TFW to accomplish their ordnance delivery missions in R–5002 using F–100 series aircraft without hazard to other aircraft flying in the vicinity of the restricted area. Accordingly, it is proposed that the designated altitudes of R–5002 be changed from "Surface to 9,000 feet MSL" to "Surface to 14,000 feet MSL, except surface to 4,000 feet MSL for the portion north of latitude 39°45'00" N.; surface to 9,000 feet MSL southeast of a line between latitude 39°-43'45" N., longitude 74°18'00" W., and latitude 39°39'00" N., longitude 74°24'-10" W."

VOR Federal airway No. 1 is designated in part from Atlantic City, N.J., via Barnegat, N.J., to Kennedy, N.Y., and VOR Federal airways Nos. 44 and 885 are designated in part from Atlantic City via Barnegat to Riverhead, N.Y. All three airways require approval from appropriate authority prior to use of the portions within R–5002. Because of the heavy volume of traffic on these airways, the requirement for prior approval increases the workload of both pilot and air traffic controller. There would be less than 3 nautical miles between the southeastern edge of the restricted area as proposed herein, and the airway centerlines for that portion below 9,000 feet MSL and 3 nautical miles or more between the southeastern edge of the proposed restricted area and the airway centerlines for that portion above 9,000 feet MSL. Since the Barnegat VOR provides precise navigational guidance along the airway segments affected by the altered configuration of R–5002, adequate separation could be maintained between en route airway traffic and operations within the portion of R–5002 above 9,000 feet MSL. Accordingly, to refrain from increasing the pilot and controller workload, the Agency proposes to alter Victors 1, 44 and 885 by excluding the airspace within R–5002 above 9,000 feet MSL from the airways. Approval from appropriate authority would still be required prior to use of those portions of the airways within R–5002, below 9,000 feet MSL.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica, N.Y., 11430. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Regulations and Procedures Division, Federal Aviation Agency, Washington, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel: Attention Rules Docket, 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.

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

Issued in Washington, D.C., on April 27, 1964.

DANIEL E. BARROW,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64–4429; Filed, May 4, 1964; 8:46 a.m.]

PRESIDENT'S COMMITTEE ON EQUAL EMPLOYMENT OPPORTUNITY

[41 CFR Part 60–80]

APPRENTICESHIP PROGRAMS

Notice of Proposed Rule Making

Pursuant to Executive Orders 10925 and 11114 (26 F.R. 1977; 28 F.R. 6485) and 41 CFR 60–1.62, and with the approval of the Vice Chairman, I hereby propose to amend 41 CFR Part 60–80 by adding thereto a ruling and interpretation to read as set forth below.

Interested persons may file written statements of data, views, or argument in regard to the proposal with the President's Committee on Equal Employment Opportunity, United States Department of Labor Building, Constitution Avenue and 14th Street NW., Washington, D.C., 20210, within 21 days after this notice is published in the FEDERAL REGISTER.

The proposed amendment reads as follows:

§ 60–80.2 Apprenticeship programs.

(a) The compliance of government contractors and federally assisted construction contractors with Executive Orders 10925 and 11114 will be determined so far as apprenticeship programs are concerned on the basis of the standards contained in the regulations of the Secretary of Labor on nondiscrimination in apprenticeship and training, 29 CFR Part 30. For purposes of determining contractor compliance, these standards apply to any apprentice program which includes apprentices employed by a government contractor or federally assisted construction contractor during the performance of a federal government contract or federally assisted construction contract. The standards apply regardless of whether the program in which the apprentices are indentured is registered directly with the Bureau of Apprenticeship and Training.

(b) The staff of the Bureau of Apprenticeship and Training of the United States Department of Labor is available to advise and assist contracting or administering agencies on all compliance questions arising under this section.

(E.O. 10925, 26 F.R. 1977; E.O. 11114, 28 F.R. 6485)

Signed at Washington, D.C., this 29th day of April 1964.

HOBART TAYLOR, JR.,
Executive Vice Chairman.

[F.R. Doc. 64–4430; Filed, May 4, 1964; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Order 93]

ASSISTANT REGIONAL COMMISSIONERS (APPELLATE) ET AL.

Delegation of Authority With Respect to Consent to Redetermination of Aggregations by Taxpayer in Case of Invalid Basic Aggregations or Invalid Additions

The authority vested in me as Commissioner of Internal Revenue, as prescribed in §§ 1.614–2(d)(5) and 1.614–3(f)(8) of the Income Tax Regulations issued under the Internal Revenue Code of 1954, is hereby delegated to the Assistant Regional Commissioners (Appellate), Associate Chiefs of the Appellate Divisions and to the District Directors of Internal Revenue, to:

Consent to the reforming of aggregations by a taxpayer where the taxpayer has formed invalid basic aggregations or made invalid additions to valid or invalid basic aggregations, and

Consent, in the case of oil and gas wells where an invalid aggregation has been formed under § 614(b), to the treatment by a taxpayer of all the properties included in the aggregation, which fall within a single oprating unit, under the provisions of § 614(d) rather than § 614 (b) of the 1954 Code if so requested by the taxpayer.

In the case of oil and gas wells this delegation order shall apply only to taxable years subject to the 1954 Code beginning before January 1, 1964.

The authority delegated herein may not be redelegated.

Date of issue: April 27, 1964.

Effective Date: April 27, 1964.

[SEAL] MORTIMER M. CAPLIN,
Commissioner.

[F.R. Doc. 64-4460; Filed, May 4, 1964; 8:49 a.m.]

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority 37]

ASSISTANT ADMINISTRATOR FOR AFRICA

Delegation of Authority

1. Pursuant to the authority delegated to me by Delegation of Authority No. 104 from the Secretary of State, dated Nov. 3, 1961 (26 F.R. 10698), I hereby to the extent consistent with law and for the purpose of conducting a Pilot Operation at the US AID Ethiopia, delegate to the extent not previously delegated, to the Assistant Administrator for Africa authority to exercise the authorities, waivers, approvals, exceptions, restrictions or other requirements of prior action or approval of an AID/W office set forth in Attachment A hereto, with power to redelegate such authority as well as authority previously delegated to the Director of the US AID Ethiopia.

2. This authority delegated to the Assistant Administrator for Africa to exercise himself and to authorize the Director of the US AID Ethiopia to exercise the authorities in Attachment A hereto may be redelegated.

3. This delegation of authority shall be effective immediately.

Dated: April 9, 1964.

DAVID E. BELL,
Administrator.

LIST OF AUTHORITIES DELEGATED TO THE ASSISTANT ADMINISTRATOR FOR AFRICA WITH POWER TO REDELEGATE TO THE DIRECTOR OF THE US AID ETHIOPIA

[Attachment A to Delegation of Authority No. 37]

	Delegant		Reference
	A/AID	AA/AFR	
A. *Personnel*			
1. To establish and abolish positions within approved programs and ceilings.	X	X	M.O. 333.4 and 333.4.1.
2. To waive orientation training for direct-hire U.S. employees.	X		M.O. 462.3.
3. To effect temporary promotions of one grade for AID direct-hire employees, and to terminate such promotions. Promotions will not exceed 10 percent of the American staff during the period of the Pilot Operation. The following conditions must be met for promotions: a. The employee's last evaluation, if any, by an evaluation panel must have been above "marginal"; b. The employee's most recent overall efficiency rating must have been "3" or higher; c. The employee must have been in the AID Foreign Service at least 12 months; d. The employee must have been in grade for at least 12 months. The promotions made on such basis, in contrast to those of personnel recommended for promotion by evaluation panels, are temporary and shall be so identified on the AF–50. Upon release from the payroll of US AID Ethiopia, the employee will be reduced to his former personal rank unless in the meantime he has been promoted pursuant to M.O. 426.2., "Promotion of Foreign Service Personnel."	X		AID Del. No. 27 (Rev. 1) and M.O. 426.2.
4. To appoint, extend the appointment and separate overseas resident employees; to convert regular Foreign Service to resident employees when conditions warrant; and to appoint U.S. citizen dependents of State, AID, USIA, and Peace Corps employees (if dependent was a member of the family at time of employee's appointment to the post), for not to exceed 90 days without prior security clearance.		X	AID Del. 27 (Rev. 1) and M.O.s 416.7 and 448.2.
5. To extend appointments of Foreign Service Reserve and Foreign Service Staff Personnel.		X	AID Del. 27 (Rev. 1).
6. To approve and authorize for overseas personnel, including dependents, the travel and transportation and storage of effects and related expenses pertaining to home leave and return or transfer; reassignment within country of direct-hire.		X	AID Del. 27 (Rev. 1).
7. To approve personnel actions (execute AF–50's)		X	AID Del. 27 (Rev. 1).
8. To fix and shorten a tour of duty for direct-hire U.S. personnel.		X	AID Del. 27 (Rev. 1).
9. To assign and reassign direct-hire U.S. employees within country to established positions within employment ceiling.		X	AID Del. 27 (Rev. 1) and M.O. 418.2.
B. *Commodity Procurement*			
1. To procure without regard to dollar limitation	X		M.O. 1372.1.
2. To waive the Proprietary Procurement requirement in exceptional circumstances.	X		M.O. 1113.1.
3. To waive the restriction on purchasing commodities where United States is a net importer.	X		M.O. 1454.3.
4. To waive Source and Origin of Commodities Requirement for transactions up to $10,000.	X		PD 21–22.
C. *Contracting*			
1. To exercise contracting authorities including amendments thereto (commercial not-for-profit and university) and approval of host country contracts, including amendments, without consideration as set forth in para. C12 below.	X		Regulation 6 S 206.5(D)(2) (commercial and not-for-profit) ICATO CIRC A-386 date: May 4, 1960 (University).
2. To waive the requirement for obtaining prior AID/W approval to use "multilateral" or "bifurcated" contracts involving both governments as parties (in one or more than one instrument).	X		Regulation 6 S 206.16(C).
3. To authorize advances of U.S. dollar funds under contracts financed by AID.	X		Regulation 6 S 206.73.
4. To redelegate authorities relative to contracting activities to one or more principal assistants.	X		Regulation 6 S 206.10.
5. To initiate procurement of contracting services before issuance of appropriate authorizing documents in emergency situations but only after the usual verification of availability of funds has been made.	X		Regulation 6 S 206.26 (A).
6. To extend the 120-day deadline for submission of the contractor's final vouchers.			Regulation 6 S 206.75(E).
7. To waive the direct selection requirement for soliciting comparable proposals.	X		Regulation 6 S 206.14(C)(5).
8. To waive the requirement for obtaining deviation authority from the Administrator.	X		Regulation 6.

LIST OF AUTHORITIES DELEGATED TO THE ASSISTANT ADMINISTRATOR FOR AFRICA WITH POWER TO REDELEGATE TO THE DIRECTOR OF THE US AID ETHIOPIA

[Attachment A to Delegation of Authority No. 37]

	Delegant		Reference
	A/AID	AA/AFR	
C. *Contracting*—Continued			
9. To waive the requirements of PD 12, Revision 2, effective March 14, 1960, with respect to the procedure for selection of firms to perform architectural, engineering, and other professional services.	X		PD 12, Rev. 2. Effective March 14, 1960.
10. To approve salary exceptions for commercial and not-for-profit institution employees under M.O. 1242.2, and for university contract employees as stated in memo from O/CO dated April 24, 1961, subject: "Preparation of Salary Approval Requests".	X		M.O. 1242.2 (commercial and not-for-profit) O/CO memo, date: Apr. 24, 1961 (University).
11. To make determinations authorizing procurement of services from firms listed in para. III.A. 1 and 2, M.O. 1412.1 (Geographic Source).		X	M.O. 1412.1.
12. To amend or modify contracts with universities and not-for-profit institutions under which no fee is paid or charged, when the amendment, which is less than $25,000, is requested by the contractor and does not involve consideration for the United States.		X	AID Del. of Auth. No. 17 as amended by 17.1, para. 1d.
D. *Reporting*			
1. To suspend the requirement for submitting U-201, Administrative Report, to AID/W.	X		M.O. 323.1.
2. To suspend the requirement for submitting U-245, Supply Advisor's Quarterly Report, to AID/E.	X		M.O. 1091.2.
3. To suspend the requirement for submitting U-510, Evaluation of Contractor's Progress Report.	X		M.O. 1241.1.
E. *Loans*			
1. To approve all DEVELOPMENT Bank of Ethiopia sub-loans for which AID approval is required, except for a sub-loan for a project which directly involves the Parsons & Whittemore-Lyddon Organization of New York, London and Paris; to monitor performance of DBE under the loan; and to review reports.		X	AID Del. of Auth. No. 17, as amended.

[F.R. Doc. 64-4444; Filed, May 4, 1964; 8:47 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

ERNEST WEISS

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Ernest Weiss, 14 Marimonim Street, Hedera, Israel; Claim No. 37669, voluntary turnover; $97.46 in the Treasury of the United States.

Executed at Washington, D.C., on April 29, 1964.

For the Attorney General.

[SEAL] ANTHONY L. MONDELLO,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 64-4474; Filed, May 4, 1964; 8:51 a.m.]

ELLA WERTHEIMEROVA FRIEDMAN AND KATARINA PRINCOVA DANSINGEROVA

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses, and also subject to the provisions of Treasury Circular No. 655, as amended, 31 CFR 211.3, and of Executive Order No. 8389, as amended, 5 F.R. 1400, 6 F.R. 2897:

Claimant, Claim No., Property, and Location

Ella Wertheimerova Friedman, Solivarska 2, Presov, Czechoslovakia; Claim No. 37669, voluntary turnover; $97.45 in the Treasury of the United States.

Katarina Princova Dansingerova, Solivarska 2, Presov, Czechoslovakia; Claim No. 37669, voluntary turnover; $97.46 in the Treasury of the United States.

Executed at Washington, D.C., on April 29, 1964.

For the Attorney General.

[SEAL] ANTHONY L. MONDELLO,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 64-4475; Filed, May 4, 1964; 8:51 a.m.]

ANDOR PAULOVICS

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses, and also subject to the provisions of Treasury Circular No. 655, as amended 31 CFR 211.3, and of Executive Order No. 8389, as amended, 5 F.R. 1400, 6 F.R. 2897:

Claimant, Claim No., Property, and Location

Andor Paulovics (a/k/a Andrej Paulovic), Trieda Sov. Armady 119, Kosice, Czechoslovakia; Claim No. 44003; Vesting Order No. 3873; $1,102.98 in the Treasury of the United States.

Executed at Washington, D.C., on April 29, 1964.

For the Attorney General.

[SEAL] ANTHONY L. MONDELLO,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 64-4476; Filed, May 4, 1964; 8:51 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Small Tract Classification 126]

ALASKA

Small Tract Classification

APRIL 28, 1964.

1. Pursuant to authority redelegated to me by Bureau Order 684, dated August 28, 1961 (26 F.R. 6215), as amended by the Alaska State Director in section 1, Delegation of Authority (29 F.R. 3015) dated February 27, 1964, I hereby classify the following described lands totaling 679.4 acres as suitable for lease and sale under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a) as amended. This classification is subject to existing valid rights.

SEWARD MERIDIAN

T. 15 N., R. 3 W.,
Sec. 9, lot 1;
Sec. 10, lot 3;
Sec. 17, lot 6.
T. 18 N., R. 3 E.,
Sec. 7, NE¼, S½;
Sec. 8, E½.

2. Classification of the above described lands by this order segregates them from all appropriations except to applications under the mineral leasing laws and to selections by the State of Alaska in accordance with and subject to the limitations and requirements of the Act of July 28, 1956 (70 Stat. 709; 48 U.S.C. 46-3b), and section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339).

3. The lands described in paragraph 1 of this order were restored from withdrawal by Public Land Orders Nos. 1102 of March 23, 1955 and 1275 of March 14, 1956. They were retained in a reserved status pending an order of classification to be issued by an authorized officer opening the lands to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a).

JAMES W. SCOTT,
District Manager.

[F.R. Doc. 64-4439; Filed, May 4, 1964; 8:47 a.m.]

ALASKA

Small Tract Classification Orders Canceled in Their Entirety

APRIL 27, 1964.

Pursuant to the authority redelegated to me by Bureau Order 684, dated August 28, 1961 (26 F.R. 6215), as amended by the Alaska State Director in section 1, Delegation of Authority (29 F.R. 3015), dated February 27, 1964, it is hereby ordered that effective at 10:00 a.m., on May 11, 1964 the following Small Tract Classifications are canceled in their entirety:

a. No. 2 dated October 4, 1948 (F.R. Doc. 49-581).
b. No. 4 dated November 5, 1948 (F.R. Doc. unknown).
c. No. 24 dated June 8, 1950 (F.R. Doc. 50-5142).
d. No. 29 dated August 2, 1950 (F.R. Doc. 50-5157), as amended.
e. No. 34 dated September 27, 1950 (F.R. Doc. 50-8682), as amended.
f. No. 35 dated September 27, 1950 (F.R. Doc. 50-8688), as amended.
g. No. 37 dated February 21, 1951 (F.R. Doc. 51-2728).
h. No. 42 dated July 18, 1951 (F.R. Doc. unknown).
i. No. 62 dated August 1, 1952 (F.R. Doc. 52-8617), as amended.
j. No. 64 dated September 11, 1952 (F.R. Doc. 52-10145).
k. No. 69 dated February 25, 1953 (F.R. Doc. 53-2194).
l. No. 88 dated September 21, 1954 (F.R. Doc. 54-7580), as amended.
m. No. 98 dated April 29, 1955 (F.R. Doc. 55-3633).
n. No. 113 dated March 14, 1957 (F.R. Doc. 57-2183).
o. No. 115 dated July 29, 1958 (F.R. Doc. unknown).

This order affects 610 tracts aggregating 2,876.91 acres.

JAMES W. SCOTT,
District Manager.

[F.R. Doc. 64-4440; Filed, May 4, 1964; 8:47 a.m.]

CALIFORNIA

Notice of Termination of Proposed Withdrawal and Reservation of Lands and Correction

APRIL 23, 1964.

The United States Department of Agriculture has cancelled its Proposed Withdrawal Application Serial No. Sacramento 067685 for withdrawal and reservation of lands published as Federal Register Document 62-11818, on Page 11821 of the issue for November 30, 1962. Therefore pursuant to the regulations contained in 43 CFR 2311.1-2(b), such lands will be at 10:00 a.m. on June 1, 1964 relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

MOUNT DIABLO MERIDIAN
PLUMAS NATIONAL FOREST

T. 18 N., R. 7 E.,
Sec. 8, E½, E½NW¼, SE¼SW¼.

The area described totals 440.00 acres in the Plumas National Forest and was patented in the Soper-Wheeler Company Forest Exchange, Serial No. Sacramento 066463.

Notice of Termination of Proposed Withdrawal and Reservation of Lands under Serial No. Sacramento 067685 published in the FEDERAL REGISTER, Document 64-2955 on page 3819 of the issue for Friday, March 27, 1964, Volume 29 No. 61 is corrected in the last paragraph which indicated that the area eliminated totaled approximately 1,580.70 acres, whereas the acreage described in that elimination should have read approximately 1,140.70 acres * * *.

JOHN E. CLUTE,
Acting Manager, Land Office, Sacramento.

[F.R. Doc. 64-4441; Filed, May 4, 1964; 8:47 a.m.]

COLORADO

Notice of Termination of Proposed Withdrawal and Reservation of Lands

APRIL 27, 1964.

Notice of an application, serial number C-0105316, for withdrawal and reservation of lands was published as Federal Register Document 63-3708 on Page 3497 of the issue for April 10, 1963. The applicant agency has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR Part 295, such lands will be at 10:00 a.m. on June 2, 1964, relieved of the segregative effort of the above mentioned application.

The lands involved in this notice of termination are:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 38 N., R. 15 W.,
Sec. 18, lots 2 and 3, and NE¼SW¼;
Sec. 19, SE¼NW¼, and NE¼SW¼.
T. 38 N., R. 16 W.,
Sec. 12, SW¼NE¼, S½NW¼, N½S½, SW¼SW¼, and SE¼SE¼.

The above area aggregates approximately 550.43 acres.

J. ELLIOTT HALL,
Chief, Lands and Minerals.

[F.R. Doc. 64-4464; Filed, May 4, 1964; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

SUGARCANE WAGES AND PRICES IN FLORIDA AND DESIGNATION OF PRESIDING OFFICERS

Notice of Hearing

Pursuant to the authority contained in sections 301(c) (1) and (2) of the Sugar Act of 1948, as amended (61 Stat. 929; 7 U.S.C. 1131), and in accordance with the rules of practice and procedure applicable to fair price and wage proceedings (7 CFR 802.1 et seq.), notice is hereby given that a public hearing will be held in the Auditorium of the Palm Beach County Sub-Courthouse in Belle Glade, Florida, on May 15, 1964, beginning at 10 a.m.

The purpose of this hearing is to receive evidence which may be of assistance to the Secretary of Agriculture in determining (1) pursuant to the provisions of section 301(c)(1) of the Act whether the wage rates established for Florida sugarcane fieldworkers in the wage determination, which became effective November 13, 1963 (7 CFR 863.15), continue to be fair and reasonable under existing circumstances, or whether such determination should be amended, and (2) pursuant to the provisions of section 301(c)(2) of the Act, fair and reasonable prices for the 1964 crop of sugarcane to be paid, under either purchase or toll agreements, by producers who process sugarcane grown by other producers and apply for payments under the act.

In the interest of obtaining the best possible information, all interested persons are requested to appear at the hearing to express their views and present appropriate data in regard to wages and prices for sugarcane. While testimony on all pertinent points is desired, it is especially requested that witnesses be prepared to offer information and recommendations on the following matters regarding fair prices for sugarcane:

1. The definition of trash in sugarcane and the methods to be followed by processors in determining the quantity of trash to be deducted from the gross weight of sugarcane to arrive at the net weight of sugarcane delivered by producers to the processor.

2. The methods of marketing raw sugar and molasses and any changes in the calculation of the season's average price of raw sugar or the net sales price of molasses upon which settlements with producers for sugarcane are based.

The hearing, after being called to order at the time and place mentioned herein, may be continued from day to day within the discretion of the presiding officers and may be adjourned to a later day or to a different place without notice other than the anouncement thereof by the presiding officers.

D. E. McGarry and W. S. Stevenson are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearing.

Signed at Washington, D.C., on April 30, 1964.

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

[F.R. Doc. 64-4473; Filed, May 4, 1964; 8:51 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CANADA DRY CORP.

Notice of Withdrawal of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)),

notice is given as provided in § 121.52 Withdrawal of petitions without prejudice of the procedural food additive regulations (21 CFR 121.52), that Canada Dry Corporation, 100 Park Avenue, New York 17, New York, has withdrawn its petition (FAP 974) published in the FEDERAL REGISTER of November 15, 1962 (27 F.R. 11286), proposing the issuance of a regulation to provide for a tolerance of 200 parts per billion for residues of silver ions in potable sterile water, resulting from the use of defined silver salts as a bacteriostatic agent in potable noncarbonated water packaged in hermetically sealed containers.

The withdrawal of this petition is without prejudice to a future filing.

Dated: April 28, 1964.

MALCOLM R. STEPHENS,
Assistant Commissioner for Regulations.

[F.R. Doc. 64-4446; Filed, May 4, 1964; 8:48 a.m.]

EMERY INDUSTRIES, INC.

Notice of Filing of Petition Regarding Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1266) has been filed by Emery Industries, Inc., 4300 Carew Tower, Cincinnati 2, Ohio, proposing amendments to §§ 121.1008, 121.1029, and 121.1030 to provide for the safe use of combinations of polyoxyethylene (20) sorbitan tristearate, polyoxyethylene (20) sorbitan monostearate, and sorbitan monostearate as emulsifiers in cakes, cake mixes, cake icings, and cake fillings.

Dated: April 28, 1964.

MALCOLM R. STEPHENS,
Assistant Commissioner for Regulations.

[F.R. Doc. 64-4447; Filed, May 4, 1964; 8:48 a.m.]

FARBENFABRIKEN BAYER, A.G.

Notice of Filing of Petition Regarding Food Additive Diethyl Pyrocarbonate

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1170) has been filed by Farbenfabriken Bayer, A.G. Leverkusen-Bayerwerk, Germany, proposing an amendment to § 121.1117 to provide for the safe use of diethyl pyrocarbonate produced by the reaction of sodium hydroxide and ethyl chloroformate in the presence of a catalyst produced by a reaction of *N*-methyl-*n*-stearylamine with propylene oxide.

Dated: April 28, 1964.

MALCOLM R. STEPHENS,
Assistant Commissioner for Regulations.

[F.R. Doc. 64-4448; Filed, May 4, 1964; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-57]

WESTERN NEW YORK NUCLEAR RESEARCH CENTER, INC.

Notice of Proposed Issuance of Construction Permit and Facility License Amendment

Western New York Nuclear Research Center, Inc. ("the licensee"), is authorized under Facility License No. R-77, as amended, to possess and operate the nuclear reactor facility located on the campus of the State University of New York at Buffalo, New York. By application dated September 27, 1963, and amendments thereto dated September 23, 1963, December 5, 1963, January 14, 1964, February 18, 1964, February 26, 1964, March 17, 1964, April 9, 1964, April 15, 1964, April 21, 1964, and April 23, 1964 (hereinafter collectively referred to as "the application"), the licensee requested authorization to construct and operate a low enriched, uranium dioxide, rod-type core at a 2 megawatt thermal maximum steady state power level and to be operated as a pulse reactor for routine pulses up to 40 megawatt-seconds energy release. This core would replace the presently licensed uranium—aluminum plate-type core. In addition, authorization was requested to make several major modifications to the physical facilities, to increase the reactivity worth limit for in-core experiments and to increase the maximum permissible leakage rate of the containment. The proposed construction permit and facility license amendment will authorize all of the requests except the pulse operation which will be subject to further license amendment before such operation would be permitted.

Please take notice that pursuant to § 2.105 of the "Rules of Practice," the Atomic Energy Commission proposes to issue to Western New York Nuclear Research Center, Inc. a construction permit substantially as set forth in Appendix A which would authorize the construction of the new core and the modification of the facility as requested in the application.

Notice is also hereby given that, pursuant to § 2.105(c), 10 CFR Part 2, upon completion of construction and inspection of the activities authorized by the construction permit, the Commission will without further prior notice, amend Facility License No. R-77, substantially as set forth in Appendix B, to authorize operation of the facility as modified in accordance with the licensee's application.

The Commission has found that the application, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing, and any person whose interest may be affected by the proposed issuance of this construction permit and facility license amendment may file a petition for leave to intervene. Any request for a hearing or petition for leave to intervene shall be filed in accordance with the provisions of the Commission's "Rules of Practice," 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued.

For further details with respect to this proposed issuance, see the application for license amendment and supplements thereto and the related hazards analysis prepared by the Research and Power Reactor Safety Branch of the Division of Reactor Licensing, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the hazards analysis may be obtained at the Commission's Public Document Room, or upon request to the Atomic Energy Commission, Washington, D.C., 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 1st day of May 1964.

For the Atomic Energy Commission.

E. G. CASE,
Acting Chief, Research and Power Reactor Safety Branch, Division of Reactor Licensing.

APPENDIX A—WESTERN NEW YORK NUCLEAR RESEARCH CENTER, INC., DOCKET NO. 50-57, PROPOSED CONSTRUCTION PERMIT

1. License No. R-77, as amended, authorizes Western New York Nuclear Research Center, Inc. ("the licensee"), to possess and operate the nuclear reactor facility located on the campus of The State University of New York at Buffalo, New York. By application dated September 27, 1963, and amendments thereto dated September 23, 1963, December 5, 1963, January 14, 1964, February 18, 1964, February 26, 1964, March 17, 1964, April 9, 1964, April 15, 1964, April 21, 1964, and April 23, 1964 (hereinafter collectively referred to as "the application"), the licensee requested authorization to construct a low-enriched, uranium dioxide, rod-type core and to make several major modifications to the physical facilities.

2. The Atomic Energy Commission ("the Commission") hereby finds that:

A. The licensee is financially and technically qualified to construct the new core and make the modifications to the physical facilities described in the application and in accordance with the Commission's regulations;

B. The licensee has supplied all of the technical information required to complete the application and to provide reasonable assurance that the new core can be constructed and the facility can be modified and operated as proposed without undue risk to the health and safety of the public; and

C. The issuance of this construction permit will not be inimical to the common defense and security or to the health and safety of the public.

3. Pursuant to the Atomic Energy Act of 1954, as amended ("The Act"), and Title 10, Chapter I, CFR, Part 50, "Licensing of Production and Utilization Facilities," the Commission hereby issues a construction permit to construct the new core and modify the facility as described in the application. This permit shall be deemed to contain and is subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect and is subject to the additional conditions specified below:

A. The earliest and latest completion dates for construction of the new core and modification of the facility are May 29, 1964, and July 1, 1964, respectively.

B. The construction of the new core and modification of the facility shall be accomplished in accordance with the application.

4. Upon completion of construction of the new core and the modification of the facility in accordance with the terms and conditions of this permit and upon finding that the facility will operate in conformity with the application and in conformity with the provisions of the Act and the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license amendment would not be in accordance with the provisions of the Act, the Commission, will, pursuant to the Act, issue to the licensee an amendment to Facility License No. R-77, as amended, authorizing operation of the facility with the new core and the requested modifications.

Date of issuance:

For the Atomic Energy Commission.

Chief, Research and Power Reactor Safety Branch, Division of Reactor Licensing.

APPENDIX B—WESTERN NEW YORK NUCLEAR RESEARCH CENTER, INC., DOCKET NO. 50-57, PROPOSED AMENDMENT TO FACILITY LICENSE

[License No. R-77, Amendment No. —]

Facility License No. R-77 is revised in its entirety to read as follows:

1. This license applies to the light water moderated and cooled pool type nuclear reactor (hereinafter referred to as "the facility"), which is owned by Western New York Nuclear Research Center, Inc. (hereinafter referred to as "the licensee"), and located on the campus of The State University of New York at Buffalo, New York, and described in the application for license dated March 7, 1957, and amendments thereto dated March 5, 1958, May 27, 1959, July 21, 1959, July 31, 1959, November 21, 1960, January 19, 1961, February 1, 1961, May 12, 1961, June 28, 1961, August 18, 1961, February 5, 1962, July 10, 1962, March 20, 1963, June 18, 1963, July 1, 1963, September 23, 1963, September 27, 1963, December 5, 1963, January 14, 1964, February 18, 1964, February 26, 1964, March 17, 1964, April 9, 1964, April 15, 1964, April 21, 1964, and April 23, 1964 (hereinafter collectively referred to as "the application").

2. Pursuant to the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act"), and having considered the record in this matter, the Atomic Energy Commission (hereinafter referred to as "the Commission") finds that:

A. The facility has been constructed in conformity with Construction Permit No. CPRR-39 and modified in conformity with Construction Permit No. CPRR — and will operate in conformity with the application and in conformity with the Act and the rules and regulations of the Commission;

B. There is reasonable assurance that the facility can be operated at the designated location without endangering the health and safety of the public;

C. The licensee is technically and financially qualified to operate the facility, to assume financial responsibility for payment of Commission charges for special nuclear material and to undertake and carry out the proposed activities in accordance with the Commission's regulations;

D. The possession and operation of the facility and the receipt, possession and use of the special nuclear material in the manner proposed in the application will not be inimical to the common defense and security or to the health and safety of the public; and

E. The licensee is a nonprofit educational Corporation and will use the facility for the conduct of educational activities. The licensee is therefore exempt from the financial protection requirement of subsection 170a of the Act.

3. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses Western New York Nuclear Research Center, Inc.:

A. Pursuant to section 104c of the Act and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities," to possess and operate the facility as a utilization facility at the designated location in Buffalo, New York, in accordance with the procedures and limitations described in the application and this license; and

B. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material", to receive, possess and use up to thirty-two kilograms of uranium 235 contained in enriched uranium for use in connection with operation of the facility.

C. Pursuant to the Act and Title 10, CFR, Chapter I, Part 30, "Licensing of Byproduct Material", to possess and use a 30 curie antimony-beryllium source in connection with the operation of the reactor, and to possess, but not to separate, such byproduct material as may be produced by operation of the reactor.

4. This license shall be deemed to contain and be subject to the conditions specified in § 50.54 of Part 50 and § 70.32 of Part 70, Title 10, Chapter I, CFR, and to be subject to all applicable provisions of the Act, and to the rules and regulations and orders of the Commission, now or hereafter in effect, and to the additional conditions specified below:

A. The licensee shall not operate the facility at steady state power levels in excess of 2 megawatts (thermal) without prior written authorization from the Commission.

B. The licensee shall observe the procedures described in its submittal to the Commission dated January 19, 1961 pertaining to reactor shutdown operation which might involve changes in core reactivity.

C. The licensee shall maintain attended and closely observed core nuclear instrumentation in operation at all times during operations which would involve changes in core reactivity when the facility is shutdown.

D. The Technical Specifications contained in Appendix A to this license (hereinafter the "Technical Specifications") are hereby incorporated in this license. The licensee shall operate the facility only in accordance with the Technical Specifications. No changes shall be made in the Technical Specifications unless authorized by the Commission as provided in 10 CFR 50.59.

E. The licensee may (1) make changes in the facility as described in the hazards summary report, (2) make changes in the procedures as described in the hazards summary report, and (3) conduct tests or experiments not described in the hazards summary report only in accordance with the provisions of § 50.59 of the Commission's regulations.

F. In addition to those otherwise required under this license and applicable regulations, the licensee shall keep the following records:

1. Reactor operating records, including power levels.

2. Records of in-pile irradiations.

3. Records showing radioactivity released or discharged into the air or water beyond the effective control of the licensee as measured at the point of such release or discharge.

4. Records of emergency reactor scrams, including reasons for emergency shutdowns.

G. The licensee shall immediately report to the Commission in writing any indication or occurrence of a possible unsafe condition relating to the operating of the facility.

H. A report shall be provided to the Commission within 60 days of commencement of full power operation showing the measured levels and quantities of gaseous radioactivity released from the stack when full power has been reached and all components (beam tubes, rabbit system, thermal column, etc.) are being vented. The method of measurement and sensitivity shall be included.

I. The licensee shall promptly submit a written report to the Commission whenever during operation of the facility, any of the operating conditions or characteristics of the facility which might affect nuclear safety varies significantly from its predicted value.

J. The antimony-beryllium source shall be leak tested at intervals not to exceed 12 months.

5. This license is effective as of the date of issuance and shall expire at midnight September 15, 1979.

Date of issuance:

For the Atomic Energy Commission.

Chief, Research and Power Reactor Safety Branch, Division of Reactor Licensing.

[F.R. Doc. 64-4530; Filed, May 4, 1964; 8:51 a.m.]

FEDERAL MARITIME COMMISSION

[Docket No. 1181]

SEA-LAND SERVICE, INC., PUERTO RICAN DIVISION, AND WATERMAN STEAMSHIP CORP. OF PUERTO RICO

Increased Rates on Sheet Tin in the Atlantic and Gulf/Puerto Rico Trade; Notice of Investigation and Suspension

It appearing, that there have been filed with the Federal Maritime Commission by Sea-Land Service, Inc., Puerto Rican Division, and Waterman Steamship Corporation of Puerto Rico (J. L. Marty, Agent) tariff schedules naming new increased rates on "Tin, viz: Sheet (not tin plate)", from U.S. Atlantic and Gulf ports to ports in Puerto Rico to become effective April 28, 1964, designated as follows:

Sea-Land Service, Inc., Puerto Rican Division—Outward Freight Tariff No. 2, FMC-F No. 3 (Pan-Atlantic Steamship Corporation FMC-F Series), 17th and 18th Revised Pages 108, Tin, viz: Sheet (not tin plate); and, Waterman Steamship Corporation of Puerto Rico (J. L. Marty, Agent)—Outward Freight Tariff No. 4, FMC-F No. 1, 1st Revised Page 89, Tin, viz: Sheet (not tin plate).

It further appearing, that upon consideration of the said schedules, there is reason to believe that the said rates and charges, if permitted to become effective, would result in rates, charges, regulations, and/or practices which would be unjust, unreasonable, or otherwise unlawful in violation of the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933;

It further appearing, that, the Commission is of the opinion that the new tariff provisions should be made the subject of a public investigation and hearing to determine whether they are unjust, unreasonable, or otherwise unlawful under the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933;

It further appearing, that the effective date of the said provisions should be suspended pending such investigation;

Now therefore it is ordered, That an investigation be, and it is hereby, instituted into and concerning the lawfulness of the proposed new increased rate on sheet tin contained in the said schedules, with a view to making such findings and orders in the premises as the facts and circumstances shall warrant;

It is further ordered, That the increased rate on "Tin, viz: Sheet (not tin plate)" published on the aforementioned revised pages be and it is hereby suspended and that the use thereof be deferred to and including August 27, 1964, unless otherwise authorized by the Commission, and that the rates, fares, charges, rules, regulations and/or practices heretofore in effect, and which were to be changed by the suspended matter shall remain in effect during the period of suspension;

It is further ordered, That no change shall be made in the matter hereby suspended nor the matter which is continued in effect as a result of such suspension until the period of suspension or any extension thereof has expired, or until this investigation and suspension proceeding has been disposed of, whichever first occurs unless otherwise authorized by the Commission;

It is further ordered, That there shall be filed immediately with the Commission by Sea-Land Service, Inc., Puerto Rican Division and Waterman Steamship Corporation of Puerto Rico (J. L. Marty, Agent) a consecutively numbered supplement to each of the aforesaid tariffs, which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described, and shall state that the aforesaid rates are suspended and may not be used until the 28th day of August 1964, unless otherwise authorized by the Commission; and that the rates and charges heretofore in effect, and which were to be changed by the suspended matter shall remain in effect during the period of suspension, and neither the matter suspended, nor the matter which is continued in effect as a result of such suspension, may be changed until the period of suspension has expired or until this investigation and suspension proceeding has been disposed of, whichever first occurs, unless otherwise authorized by the Commission;

It is further ordered, That copies of this order shall be filed with the said tariff schedules in the Bureau of Domestic Regulation of the Federal Maritime Commission;

It is further ordered, That (I) the investigation herein ordered be assigned for public hearing by the Chief Examiner, before an examiner of the Commission's Office of Hearing Examiners, at a date and place to be announced; (II) Sea-Land Service, Inc., Puerto Rican Division and Waterman Steamship Corporation of Puerto Rico (J. L. Marty, Agent) be and they are hereby made respondents in this proceeding; (III) a copy of this order shall forthwith be served upon said respondents; (IV) the said respondents be duly notified of the time and place of the hearing herein ordered; and (V) this order and notice of the said hearing be published in the FEDERAL REGISTER.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with rule 5(n) (46 CFR 201.74).

By the Commission, April 23, 1964.

THOMAS LISI,
Secretary.

[F.R. Doc. 64-4463; Filed, May 4, 1964; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-12495, G-17324 [1]]

REX MONAHAN

Certificate of Public Convenience and Necessity; Gas Rate Schedule

APRIL 28, 1964.

Order amending order issuing certificate of public convenience and necessity, accepting notice of succession for filing, redesignating FPC gas rate schedule, accepting supplements to FPC gas rate schedule for filing, substituting respondent, and requiring filing of agreement and undertaking.

On February 10, 1964, Rex Monahan (Applicant) filed in Docket No. G-12495 an application pursuant to section 7(c) of the Natural Gas Act to amend the order issuing a certificate of public convenience and necessity in said docket to Excelsior Oil Corporation by substituting Applicant as certificate holder, all as more fully set forth in the application.

Applicant proposes to sell natural gas to Colorado Interstate Gas Company from the Greenwood Field, Morton County, Kansas, as successor in interest to Excelsior Oil Corporation pursuant to a contract heretofore designated as Excelsior Oil Corporation FPC Gas Rate Schedule No. 4, as supplemented, which will be redesignated as a rate schedule of Applicant.

The presently effective rate under the contract is being collected subject to refund in Docket No. G-17324. In a letter agreement between Applicant and Excelsior Oil Corporation, hereinafter accepted for filing and designated as Supplement No. 5 to Applicant's FPC Gas Rate Schedule No. 6, Applicant has agreed to assume the past and future refund obligation.

After due notice, no petition to intervene, notice of intervention, or protest to the granting of the application has been filed.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order issuing a certificate of public convenience and necessity to Excelsior Oil Corporation in Docket No. G-12495 should be amended as hereinafter ordered.

(2) The related FPC gas rate schedule of Excelsior Oil Corporation should be redesignated as a rate schedule of Applicant and the notice of succession and supplements should be accepted for filing.

(3) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should be substituted as respondent in the rate suspension proceeding in Docket No. G-17324, that said proceeding should be redesignated accordingly, and that Applicant should be required to file an agreement and undertaking to assure the refund of any amounts collected above the amount found to be just and reasonable in Docket No. G-17324.

The Commission orders:

(A) The order issuing a certificate of public convenience and necessity in Docket No. G-12495 be and the same is hereby amended by substituting Rex Monahan in lieu of Excelsior Oil Corporation as certificate holder, and in all other respects said order shall remain in full force and effect.

(B) Rex Monahan be and is hereby substituted as respondent in the rate suspension proceeding in Docket No. G-17324, and said proceeding is redesignated accordingly.

(C) Within 30 days from the issuance of this order, Rex Monahan shall execute, in the form set out below,[2] and shall file with the Secretary of the Commission, an acceptable agreement and undertaking in Docket No. G-17324 to assure refund of any amounts, together with interest at the rate of six percent per annum, collected in excess of the amount found to be just and reasonable in said docket. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing.

(D) Rex Monahan shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreement and undertaking shall remain in full force and effect until discharged by the Commission.

(E) Excelsior Oil Corporation FPC Gas Rate Schedule No. 4 is redesignated as a rate schedule of Rex Monahan and the notice of succession and supplements are accepted for filing effective December 31, 1963, all as follows:

Former designation and description and date of instrument	New designation	
	Rate schedule	Supplement
Excelsior Oil Corp. FPC Gas Rate Schedule No. 4	6	
Supplement Nos. 1-3 to above	6	1-3
Notice of Succession Feb. 1, 1964		
Assignment Dec. 31, 1963	6	4
Letter Agreement Jan. 15, 1964	6	5

By the Commission.

GORDAN M. GRANT,
Acting Secretary.

[F.R. Doc. 64-4431; Filed, May 4, 1964; 8:46 a.m.]

[1] Consolidated with Docket No. AR64-1, et al.

[2] Filed as part of the original document.

[Docket No. CP64–113]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Application

APRIL 28, 1964.

Take notice that on November 18, 1963, Natural Gas Pipeline Company of America (Applicant) filed an application at Docket No. CP64–113, pursuant to section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing construction and operation of additional facilities at its Herscher and Cooks Mills storage areas to increase the total maximum day withdrawal capacity thereof by 75,000 Mcf to a total of 950,000 Mcf and to provide maximum peak-hour withdrawal capacity of 47,500 Mcf, all as more fully set forth in the application on file with the Commission and open to public inspection.

The additional facilities proposed are:

Cooks Mills. Five (5) injection-withdrawal wells in the Cypress formation. 7,100 linear feet of 12-inch field pipeline. 2,200 linear feet of 8-inch field pipeline. Two (2) 850 hp. gas compressors. Additional cushion gas, measuring and dehydration equipment and other miscellaneous facilities necessary or convenient to the operation of the above described and existing facilities.

Herscher. Six (6) injection-withdrawal Galesville reservoir wells. 8,400 linear feet of 30-inch field pipeline. 660 linear feet of 12-inch field pipeline. 3,300 linear feet of 10-inch field pipeline. One (1) 7,500 hp. turbine compressor unit. Additional cushion gas, measuring and dehydration equipment, and other miscellaneous facilities necessary or convenient to the operation of the above-described and existing facilities.

The total estimated cost of the proposed facilities, including the cushion gas, measuring the dehydration equipment and other miscellaneous facilities, is stated to be $4,221,400.

Applicant intends to allocate the additional peak-day capacity to its customers in accordance with the procedure of allocation set forth in its FPC Gas Tariff now on file.

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 May 18, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64–4432; Filed, May 4, 1964; 8:46 a.m.]

[Project No. 1295]

PACIFIC GAS AND ELECTRIC CO. TRANSMISSION LINES

Notice of Land Withdrawal; California

APRIL 29, 1964.

By letter of April 13, 1936, this Commission gave notice to the Commissioner, General Land Office (now the Bureau of Land Management) of the reservation of approximately 158 acres of United States lands for Project No. 1295, pursuant to the filing of an application for license on December 13, 1934, by the Pacific Gas and Electric Company.

On June 13, 1938, the Pacific Gas and Electric Company filed an application for amendment of license to add a constructed tap line right-of-way to Project No. 1295. By letter of July 12, 1938, this Commission gave notice to the General Land Office, of the reservation of approximately 5.83 acres of additional United States lands for Project No. 1295.

On July 12, 1954, the Pacific Gas and Electric Company filed an application for amendment of license to exclude lines, or portions thereof, that have been relocated or abandoned, and to retain in the license only those lines, or portions of lines, that are relatively unchanged. Therefore in accordance with the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the hereinafter described lands, insofar at title thereto remains in the United States, are included in power Project No. 1295, and are, from the date of filing of amendatory application on July 12, 1954, reserved from all forms of disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

Mount Diablo Meridian. All portions of the following-described subdivisions lying within 50 feet of the center line of the Keswick-Weaverville line and two taps (Brunswick Mine & Shasta); and portions of the Redding-Bully Hill line remaining under license; also all portions of the tracts falling within 20 feet of the center line of the Bureau of Reclamation and Summit Subdivision tap lines. See map exhibit K–A filed February 8, 1939 (FPC No. 1295–9), and exhibits K–3; K–1, and K–2, filed July 12, 1954 (FPC Nos. 1295–10, –11 and –12):

T. 34 N., R. 3 W.,
Sec. 21: SE¼NE¼, NE¼SE¼;
Sec. 22: Lots 7, 8.
T. 32 N., R. 5 W.,
Sec. 19: Lots 2, 7, NE¼SW¼, NW¼SE¼;
Sec. 28: Lot 2;
Sec. 29: NE¼NE¼.
T. 33 N., R. 5 W.,
Sec. 25: SW¼NW¼;
Sec. 26: S½NE¼.
T. 32 N., R. 6 W.,
Sec. 6: Lot 36;
Sec. 8: W½NW¼, SE¼NW¼, N½SW¼, SE¼SW¼, W½SE¼;
Sec. 15: Lots 6, 7, 10, 11, 12, 13, 16, 17, S½SE¼SW¼;
Sec. 22: Lots 9, 10, 11, 24, N½NE¼, N½NE¼NW¼;
Sec. 23: S½NW¼;
Sec. 24: Lots 30, 34, 38, 39, 40, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, NW¼SE¼NE¼.
T. 32 N., R. 7 W.,
Sec. 2: Lot 3, SE¼NE¼.
T. 33 N., R. 7 W.,
Sec. 16: Lots 3, 11;
Sec. 17: Lots 4, 5, 8, 12, SE¼NW¼, NE¼SE¼;
Sec. 18: Lots 8, 9;
Sec. 20: NW¼NW¼;
Sec. 22: Lot 11, SW¼SW¼NW¼, W½SW¼;
Sec. 27: Min. Lot 41 (unpatented);
Sec. 34: E½NE¼, NE¼NE¼SE¼.
T. 33 N., R. 8 W.,
Sec. 13: Lots 4, 5, 6, 7;
Sec. 14: Lots 11, 12, 13, 15, 16;
Sec. 15: S½N½;
Sec. 17: SW¼NW¼, W½SE¼NW¼;
Sec. 18: Lot 4, unpatented portions SE¼SW¼ and SW¼SE¼, E½E½SE¼SE¼, NW¼SE¼SE¼.
T. 33 N., R. 9 W.,
Sec. 18: Min. Lot 45, Lots 58, 59, 60, 72, 74, 76, 79, 80, 81, 82;
Sec. 22: SW¼NE¼, S½NW¼, SE¼SE¼, N½SE¼;
Sec. 23: S½SE¼NE¼, S½S½SW¼SW¼, E½SE¼SW¼, SW¼SE¼SW¼, S½NW¼SE¼.

This notice supersedes in their entirety those given April 13, 1936, and July 12, 1938. The Commission's general determination of April 17, 1922 (2d FPC Ann. Rept. 128) regarding lands reserved for transmission line purposes only, is applicable to the above-described lands.

The area of United States lands reserved by this withdrawal is approximately 163.12 acres. Approximately 113.07 acres have been previously withdrawn by Power Site Classification No. 13; Power Site Reserve No. 232; Project Nos. 99, 247, 399, 1295, 1621; or permits issued by other agencies. Approximately 10.78 acres are within the boundaries of the Shasta National Forest.

Copies of the withdrawal notice and appropriate J and K exhibits (FPC Nos. 1295–9, –10, –11, and –12) have been distributed to Forest Service, Geological Survey, Bureau of Land Management, and Bureau of Reclamation.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64–4433; Filed, May 4, 1964; 8:46 a.m.]

[Docket Nos. CI62–910, RI63–193 [1]]

NECHES PETROLEUM CORP.

Certificate of Public Convenience and Necessity; Gas Rate Schedule

APRIL 28, 1964.

Order amending order issuing certificate of public convenience and necessity, redesignating FPC gas rate schedule, accepting notice of succession and supplement to FPC gas rate schedule for

[1] Consolidated with Docket No. AR64–2, et al.

filing, substituting respondent, and accepting surety bond for filing.

On January 7, 1964, Neches Petroleum Corporation (Applicant) filed in Docket No. CI62–910 an application pursuant to section 7(c) of the Natural Gas Act to amend the order issuing a certificate of public convenience and necessity in said docket to Texas Imperial Oil & Gas Company (Texas Imperial) by substituting Applicant as certificate holder, all as more fully set forth in the application.

The subject sale is made to Union Texas Petroleum, a Division of Allied Chemical Corporation, from the Big Hill Field, Jefferson County, Texas, pursuant to a contract heretofore designated as Texas Imperial Oil & Gas Company FPC Gas Rate Schedule No. 1, as supplemented, which will be hereinafter redesignated as a rate schedule of Applicant. The presently effective rate under the contract is in effect subject to refund in Docket No. RI63–193. On January 7, 1964, Applicant filed a motion requesting to be substituted as respondent in Docket No. RI63–193 in lieu of Texas Imperial. On April 16, 1964, Applicant filed a surety bond to assure refund of any amounts collected above the amount to be determined to be just and reasonable in Docket No. RI63–193.

After due notice, no petition to intervene, notice of intervention, or protest to the granting of the application has been filed.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order issuing a certificate of public convenience and necessity in Docket No. CI62–910 should be amended by substituting Applicant as certificate holder in lieu of Texas Imperial.

(2) The related FPC gas rate schedule of Texas Imperial should be redesignated and the notice of succession and supplement should be accepted for filing.

(3) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should be substituted as respondent in the rate suspension proceeding in Docket No. RI63–193, that said proceeding should be redesignated accordingly, and that the surety bond submitted by Applicant should be accepted for filing.

The Commission orders:

(A) The order issuing a certificate of public convenience and necessity in Docket No. CI62–910 be and the same is hereby amended by substituting Applicant in lieu of Texas Imperial as certificate holder, and in all other respects said order shall remain in full force and effect.

(B) Applicant be and is hereby substituted as respondent in the rate suspension proceeding in Docket No. RI63–193, and said proceeding is redesignated accordingly.

(C) The surety bond submitted by Applicant on April 16, 1964, to assure refund of any amounts collected in excess of the amount found to be just and reasonable in Docket No. RI63–193 be and is hereby accepted for filing.

(D) Applicant shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the surety bond shall remain in full force and effect until discharged by the Commission.

(E) Texas Imperial Oil & Gas Company FPC Gas Rate Schedule No. 1 is redesignated as a rate schedule of Applicant, and the notice of succession and supplement are accepted for filing, all as follows:

Former designation and description and date of instrument	New designation Neches Petroleum Corp.	
	Rate schedule	Supplement
Texas Imperial Oil & Gas Co. FPC Gas Rate Schedule No. 1	1	
Supplement Nos. 1–7 to above	1	1–7
Notice of Succession Jan. 6, 1964		(1)
Conveyance Dec. 30, 1963	1	[1] 8

[1] Accepted for filing effective Nov. 5, 1963.

By the Commission.

[SEAL] GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 64–4434; Filed, May 4, 1964; 8:47 a.m.]

[Docket No. G–18375]

PHILLIPS PETROLEUM CO.

Declaratory Order

APRIL 22, 1964.

On March 2, 1964, Phillips Petroluem Company (Phillips) filed a petition for declaratory order in Docket No. G–18375 requesting that the Commission, after hearing, issue an order providing that the quantity of gas which Florida Gas Transmission Company (Florida Gas) is entitled to receive as make-up gas because of payments made by Florida Gas prior to April 1, 1963, is, under Phillips' Rate Schedule No. 372, limited to a quantity of gas which, when multiplied by 21.25 cents per Mcf,[1] will equal the amount of money heretofore paid by Florida Gas for gas not taken.

Phillips states that subsequent to the Commission's approval of a settlement of the matters in Docket No. G–18375 [2] a controversy has arisen between it and Florida Gas, the latter contending that Florida Gas is entitled to receive as make-up of volumes of gas previously paid for but not taken that quantity of gas which, when multiplied by the rate of 20.625 cents per Mcf, will equal the amount of money previously paid by Florida Gas for gas not taken.

Florida Gas does not dispute Phillips' statement of facts and controversy.[3]

The facts are as follows:

(1) Under Article V, section 2, of the contract as amended (Phillips FPC Gas Rate Schedule No. 372) the purchaser was required to begin receiving gas not later than July 1, 1962. If it did not do so, it was required to pay the seller each month thereafter and until deliveries commenced for a quantity of gas equal to the daily contract quantity times the number of days in each month at the prices provided in the contract (21.5 cents per Mcf exclusive of tax reimbursement), as if the gas were actually delivered, provided the seller's facilities were installed and the gas was available.

(2) Article V, section 2 also provided that the buyer shall have a right to make up such prepaid-for gas in accordance with paragraph 8 of Article VII of the contract. That paragraph provides that the make-up period is two years (now extended to four years) and that "* * * [a]ny payment which buyer has previously made for gas not received and which is being made up shall be credited against payment due hereunder for such make-up gas at the time of actual deliveries thereof."

(3) The purchaser, Florida Gas, did not begin taking deliveries until November 12, 1962, and accordingly paid Phillips for daily contract quantities totalling 904,500 Mcf, as contemplated by Article V, section 2 of the contract.

(4) Phillips contends that Florida Gas is entitled to make up 904,500 Mcf of gas while Florida Gas contends that, since it paid for the 904,500 Mcf of gas at the rate of 21.25 cents per Mcf (conditioned in the temporary certificate from the 21.5 cents plus tax reimbursement contract price) and the rate in effect during the rate settlement moratorium period (April 1, 1963, through March 31, 1968) is 20.625 cents per Mcf, Florida Gas should be allowed to recoup such prepaid-for gas during the moratorium period at the moratorium period price of 20.625 cents per Mcf.

Although Phillips requests that a hearing be held on these matters, we are of the view that a hearing is neither required nor desirable. The facts, all of which are in the Commission's files, are undisputed. Our function here is to interpret the contract, the settlement proposal and our order conditionally approving the settlement proposal.

It is the Commission's opinion that the quantity of gas which Florida Gas is entitled to receive as make-up gas because of payments by Florida Gas prior to April 1, 1963, is, under Phillips' Rate Schedule No. 372, limited to a quantity of gas which, when multiplied by 21.25 cents per Mcf, will equal the amount of money heretofore paid by Florida Gas for gas not taken.

Insofar as relevant to the issue here in question, the settlement proposal drafted and submitted by Phillips and conditionally approved by the Commission provided:

1. That from April 1, 1963, through March 31, 1968 (the "moratorium period"), the total amount per Mcf paid by the respective pipeline purchasers for natural gas delivered pursuant to * * * Phillips' FPC Gas Rate Schedule * * * 372 shall be 20.625 cents per

[1] Unless otherwise stated, all rates expressed inclusive of tax reimbursement and all volumes expressed at 15.025 psia.

[2] See order issued November 29, 1963, in Union Texas Petroleum, et al., Docket No. G–13221, et al., 30 FPC —.

[3] Florida Gas' answer, filed on April 6, 1964, after the time allowed for filing had elapsed, so states.

Mcf, inclusive of reimbursement for Louisiana State taxes. (Footnote omitted.)

* * * * *

4. Upon the issuance of an order by the Commission approving this Settlement Proposal, * * * Phillips agrees to file promptly as supplements to its Rate Schedules * * * 372 true copies of this Settlement Proposal, together with the order of the Commission approving same. Upon the acceptance for filing of such supplements and issuance of permanent certificates of public convenience and necessity by the Commission to * * * Phillips as herein provided, according to the original applications as modified by the terms of this Settlement Proposal, the terms of the original rate schedules of * * * Phillips as they may have been heretofore amended or supplemented shall be amended only to the extent that the terms and provisions of this Settlement Proposal are inconsistent with the terms and provisions of the original rate schedules as heretofore amended or supplemented. In all other respects the terms and provisions of the original rate schedules, as heretofore amended or supplemented, and the rights and obligations of the parties hereto shall be unaffected by this Proposal, and nothing contained herein shall be deemed to amend the respective contracts.

The Commission's order of November 29, supra, stated (Mimeo p. 2):

The temporary authorizations under which the * * * Phillips sales are presently being made do not contain express refund conditions and, except as noted above, * * * Phillips * * * [does] not propose to make refunds of any amounts collected prior to April 1, 1963, the effective date of the proposed rate reductions.

The order further specifically provided (Mimeo p. 3):

In the context of the proposal, we interpret the term 'delivered' as used in paragraph 1 of the proposal to include gas required to be taken during the moratorium period but paid for and not taken and our approval is conditioned upon such interpretation.

Although neither the settlement proposal nor the Commission's order conditionally approving the proposal expressly state what effect they have on the existing prepayment account, the settlement proposal and the Commission's order conditionally approving the same certainly indicate no intent to adjust the prepayment account. The proposal is prospective, from April 1, 1963.

The settlement proposal states that the total amount per Mcf paid by the respective purchasers for natural gas "delivered" during the moratorium period shall by 20.625 cents per Mcf. To include gas paid for prior to April 1, 1963, not taken at the time paid for but which is physically delivered during the moratorium period, would mean that the purchaser would receive more gas than it would have been entitled to receive had it actually taken such gas prior to April 1, 1963, as required by the contract. Such a view would impose the greatest risks upon the producers whose contracts provide the broadest make-up privileges. The make-up provision is a device designed to alleviate the burden of take or pay for requirements and is the subject of bargaining by the purchasers. While the extension of this provision was the subject of our approval of the settlement proposal, it was not our intention to condition the provision to require that the seller subject himself completely to the actions of the purchaser who would otherwise have been required to take gas. Were we to interpret the settlement as Florida Gas would desire here, we would require that it pay less for gas which it was under a contractual obligation to take prior to the settlement than it would have paid had it actually taken the gas. We think that under the provision quoted above "delivered" will mean in the future that the purchaser pay only 20.625 cents per Mcf for gas which it will pay for during the moratorium period, but will not take at that time. Whenever the purchaser does take that gas it will pay no more than the 20.625 cents price.

In summary, we are of the view that under the original contract, the settlement proposal, and our order conditionally approving the settlement proposal, Florida Gas is entitled to make-up during the make-up period for gas paid for but not taken prior to April 1, 1963 the same amounts of gas it stored with Phillips under take-or-pay and make-up provisions of the contract.

In its petition for declaratory order, Phillips states that because of the dispute discussed above, Florida Gas has refused to sign the release which is required to be filed by Phillips by ordering paragraphs (E) and (F) of our order of November 29, 1963, supra. Phillips requested that we order and declare that Phillips has complied with such ordering paragraphs.

Since the controversy between Florida Gas and Phillips is resolved by this order, there is no reason to expect that Florida Gas will continue to refuse to sign the release tendered by Phillips. Thus, Phillips will be able to comply with paragraphs (E) and (F) of the aforementioned order. Therefore, Phillips' request in this regard will be denied.

The Commission finds: Under the terms of the contract dated March 23, 1959, between Phillips Petroleum Company and Coastal Transmission Corporation (predecessor to Florida Gas Transmission Company), as amended by the settlement proposal filed by Phillips Petroleum Company on July 25, 1963, and conditionally approved by the Commission on November 29, 1963, Florida Gas Transmission Company is entitled to receive during the four year make-up period as make-up gas for gas paid for prior to April 1, 1963, but not received, a quantity of gas which, when multiplied by 21.25 cents per Mcf, will equal the amount of money paid by Florida Gas Transmission Company and its predecessor under Article V Section 2 of such contract, as amended, for gas not taken.

The Commission orders:

(A) It is hereby declared and ordered that, under the terms of the contract, dated March 23, 1959, between Phillips Petroleum Company and Coastal Transmission Corporation (predecessor of Florida Gas Transmission Company), as amended by the settlement proposal filed by Phillips Petroleum Company on July 25, 1963, and conditionally approved by the Commission on November 29, 1963, Florida Gas Transmission Company is entitled to receive during the four year make-up period as make-up gas for gas paid for prior to April 1, 1963, but not received, a quantity of gas which, when multiplied by 21.25 cents per Mcf, will equal the amount of money paid by Florida Gas Transmission Company and its predecessor under Article V, section 2 of such contract, as amended, for gas not taken.

(B) The petition for declaratory order filed by Phillips Petroleum Company in Docket No. G–18375 on March 2, 1964, is hereby denied except insofar as it is granted hereinabove.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 64–4435; Filed, May 4, 1964; 8:47 a.m.]

[Docket No. E–7161]

SIERRA PACIFIC POWER CO.

Notice of Application

APRIL 28, 1964.

Take notice that on April 22, 1964, an application was filed with the Federal Power Commission, pursuant to section 204 of the Federal Power Act by Sierra Pacific Power Company (Applicant), a corporation organized under the laws of the State of Maine and doing business in the States of California and Nevada, with its principal business office at Reno, Nevada, seeking an order authorizing the issuance of $7,000,000 principal amount of First Mortgage Bonds __% due June 1, 1994, and 100,000 shares of Preferred Stock with a par value of $50 per share. The First Mortgage Bonds are to be issued pursuant to the provisions of the Indenture of Mortgage of Applicant dated as of December 1, 1940, New England Merchants National Bank of Boston and Fletcher C. Chamberlin, successor Trustees, as heretofore supplemented and modified and as to be further supplemented and modified by a Ninth Supplemental Indenture to be dated as of June 1, 1964.

According to the application, the First Mortgage Bonds will be sold and the interest rate fixed by competitive bidding; will mature on June 1, 1994; and will be issued on July 1, 1964 or such other date as may be determined by the Board of Directors.

Applicant proposes to sell the Preferred Stock by competitive bidding and the stock is to be issued on July 1, 1964, or such other date as may be determined by the Board of Directors. The Preferred Stock will be non-voting except as required by law or by the provisions of the Certificate of Organization as amended.

Applicant states that the net proceeds received from the issuance and sale of the aforesaid First Mortgage Bonds and Preferred Stock will be used to retire bank loans totaling $6,800,000 (Docket No. E–7042), to reimburse the treasurer of Applicant for construction expenditures heretofore made and to finance additional construction. Applicant's construction program for 1964 and 1965 is estimated at $25,650,000 allocated primarily to Applicant's electric department.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 1964, file with the Federal Power Commission, Washington, D.C., 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64–4436; Filed, May 4, 1964; 8:47 a.m.]

[Docket Nos. G–15232, etc.]

TAMARACK PETROLEUM CO., INC.

Notice of Application

APRIL 28, 1964.

Tamarack Petroleum Company, Inc. (successor to James G. Brown & Associates), Docket Nos. G–15232, G–16509, G–17240, G–18048, CI60–564, CI60–750, CI60–770, CI61–131, CI61–777, CI61–778, CI61–984, CI62–220.

Take notice that on February 20, 1964, Tamarack Petroleum Company, Inc. (Applicant) filed in the above-docketed proceedings an application pursuant to section 7(c) of the Natural Gas Act to amend the orders issuing certificates of public convenience and necessity in said dockets by substituting Applicant in lieu of James G. Brown & Associates as certificate holder, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that through a series of assignments James G. Brown & Associates have conveyed all or a portion of their interests in the subject leaseholds to certain successors and have appointed Applicant as their agent with authority to act in their behalf. The successors to the Brown interests have also appointed Applicant as their agent. Additionally, Applicant has assumed operation of those properties previously owned by the Browns. The application states that Applicant is not an owner of working interests in any of the subject leaseholds.

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 May 25, 1964.

JOSEPH H. GUTRIDE,
Secretary.

Docket No.	Predecessor's rate schedule	Purchaser	Location	Price (cents Mcf) at 14.65 psia
G–15232	James G. Brown & Associates, FPC Gas Rate Schedule No. 1.	Northern Natural Gas Co.	North Hansford Field, Hansford County, Tex.	16.5
G–16509	James G. Brown, et al., d.b.a. James G. Brown & Associates, FPC Gas Rate Schedule No. 2.	Panhandle Eastern Pipe Line Co.	North Richland Center Field, Texas County, Okla.	16.0
G–17240	James G. Brown & Associates (Operator), et al., FPC Gas Rate Schedule No. 3.	El Paso Natural Gas Co.	Sprayberry Field, Upton and Reagan Counties, Tex.	[1] 17.1632
G–18048	James G. Brown & Associates, FPC Gas Rate Schedule No. 4.	Northern Natural Gas Co.	North Richland Center Field, Texas County, Okla.	11.0
CI60–564	James G. Brown & Associates (Operator), et al., FPC Gas Rate Schedule No. 5.	Panhandle Eastern Pipe Line Co.	North Hansford Tonkawa Field, Hansford County, Tex.	17.0
CI60–750	James G. Brown & Associates (Operator), et al., FPC Gas Rate Schedule No. 7.	Transwestern Pipeline Co.	Cree-Flowers Field, Roberts County, Tex.	17.0
CI60–770	James G. Brown & Associates (Operator), et al., FPC Gas Rate Schedule No. 6.	do	Berstein Morrow Sand Field, Hansford County, Tex.	17.0
CI61–131	James G. Brown & Associates (Operator), et al., FPC Gas Rate Schedule No. 10.	United Gas Pipe Line Co.	Wyrick Field, Refugio County, Tex.	12.1536
CI61–777	James G. Brown & Associates, FPC Gas Rate Schedule No. 8.	Tennessee Gas Transmission Co.	West Ross Field, Starr County, Tex.	13.5
CI61–778	James G. Brown & Associates (Operator), et al., FPC Gas Rate Schedule No. 9.	do	Seven Sisters Queen City Field, Duval County, Tex.	13.5
CI61–984	James G. Brown & Associates (Operator), et al., FPC Gas Rate Schedule No. 11.	United Gas Pipe Line Co.	West LaRosa Field, Refugio County, Tex.	12.1536
CI62–220	James G. Brown FPC Gas Rate Schedule No. 1.	Texas Eastern Transmission Corp.	Dial Field, Goliad County, Tex.	11.6

[1] This rate is in effect subject to refund in Docket No. RI60–346. Applicant has filed a motion to be made a corespondent in said proceeding.

[F.R. Doc. 64–4437; Filed, May 4, 1964; 8:47 a.m.]

[Docket Nos. CP60–123, CI60–493]

UNITED FUEL GAS CO. AND ASHLAND OIL & REFINING CO.

Notice of Applications

APRIL 28, 1964.

Take notice that on June 14, 1960, as amended on November 27, 1962, and May 20, 1963, Amere Gas Utilities Company (Amere) and Atlantic Seaboard Corporation (Atlantic) (now United Fuel Gas Company) filed in Docket No. CP60–123 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 16.5 miles of 10.75-inch gas transmission pipeline and necessary measuring and regulating facilities, and one 800 horsepower compressor unit with appurtenant facilities to enable Amere to receive natural gas to be purchased from Ashland Oil & Refining Company (Ashland) (formerly United Producing Company, Inc.) in the Beckley-Mullins area, West Virginia, and requesting permission and approval for the abandonment of the exchange of natural gas between Amere and Atlantic, all as more fully set forth in said application and amendments on file with the Commission and open to public inspection.

On November 21, 1963, United Fuel Gas Company (United Fuel), 1700 MacCorkle Avenue SE., Charleston, West Virginia, filed in said Docket No. CP60–123 an application and petition to be substituted for Amere and Atlantic as Applicant for permanent certificate and as holder of temporary certification in said Docket, stating that effective September 30, 1963, United Fuel acquired by merger all interests of Amere and acquired by purchase those interests of Atlantic which were involved in the original application in Docket No. CP60–123. This merger and acquisition were approved by the Commission in its Opinion No. 377 and accompanying order issued January 16, 1963, in Docket No. CP61–107.

Take further notice that on April 20, 1960, as amended on June 22, 1961, United Producing Company, Inc. (United Producing) (predecessor of Ashland) filed in Docket No. CI60–493 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 to Amere Gas Utilities Company (now United Fuel Gas Company) from acreage in Kanawha, Fayette, Raleigh and Boone Counties, West Virginia, all as more fully set forth in the application and amendment in said Docket No. CI60–493. United Producing was merged into United Carbon Company on or about February 13, 1963, and on or about March 1, 1963, Ashland Oil & Refining Company acquired by purchase all interests of United Carbon Company, including those pertaining to the application in Docket No. CI60–493. United Carbon Company, by letter dated February 25, 1963, advised that it was willing to accept a permanent certificate in said docket at a rate of 28.0 cents per Mcf at 15.325 psia. The related rate schedule, at that time United Carbon Company FPC Gas Rate Schedule No. 36, is now Ashland Oil & Refining Company FPC Gas Rate Schedule No. 140.

These matters 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 Applicants 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 May 22, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64-4438; Filed, May 4, 1964; 8:47 a.m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

REGIONAL ADMINISTRATORS

Delegation of Authority With Respect to Loans for Housing for the Elderly

Each Regional Administrator of the Housing and Home Finance Agency is hereby authorized under section 202 of the Housing Act of 1959, as amended (73 Stat. 667, as amended, 12 U.S.C. 1701q):

1. To execute loan agreements and regulatory agreements.

2. To authorize an increase of not to exceed 10 percent in the amount of the loan and to authorize such amendment of the loan agreement as is necessary to effectuate the authorized increase in the amount of the loan.

3. To execute amendments or modifications of loan agreements and regulatory agreements.

4. To redelegate to the Regional Director of Community Facilities the authority delegated herein except the authority to authorize an increase in the amount of the loan.

5. In the case of the Regional Administrator, Region VI (San Francisco), to redelegate to the Director for Northwest Operations, Region VI, at Seattle, Washington, any of the authority delegated herein.

This delegation supersedes the delegation effective February 27, 1962 (27 F.R. 1850, February 27, 1962).

(62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1701c)

Effective as of the 5th day of May 1964.

[SEAL] ROBERT C. WEAVER,
Housing and Home Finance Administrator.

[F.R. Doc. 64-4502; Filed, May 4, 1964; 8:51 a.m.]

TARIFF COMMISSION

[AA1921-37; TC Publication 126]

VITAL WHEAT GLUTEN FROM CANADA

Determination of No Injury or Likelihood Thereof

APRIL 30, 1964.

On January 31, 1964 the Tariff Commission was advised by the Assistant Secretary of the Treasury that vital wheat gluten from Canada, manufactured by The Ogilvie Flour Mills, Co., Limited, or its subsidiary, Industrial Grain Products Limited, is being, or is likely to be, sold in the United States at less than fair value as that term is used in the Antidumping Act, 1921, as amended. Accordingly, the Commission on February 3, 1964, instituted an investigation under section 201(a) of that Act 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.

Public notices of the institution of the investigation and of a public hearing to be held in connection therewith were published in the FEDERAL REGISTER (29 F.R. 1860, 2713). The hearing was held on March 31, 1964.

In arriving at a determination in this case, due consideration was given by the Commission to all written submissions from interested parties, all testimony adduced at the hearing, and all information obtained by the Commission's staff.

On the basis of the investigation, the Commission has unanimously determined that an industry in the United States is not being, and is not likely to be, injured, or prevented from being established, by reason of the importation of vital wheat gluten from Canada, manufactured by The Ogilvie Flour Mills Co., Limited, or its subsidiary, Industrial Grain Products Limited, which was sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

Statement of reasons.[1] The importer in this case is a distributor of various products used by bakeries. One of these is vital wheat gluton hereinafter referred to as "gluten".

In late 1961 and early 1962 the demand for gluten in the United States rose sharply and the product was in short supply. The distributor, unable to secure adequate supplies from his customary domestic source, contracted with Industrial Grain Products Limited in Canada. The average unit price he paid for the Canadian gluten was somewhat higher than that which he had been paying for the domestic product. Though he made some few sales which undersold the domestic gluten, he marketed his product at prices that averaged above those for the domestic article. Presumably, he was able to sell the gluten despite this unfavorable differential for several reasons not solely related to price, such as effective salesmanship, established customer relationships, sales puffing of a somewhat higher protein content and the fact that he offered a broad line of products used by the bakery industry. The quantity of his sales of Canadian imports, all of which he bought at less than fair value, was substantial and growing. In the face of a levelling off of demand in 1963, increased capacity of the domestic producers, and growing imports from several sources, United States inventories climbed steeply. Unit prices of the domestic gluten which fluctuated considerably but had consistently risen between 1960 and 1962 began to fall off in the second quarter of 1963.

Imports of fairly large quantities—as in this case—may cause injury, especially when total supplies (i.e., from expanded domestic capacity and imports from all sources) are tending to outrun demand, even though the long range prospects for the industry are good. However, to bring the Antidumping Act into play, such injury must be caused by the "dumping" of the product, not merely by the imports per se. In the instant case, since neither the quantities nor the prices of imports would have been significantly different had the sales been at fair value, the total competitive situation in which the industry found itself was unaffected by the less-than-fair-value sales as such.

The margin of difference was small and was not a significant factor in enabling the Canadian product to penetrate the domestic market. There were such strong pressures leading to increased imports that the domestic producers themselves imported at one time as much as one-half of the gluten brought into the United States. The importer of the less-than-fair-value gluten simply turned to an additional supplier when his first source proved to be inadequate, and was even willing to pay a higher price to maintain his customers. If the Canadian producer had been fully aware of the exact calculations finally used by Treasury in determining sales at less than fair value, he might well have avoided such sales. The cost of adjusting his home market price was small, no significant changes in the volume or price of American sales would have been expected, and he might have side-stepped the antidumping investigation. Thus he was clearly not selling at less than fair value in order to market his product to American customers.

In the Commission's opinion, the predicament in which the domestic gluten industry finds itself stems from a complex of competitive circumstances in which imports have been a factor but not—in any significant degree—because they were sold at less than fair value.

[1] Commissioners Dorfman and Talbot subscribe to the Commission's finding but set forth their views in support thereof. (Views filed as part of the original document.)

The Canadian supplier of gluten is familiar with the provisions of the Antidumping Act and endeavored to escape making any less-than-fair-value sales to the United States. Upon notice of the Treasury determination, the concern reduced its price to Canadian customers sufficiently to eliminate sales at less than fair value. Evidence obtained by the Commission in the course of its investigation indicated that the Canadian producer is not likely to revert to selling at less than fair value as a consequence of the Commission's determination.

In the light of the overall competitive situation the Commission has determined that there is no injury or likelihood of injury in this case.

This determination and statement of reasons are published pursuant to 201(c) of the Antidumping Act, 1921, as amended.

By the Commission.

[SEAL] DONN N. BENT,
Secretary.

[F.R. Doc. 64-4465; Filed, May 4, 1964; 8:49 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS IN RETAIL OR SERVICE ESTABLISHMENTS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 579 (28 F.R. 11524), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates, type of establishment and total number of employees of the establishment are as indicated below. Pursuant to § 519.6(b) of the regulation, the minimum certificate rates are not less than 85 percent of the minimum applicable under section 6 of the Fair Labor Standards Act.

The following certificates were issued pursuant to paragraphs (c) and (g) of § 519.6 of 29 CFR Part 519, providing for an allowance not to exceed the proportion of the total number of hours worked by full-time students at rates below $1.00 an hour to the total number of hours worked by all employees in the establishment during the base period, or 10 percent, whichever is lesser, in occupations of the same general classes in which the establishments employed full-time students at wages below $1.00 an hour in the base period.

These certificates are effective from April 1, 1964 through September 2, 1964, except as otherwise indicated.

REGION I

Centers Dept. Store, 80 Railroad Street, St. Johnsbury, Vt. (variety store; 20 employees).

M. H. Fishman Co., Inc., No. 19, 129 Main Street, Biddeford, Maine; effective 4-13-64 to 4-30-64 (variety store; 22 employees).

M. H. Fishman Co., Inc., 88-90 Merchants Row, Rutland, Vt. (variety store; 28 employees).

S. S. Kresge Co., No. 66, 1025 Main Street, Bridgeport, Conn. (variety store; 61 employees).

S. S. Kresge Co., No. 247, Hamden Mart Shopping Center, 2300 Dixwell Avenue, Hamden, Conn. (variety store; 29 employees).

S. S. Kresge Co., No. 149, 10 Colony Street, Meriden, Conn. (variety store; 38 employees).

S. S. Kresge Co., No. 33, 842 Chapel Street, New Haven, Conn. (variety store; 60 employees).

S. S. Kresge Co., No. 291, 118 State Street, New London, Conn. (variety store; 28 employees).

S. S. Kresge Co., No. 651, New London Shopping Center, 318 U.S. Route No. 1, New London, Conn. (variety store; 45 employees).

S. S. Kresge Co., No. 693, Enfield Shopping Center, 610 Enfield Street, Thompsonville, Conn. (variety store; 20 employees).

S. S. Kresge Co., No. 262, Waterbury Plaza, 226 Chase Avenue, Waterbury, Conn. (variety store; 30 employees).

S. S. Kresge Co., 25 South Main Street, Waterbury, Conn. (variety store; 62 employees).

S. S. Kresge Co., No. 598, Elmwood Shopping Center, 1128 New Britain Avenue, West Hartford, Conn. (variety store; 19 employees).

S. S. Kresge Co., No. 45, 191 Westminister Street, Providence, R.I. (variety store; 36 employees).

J. J. Newberry Co., 788 Chapel Street, New Haven, Conn. (variety store; 20 employees).

J. J. Newberry Co., 113-119 Main Street, Calais, Maine (variety store; 21 employees).

J. J. Newberry Co., 144 Thames Street, Newport, R.I. (variety store; 22 employees).

J. J. Newberry Co., 37-41 Washington Street, West Warwick, R.I. (variety store; 52 employees).

REGION II

S. S. Kresge Co., No. 469, 475 Broadway, Bayonne, N.J. (variety store; 23 employees).

S. S. Kresge Co., No. 243, Mid-State Mall, Route 18 and West Prospect Street, East Brunswick, N.J.; effective 4-6-64 to 9-2-64 (variety store; 38 employees).

S. S. Kresge Co., No. 75, Blue Star Shopping Center, U.S. Highway 22 and Bonnie Burn Road, Plainfield, N.J.; effective 4-6-64 to 9-2-64 (variety store; 81 employees).

Newberry Vineland Corp., No. 187, 631-33 Landis Avenue, Vineland, N.J. (variety store; 70 employees).

F. W. Woolworth Co., No. 463, 22 North Laurel Street, Bridgeton, N.J. (variety store; 22 employees).

F. W. Woolworth, No. 1325, 732-36 Asbury Avenue, Ocean City, N.J. (variety store; 13 employees).

REGION III

Bright Stores, Inc., 28 West Ridge Street, Lansford, Pa. (department store; 138 employees).

Bright Stores, Inc., 109-113 South First Street, Lehighton, Pa. (department store; 63 employees).

H. L. Green Co., Inc., No. 1071, 823 Hamilton Street, Allentown, Pa.; effective 4-7-64 to 9-2-64 (variety store; 78 employees).

S. S. Kresge Co., No. 297, 6585 Roosevelt Boulevard, Philadelphia, Pa.; effective 4-6-64 to 9-2-64 (variety store; 35 employees).

McCrory's, 47 West Main Street, Waynesboro, Pa.; effective 4-9-64 to 9-2-64 (variety store; 13 employees).

McCrory Stores Corp., No. 68, 24-26 North Washington Street, Easton, Md.; effective 4-9-64 to 9-2-64 (variety store; 23 employees).

McCrory-McLellan-Green Store, 6-12 West Market Street, York, Pa.; effective 4-8-64 to 9-2-64 (variety store; 69 employees).

F. W. Woolworth Co., No. 374, 5628 The Alameda, Baltimore, Md. (variety store; 40 employees).

F. W. Woolworth Co., No. 1240, 3506 Eastern Avenue, Baltimore, Md.; effective 4-6-64 to 9-2-64 (variety store; 43 employees).

F. W. Woolworth Co., No. 1049, 420 Race Street, Cambridge, Md.; effective 4-9-64 to 9-2-64 (variety store; 29 employees).

F. W. Woolworth Co., No. 819, 20 South 60th Street, Philadelphia, Pa.; effective 4-7-64 to 9-2-64 (variety store; 29 employees).

F. W. Woolworth Co., No. 1521, 1152 Northway Mall, Pittsburgh, Pa.; effective 4-7-64 to 9-2-64 (variety store; 66 employees).

F. W. Woolworth Co., No. 25, 11 South Main Street, Wilkes-Barre, Pa.; effective 4-9-64 to 9-2-64 (variety store; 71 employees).

REGION IV

Abbeville Piggly Wiggly, Inc., 201 Kirkland Street, Abbeville, Ala. (food store; 15 employees).

Dothan Piggly Wiggly, Inc., 830 South Oates Street, Dothan, Ala. (food store; 43 employees).

Elba Piggly Wiggly, Inc., 501 Claxton Street, Elba, Ala. (food store; 16 employees).

Eufaula Piggly Wiggly, Inc., 138 South Randolph Street, Eufaula, Ala. (food store; 23 employees).

Geneva Piggly Wiggly, Inc., Water Street, Geneva, Ala. (food store; 18 employees).

Griffin's Piggly Wiggly Grocery and Market, East First Street, Store No. 1, DeRidder, La. (food store; 38 employees).

S. H. Kress & Co., 402 Central Avenue, Laurel, Miss. (variety store; 48 employees).

Luverne Piggly Wiggly, Inc., 314 Forrest Avenue, Luverne, Ala. (food store; 13 employees).

J. J. Newberry Co., 7 Dexter Avenue, Montgomery, Ala. (variety store; 40 employees).

J. J. Newberry Co., No. 298, 606-614 Central Ave., Hot Springs, Ark. (variety store; 38 employees).

Ozark Piggly Wiggly, Inc., Ozark, Ala. (food store; 27 employees).

Samson Piggly Wiggly, Inc., and W. J. Williamson, Greenville, Ala. (food store; 21 employees).

Samson Piggly Wiggly, Inc., 129-31 East Main Street, Samson, Ala. (food store; 11 employees).

Troy Piggly Wiggly, Inc., 212 South Three-Notch Street, Troy, Ala. (food store; 26 employees).

Olive Variety, Inc. d/b/a T.G. & Y. Stores Co., No. 209, 215 Florida Street, Denham Springs, La. (variety store; 15 employees).

F. W. Woolworth Co., 400 Main Street, Little Rock, Ark. (variety store; 57 employees).

REGION V

Andy's Shopping Basket, Inc., 1467 North U.S. 27, St. Johns, Mich. (food store; 28 employees).

S. S. Kresge Co., No. 227, 223 West Maple Street, Birmingham, Mich. (variety store; 49 employees).

S. S. Kresge Co., No. 118, 2180 Brookpark Road, Cleveland, Ohio (variety store; 30 employees).

Newberry Cincinnati Corp., 600 Race Street, Cincinnati, Ohio (variety store; 190 employees).

J. J. Newberry Co., 205 East Main Street, Midland, Mich. (variety store; 16 employees).

J. J. Newberry Co., 218–220 Main Street, Conneaut, Ohio (variety store; 10 employees).

McLellans Store, 232 Washington Street, Grand Haven, Mich. (variety store; 20 employees).

McLellan Stores, No. 541, 418 East Mitchell Street, Petoskey, Mich. (variety store; 21 employees).

McCrory-McLellan-Green Stores, 45 South Main Street, Dayton, Ohio (variety store; 35 employees).

F. W. Woolworth Co., 304 East Genesse, Saginaw, Mich. (variety store; 58 employees).

Wright's Markets, Inc., 1001 Spencerville Rd., Lima, Ohio (food store; 22 employees).

REGION VI

Ball Stores, Inc., 400 South Walnut Street, Muncie, Ind. (department store; 298 employees).

Jupiter Discount, No. 4554, 823 Main Street, Richmond, Ind. (variety store; 10 employees).

Jupiter, No. 4559, 418 Main Street, LaCrosse, Wis. (variety store; 12 employees).

S. S. Kresge Co., No. 690, Country Fair Shopping Center, Springfield and Mattis Avenues, Champaign, Ill. (variety store; 41 employees).

S. S. Kresge Co., No. 8, 10 South State Street, Chicago, Ill. (variety store; 113 employees).

S. S. Kresge Co., No. 505, 4737 South Ashland Avenue, Chicago, Ill. (variety store; 22 employees).

S. S. Kresge Co., No. 261, 26 North Vermilion Street, Danville, Ill. (variety store; 52 employees).

S. S. Kresge Co., No. 641, 1465 West King Street, Decatur, Ill. (variety store; 34 employees).

S. S. Kresge Co., No. 483, 904–16th Street, Bedford, Ind. (variety store; 42 employees).

S. S. Kresge Co., No. 4557, 109 North College Avenue, Bloomintgon, Ind. (variety store; 12 employees).

S. S. Kresge, No. 52, 51 West Third Street, Winona, Minn. (variety store; 26 employees).

S. S. Kresge, No. 383, 2201 North Third, Milwaukee, Wis. (variety store; 25 employees).

S. S. Kresge Co., No. 86, Elmwood Plaza, 3699 Durand Avenue, Racine, Wis. (variety store; 39 employees).

S. H. Kress & Co., 116 North Main Street, Rockford, Ill. (variety store; 29 employees).

McLellan Store, No. 579, 904 16th Avenue, Monroe, Wis. (variety store; 19 employees).

McCrory-McLellan Stores Corp., No. 484, 106 West Walnut Street, Kokomo, Ind. (variety store; 14 employees).

McCrory-McLellan-Green Store, No. 195, 17–21 East Washington Street, Indianapolis, Ind. (variety store; 80 employees).

G. C. Murphy Co., 201 West Jefferson Street, Effingham, Ill. (variety store; 56 employees).

G. C. Murphy Co., No. 401, 119 West Market Street, Bluffton, Ind. (variety store; 30 employees).

G. C. Murphy Co., No. 423, 101 North Washington Street, Crawfordsville, Ind. (variety store; 31 employees).

G. C. Murphy Co., No. 244, Eastgate Shopping Center, Building East, 7150 East Washington Street, Indianapolis, Ind. (variety store; 80 employees).

G. C. Murphy Co., No. 260, Glendale Shopping Center, 6101 North Keystone Avenue, Indianapolis, Ind. (variety store; 91 employees).

G. C. Murphy Co., No. 405, 105 North Meridian Street, Portland, Ind. (variety store; 35 employees).

G. C. Murphy Co., No. 72, 112–114 West Second Street, Seymour, Ind. (variety store; 51 employees).

G. C. Murphy Co., No. 270, Midway Shopping Center, 1566 University Avenue, St. Paul, Minn. (variety store; 173 employees).

Neisner Brothers, Inc., No. 98, 6344 West Cermak Road, Beswyn, Ill. (variety store; 20 employees).

Neisner Brothers, Inc., No. 30, 5254 North Clark Street, Chicago, Ill. (variety store; 20 employees).

Neisner Brothers, Inc., No. 31, 1343 Milwaukee Avenue, Chicago, Ill. (variety store; 33 employees).

Neisner Brothers, Inc., No. 35, 4255 Archer Avenue, Chicago, Ill. (variety store; 28 employees).

Neisner Brothers, Inc., No. 38, 3908 Cottage Grove Avenue, Chicago, Ill. (variety store; 19 employees).

Neisner Brothers, Inc., No. 49, 3268 West Madison Avenue, Chicago, Ill. (variety store; 25 employees).

Neisner Brothers, Inc., No. 52, 3431 South Halsted Street, Chicago, Ill. (variety store; 43 employees).

Neisner Brothers, Inc., No. 54, 4723 South Ashland Avenue, Chicago, Ill. (variety store; 32 employees).

Neisner Brothers, Inc., No. 57, 411 East 47th Street, Chicago, Ill. (variety store; 44 employees).

Neisner Brothers, Inc., No. 65, 501 West N Avenue, Chicago, Ill. (variety store; 29 employees).

Neisner Brothers, Inc., No. 74, 1252 South Halsted Street, Chicago, Ill. (variety store; 56 employees).

Neisner Brothers, Inc., No. 76, 3548 West Irving Park Road, Chicago, Ill. (variety store; 20 employees).

Neisner Brothers, Inc., No. 97, 4058 West Madison Street, Chicago, Ill. (variety store; 86 employees).

Neisner Brothers, Inc., No. 50, 151 North Chicago Street, Joliet, Ill. (variety store; 44 employees).

Neisner Brothers, Inc., No. 150, 1018 Winston Plaza, Melrose Park, Ill. (variety store; 40 employees).

Neisner Brothers, Inc., No. 37, 6 North Genesee Street, Waukegan, Ill. (variety store; 36 employees).

Neisner Brothers, Inc., No. 26, 417 Main Street, Evansville, Ind. (variety store; 31 employees).

Neisner Brothers, Inc., No. 129, 122 17th Avenue N.W., Rochester, Minn. (variety store; 27 employees).

Neisner Brothers, Inc., No. 20, 48 East Seventh Street, St. Paul, Minn. (variety store; 51 employees).

Neisner Brothers, Inc., No. 25, 424 Main Street, Racine, Wis. (variety store; 16 employees).

Newberry Sangamon, Inc., 415 North State Street, Litchfield, Ill. (variety store; 27 employees).

Park 'N Shop Supermarket, East Jefferson, Culver, Ind. (food store; 11 employees).

Park 'N Shop Supermarket, Lincolnway at Beech Road, Osceola, Ind. (food store; 13 employees).

Park 'N Shop Supermarket, 54977 Mayflower Road, South Bend, Ind. (food store; eight employees).

Ward D. Prickett, Inc., d/b/a Prickett's Super Market, 4001 Lincolnway East, Mishawaka, Ind. (food store; 38 employees).

Weinbach Pharmacy, 1 North Weinbach, Evansville, Ind. (drug store; 69 employees).

F. W. Woolworth Co., 7145 Cermak Plaza, Berwyn, Ill. (variety store; 44 employees).

F. W. Woolworth Co., 3746 West Chicago Avenue, Chicago, Ill. (variety store; 22 employees).

F. W. Woolworth Co., 1208 Clark Street, Chicago, Ill. (variety store; 17 employees).

F. W. Woolworth Co., 2104 West Cermak Road, Chicago, Ill. (variety store; 15 employees).

F. W. Woolworth, No. 302, 1333 Milwaukee Avenue, Chicago, Ill. (variety store; 41 employees).

F. W. Woolworth Co., No. 346, 3262 North Lincoln Avenue, Chicago, Ill. (variety store; 107 employees).

F. W. Woolworth Co., No. 1214, 2700 West Division Street, Chicago, Ill. (variety store; 34 employees).

F. W. Woolworth Co., No. 1261, 3955 West 26th Street, Chicago, Ill (variety store; 37 employees).

F. W. Woolworth Co., No. 1523, 3222 West 63d Street, Chicago, Ill. (variety store; 47 employees).

F. W. Woolworth Co., 31 South Grove Avenue, Elgin, Ill. (variety store; 49 employees).

F. W. Woolworth Co., No. 1781, 128–130 North York Street, Elmhurst, Ill. (variety store; 24 employees).

F. W. Woolworth Co., No. 385, 601 First Street, La Salle, Ill. (variety store; 36 employees).

F. W. Woolworth Co., No. 116, 506 Maine Street, Quincy, Ill. (variety store; 47 employees).

F. W. Woolworth Co., No. 549, 2–4 North Main Street, Frankfort, Ind. (variety store; 41 employees).

F. W. Woolworth Co., No. 11, 11 East Washington Street, Indianapolis, Ind. (variety store; 76 employees).

F. W. Woolworth Co., No. 574, 102 Monument Circle, Indianapolis, Ind. (variety store; 64 employees).

F. W. Woolworth, No. 1923, 1025 Youngstown Shopping Center, Jeffersonville, Ind. (variety store; 38 employees).

F. W. Woolworth Co., No. 2296, 2909 South Washington, Kokomo, Ind. (variety store; 38 employees).

F. W. Woolworth, 320 South Walnut, Muncie, Ind. (variety store; 44 employees).

F. W. Woolworth Co., 117–27 East Market Street, New Albany, Ind. (variety store; 59 employees).

F. W. Woolworth, No. 2453, 1141 East Ireland Road, South Bend, Ind. (variety store; 34 employees).

F. W. Woolworth Co., No. 68, 647 Wabash Avenue, Terre Haute, Ind. (variety store; 77 employees).

F. W. Woolworth Co., No. 1023, 43 Meadows Center, Terre Haute, Ind. (variety store; 72 employees).

F. W. Woolworth Co., No. 447, 12 West Market Street, Wabash, Ind. (variety store; 28 employees).

Younker Bros., Inc., 1629 Second Avenue, Rock Island, Ill. (department store; 44 employees).

REGION VII

Aspen Variety, Inc., d/b/a T.G. & Y. Stores Co., No. 129, 5222 Chouteau Avenue, Kansas City, Mo. (variety store; 31 employees).

Buttreys, Sioux Falls, S. Dak. (apparel store; 11 employees).

Ebony Variety, Inc., d/b/a T.G. & Y. Stores Co., No. 119, 3149 South Seneca, Wichita, Kans. (variety store; 22 employees).

Gilbert Pharmacy, Inc., 2505 11th Avenue, Greeley, Colo. (drug store; 15 employees).

Holly Variety, Inc., d/b/a T.G. & Y. Stores Co., No. 155, 2727 State Avenue, Kansas City, Kans. (variety store; 18 employees).

Jefferson Variety, Inc., d/b/a T.G. & Y. Stores Co., No. 163, 1410 West Dunklin, Jefferson City, Mo. (variety store; 18 employees).

S. S. Kresge Co., No. 71, 613 Walnut Street, Des Moines, Iowa (variety store; 101 employees).

S. S. Kresge Co., No. 100C, 790 Main Street, Dubuque, Iowa (variety store; 55 employees).

S. S. Kresge Co., No. 210, 4 East Main Street, Marshalltown, Iowa (variety store; 42 employees).

S. S. Kresge Co., No. 294C, East Morland Plaza, Seventh and High Streets, Joplin, Mo. (variety store; 33 employees).

S. S. Kresge Co., No. 82, 1125 Main Street, Kansas City, Mo. (variety store; 185 employees).

McCrory-McLellan Stores Co., No. 705, 815 Main, Winfield, Kans. (variety store; 23 employees).

McCrory-McLellan Stores, No. 193, 421 North Sixth Street, St. Louis, Mo. (variety store; 113 employees).

Mission Variety, Inc., d/b/a T.G. & Y. Stores Co., No. 143, 5329 Johnson Drive, Mission, Kans. (variety store; 25 employees).

Olson Food Store, Main Street, Erie, Kans. (food store; nine employees).

Olsons Supermarket, 1406 West Main Street, Chanute, Kans. (food store; 26 employees).

Twenty-Second & Frederick Variety, Inc., d/b/a T.G. & Y. Stores Co., No. 301, 810 North 22d Street, St. Joseph, Mo. (variety store; 17 employees).

REGION VIII

Blackjack Variety, Inc., d/b/a T.G. & Y. Stores Co., No. 30, 1417 South Midwest Boulevard, Midwest City, Okla. (variety store; 73 employees).

S. S. Kresge Co., No. 714, South Town Shopping Center, 3037 North South Freeway, Fort Worth, Tex. (variety store; 20 employees).

F. W. Woolworth Co., No. 1633, 321-3 Main Street, Clovis, N. Mex. (variety store; 39 employees).

Yew Variety, Inc., d/b/a T.G. & Y. Stores Co., No. 252, 1556 South First Street, Garland, Tex.; effective 4-9-64 to 9-2-64 (variety store; 15 employees).

REGION IX

M. H. King Co., Caldwell, Idaho; effective 4-1-64 to 8-31-64 (variety store; 16 employees).

REGION X

S. S. Kresge Co., No. 91, 1000 Fourth Avenue, Huntington, W. Va. (variety store; 42 employees).

McCrory stores Corp., 209-213 East Main Street, Charlottesville, Va. (variety store; 24 employees).

McCrory-McLellan-Green Stores, 711 Market Street, Chattanooga, Tenn. (variety store; 32 employees).

McCrory-McLellan-Green Co., 22 Northside Public Square, Murfreesboro, Tenn. (variety store; 19 employees).

J. J. Newberry Co., No. 333, Cynthiana, Ky. (variety store; 23 employees).

Raylass Department Store, 312-321 East Broad Street, Richmond, Va. (department store; 35 employees).

REGION XI

Baldwin's Super Market, West Palmer Street, Franklin, N.C. (food store; 17 employees).

Big Dollar Super Market, East Main Street, Franklin, N.C. (food store; 18 employees).

Crest Queen City Variety Stores Co., d/b/a Ben Franklin 5 & 10¢ Store, 1330 Central Avenue, Charlotte, N.C. (variety store; 17 employees).

S. H. Kress & Co., 1505 Newcastle Street, Brunswick, Ga. (variety store; 44 employees).

McCrory-McLellan-Green Stores Division (Silvers Store), 120 West Main Street, Durham, N.C. (variety store; 32 employees).

McCrory-McLellan-Green, No. 1136, 127 East Main Street, Spartanburg, S.C.; effective 4-9-64 to 9-2-64 (variety store; 29 employees).

J. J. Newberry Co., 815-819 Franklin Street, Tampa, Fla. (variety store; 54 employees).

The following certificates were issued to establishments coming into existence after May 1, 1960, under paragraphs (c), (d), (g), and (h) of § 519.6 of 29 CFR, Part 519. The certificates permit the employment of full-time students at rates of not less than 85 cents an hour in the classes of occupations listed, and provide for limitations on the percentage of full-time student hours of employment at rates below $1.00 an hour to total hours of employment of all employees. The percentage limitations vary from month to month between the minimum and maximum figures indicated.

The Baby Shop, Inc., 1120 Washington Square Mall, Evansville, Ind.; effective 4-9-64 to 9-2-64; sales, marking, detail, stock; between 3.3 percent and 10 percent (apparel store; 32 employees).

Jupiter, No. 4525, 182 Main Street, New Britain, Conn.; effective 4-1-64 to 9-2-64; sales clerk; 10 percent for each month (variety store; 17 employees).

Jupiter, No. 4531, Cross Roads Shopping Center, 760 North Main Street, West Hartford, Conn.; effective 4-1-64 to 9-2-64; sales clerk; between 4.6 percent and 10 percent (variety store; 15 employees).

Jupiter, No. 4501, 346 East Main Street, Alliance, Ohio; effective 4-1-64 to 9-2-64; sales clerk; between 6.8 percent and 10 percent (variety store; seven employees).

S. S. Kresge Co., 57-61 Newtown Road, Danbury, Conn.; effective 4-1-64 to 9-2-64; sales clerk; 10 percent for each month (variety store; 32 employees).

S. S. Kresge Co., No. 173, 65 Connecticut Post Center, Milford, Conn.; effective 3-30-64 to 9-2-64; part-time sales clerk; 10 percent for each month (variety store; 40 employees).

S. S. Kresge Co., No. 465, 17101 Kercheval Avenue, Grosse Pointe, Mich.; effective 4-8-64 to 9-2-64; sales clerk; 10 percent for each month (variety store; 36 employees).

S. S. Kresge Co., No. 775, Azalea Plaza, 3727 Oleander Drive, Wilmington, N.C.; effective 4-1-64 to 9-2-64; sales clerk; between 5.8 percent and 10 percent (variety store; 25 employees).

S. S. Kresge Co., No. 779, The Village Shopping Center, 555 Reidville Road, Spartanburg, S.C.; effective 4-10-64 to 9-2-64; sales clerk; between 9.6 percent and 10 percent (variety store; 29 employees).

S. S. Kresge Co., No. 442, 846 Fox Point Plaza, Neenah, Wis.; effective 4-1-64 to 9-2-64; sales clerk; 10 percent for each month (variety store; 22 employees).

McCrory-McLellan-Green Stores, 228 West Chicago Road, Sturgis, Mich.; effective 4-1-64 to 9-2-64; sales clerk, stock clerk, office clerk; 10 percent for each month (variety store; 24 employees).

G. C. Murphy Co., No. 281, 4420 Forest Park Mall, Dayton, Ohio, effective 4-1-64 to 9-2-64; stock clerk, sales clerk, janitor, clerk; between 5.4 percent and 10 percent (variety store; 53 employees).

F. W. Woolworth Co., No. 2573, 200 East Sangamon Avenue, Hantoul, Ill.; effective 4-1-64 to 9-2-64; sales clerk, stock clerk; between 4.3 percent and 10 percent (variety store; 24 employees).

F. W. Woolworth Co., No. 2551, Southern Plaza Shopping Center, 4200 East E Street, Indianapolis, Ind.; effective 4-1-64 to 9-2-64; sales clerk; between 6.7 percent and 10 percent (variety store; 67 employees).

F. W. Woolworth Co., No. 1085, 201 South Front Street, Dowagiac, Mich.; effective 4-1-64 to 9-2-64; sales clerk; 10 percent for each month (variety store; 22 employees).

F. W. Woolworth Co., No. 1236, Keyser Oak Shopping Center, 1700-1720 North Keyser Avenue, Scranton, Pa.; effective 4-8-64 to 9-2-64; sales clerk; between 5.4 percent and 10 percent (variety store; 54 employees).

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not tend to displace full-time employees. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 22d day of April 1964.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 64-4442; Filed, May 4, 1964; 8:47 a.m.]

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM RATES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), and Administrative Order No. 579 (28 F.R. 11524) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates, occupations, wage rates, number or proportion of learners and learning periods, for certificates issued under general learner regulations (29 CFR 522.1 to 522.9), and the principal product manufactured by the employer are as indicated below. Conditions provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.20 to 522.25, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Blackwelder Manufacturing Co., Inc., Yadkinville Road, Mocksville, N.C.; effective 4-21-64 to 4-20-65 (men's and boys' sport shirts).

Cal-Crest Outerwear, Inc., 1500 Grace Street, Murphysboro, Ill., effective 4-16-64 to 4-15-65 (men's and boys' jackets).

Creedmoor Manufacturing Co., Inc., Hillsboro Street, Creedmoor, N.C.; effective 4-30-64 to 4-29-65 (men's and boys' sport shirts).

Garan, Inc., Philadelphia Division, Philadelphia, Miss.; effective 4-15-64 to 4-14-65 (men's and boys' dress and sport pants).

Jaco Pants, Inc., 501 East Washington Street, Ashburn, Ga.; effective 4-14-64 to 4-13-65 (men's pants and walking shorts).

Juniata Garment Co., Inc., 322 Juniata Street, Mifflin, Pa.; effective 4-17-64 to 4-16-65 (ladies' dresses).

Linn Mfg. Co., Linn, Mo.; effective 5-1-64 to 4-30-65 (men's semidress trousers).

Metro Pants Co., Bridgewater, Va.; effective 4-14-64 to 4-13-65 (boys' pants).

Metro Pants Co., Harrisonburg, Va.; effective 4-15-64 to 4-14-65 (men's, boys' and juniors' pants).

The Newton Co., Newton, Miss.; effective 5-1-64 to 4-30-65 (men's slacks).

Princess Peggy, Inc., Jefferson and Keefer Streets, Vandalia, Ill.; effective 4-17-64 to 4-16-65 (ladies' dresses).

Sandye Shirt Corporation, Portland, Tenn.; effective 4-20-64 to 4-19-65 (ladies' blouses).

Tompkinsville Garment Co., Tompkinsville, Ky.; effective 4-25-64 to 4-24-65 (men's trousers and dungarees).

Washington Garment Co., 2020 Main Street Extension, Washington, Pa.; effective 4-16-64 to 4-15-65 (ladies' pants and shorts).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Brilliant Garment Co., Inc., Brilliant, Ala.; effective 4-17-64 to 4-16-65; 10 learners (men's work pants).

Connie Fashions, Inc., 10-20 Northwest Street, Shenandoah, Pa.; effective 4-17-64 to 4-16-65; 10 learners (women's dresses).

Little Frocks, Inc., 545 West Main Street, Little Falls, N.Y.; effective 4-17-64 to 4-16-65; 10 learners (women's dresses).

Marvel Garment Co., 10 Ridge Road, Bangor, Pa.; effective 4-30-64 to 4-29-65; 10 learners (ladies' blouses).

Saf-T-Bak, Inc., 1715 11th Avenue, Altoona, Pa.; effective 4-16-64 to 4-15-65; 10 learners (men's and boys' duckhunting clothes).

Shroyer Dress Co., Milton Branch, Rear 28 Prospect Avenue, Milton, Pa.; effective 4-14-64 to 4-13-65; 10 learners (women's and misses' dresses).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Blue Ridge Manufacturers, Inc., Anniston, Ala., effective 4-17-64 to 10-16-64; 160 learners (men's and boys' work clothing).

Junction City Manufacturing Corp., Junction City, La.; effective 4-16-64 to 10-15-64; 100 learners (ladies' nightwear).

Linda Lane Garment Co., Inc., 106 West Bluff and 204 North Main Streets, Excelsior Springs, Mo.; effective 4-17-64 to 10-16-64; 30 learners (ladies', nurses and maids' uniforms).

Sunstate Sportswear of Vienna, Inc., Vienna, Ga.; effective 4-16-64 to 10-15-64; 40 learners (men's walking shorts and dress pants).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.40 to 522.43, as amended).

Van Raalte Co., Inc., Blue Ridge, Ga.; effective 4-24-64 to 10-23-64; 10 learners for plant expansion purposes (ladies' seamless hosiery).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.30 to 522.35, as amended).

Russell Manufacturing Corp., Haber Drive, Lebanon, Va.; effective 4-15-64 to 4-14-65; 5 percent of the total number of factory production workers for normal labor turnover purposes (women's and misses' underwear).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number of learners authorized to be employed, are indicated.

Isabela Vieques Corp., P.O. Box 398, Isabel Segunda, Vieques, P.R.; effective 3-19-64 to 3-18-65; 10 learners for normal labor turnover purposes, in the occupations of: (1) sewing machine operator, for a learning period of 480 hours at the rates of 71 cents an hour for the first 240 hours and 82 cents an hour for the remaining 240 hours; and (2) final inspection of fully assembled garments, for a learning period of 160 hours at the rate of 71 cents an hour (dress shirts).

J S L Corp., Road 647, Km. 0.5, Barrio Bajura, P.O. Box 435, Vega Alta, P.R.; effective 3-9-64 to 3-8-65; five learners for normal labor turnover purposes, in the single occupation of basic hand and/or machine production operations, for a learning period of 480 hours at the rates of 94 cents an hour for the first 240 hours and $1.10 an hour for the remaining 240 hours (specialized precision aircraft).

Newport Bra Co., P.O. Box 10008, Caparra Heights, P.R.; effective 4-4-64 to 4-3-65; 11 learners for normal labor turnover purposes, in the occupations of: (1) sewing machine operator, for a learning period of 480 hours at the rates of 88 cents an hour for the first 320 hours and 98 cents an hour for the remaining 160 hours; and (2) final inspection of fully assembled garments, for a learning period of 160 hours at the rate of 88 cents an hour (brassieres and accessories).

Puerto Rico Publishing Co., Inc., P.O. Box 876, Humacao, P.R.; effective 2-24-64 to 8-23-64; 20 learners for plant expansion purposes, in the basic machine production operations: gathering, trimming, drilling, mottling, and wrapping, each for a learning period of 240 hours at the rates of 85 cents an hour for the first 160 hours and 99 cents an hour for the remaining 80 hours (desk calendar refills).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR, Part 528.

Signed at Washington, D.C., this 24th day of April 1964.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 64-4443; Filed, May 4, 1964; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 30, 1964.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 38990: *Bituminous coal to Chicago, Ill., district.* Filed by Illinois Freight Association, agent (No. 239), for interested rail carriers. Rates on bituminous coal, in carloads, subject to aggregate minimum shipment of 1,000 tons of 2,000 pounds, from mine origins in Brazil, Ind., group of the B&O RR., to Chicago, Ill., and points grouped therewith, also Chicago Heights, Ill.

Grounds for relief: Market competition.

Tariff: Supplement 83 to Baltimore and Ohio Railroad Company tariff Coal and Coke I.C.C. 3179.

FSA No. 38991: *Gravel from Attica, Ind., to Mansfield, Ill.* Filed by Illinois Freight Association, agent (No. 241), for and on behalf of Wabash Railroad Company. Rates on gravel, passing through a one (1) inch screen (not suitable for concrete construction), in carloads, from Attica, Ind., to Mansfield, Ill.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 191 to Wabash Railroad Company tariff I.C.C. 7844.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 64-4454; Filed, May 4, 1964; 8:48 a.m.]

[Notice 977]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 30, 1964.

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 66622. By order of April 28, 1964, the Transfer Board approved the transfer to Many's Express, Inc., Ossining, N.Y., of the operating rights in Certificate in No. MC 91725, issued March 4, 1941, to John M. Many, doing business as Many's Express, Ossining, N.Y., authorizing the transportation, over irregular routes, of: Household goods, as defined by the Commission, in a radial movement, between Ossining, N.Y., and points in New Jersey, Connecticut and Rhode Island, and Airplane and hospital instruments and electrical equipment, from Ossining, N.Y., to specified cities in New Jersey. Emanuel Lauterbach, 1st Westchester Bank Building, Ossining, N.Y., attorney for applicants.

No. MC-FC 66677. By order of April 28, 1964, the Transfer Board approved the transfer to North Central Express, Inc., Mahtomedi, Minn., of Certificate in No. MC 124148, issued May 4, 1962, amended March 25, 1963, in the name of North Central Truck Lines, Inc., Chicago, Ill., authorizing the transportation of new and used store fixtures, new and used household goods, and stock in trade of drug stores, over irregular routes, between points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin. Robert H. Levy, 105 West Adams Street, Chicago 3, Ill., attorney for applicants.

No. MC-FC 66702. By order of April 28, 1964, the Transfer Board approved the transfer to Dudley's Transcontinen-

tal Movers, a corporation, Lincoln, Nebr., of the operating rights in Certificate in Nos. MC 564, MC 564 (Sub-No. 4) and MC 564 (Sub-No. 5) issued June 30, 1959, March 21, 1962, and January 20, 1964, respectively, to Edward H. Dudley, Rolland C. Dudley, and Marvin D. Dudley, a partnership, doing business as Dudley Transfer, Lincoln, Nebr., authorizing the transportation, over irregular routes, in radial movements, of household goods, between points in Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Washington, and Wisconsin. R. E. Powell, Suite 621 Terminal Building, Lincoln, Nebr., 68508, attorney for applicants.

No. MC–FC 66703. By order of April 28, 1964, the Transfer Board approved the transfer to Dudley's Transcontinental Movers, a corporation, Lincoln, Nebr., of the operating rights in Certificate in No. MC 74440, issued July 6, 1943 to Walker Transportation Co., a corporation, Philadelphia, Pa., authorizing the transportation, over irregular routes, of household goods, as defined by the Commission, between points in Pennsylvania, New York, New Jersey, Delaware, Maryland, District of Columbia, Virginia, West Virginia, North Carolina, Ohio, Indiana, Illinois, Connecticut, Massachusetts, New Hampshire, Rhode Island, and Maine. R. E. Powell, Suite 621 Terminal Building, Lincoln, Nebr., 68508, attorney for applicants.

No. MC–FC 66704. By order of April 28, 1964, the Transfer Board approved the transfer to Dudley's Transcontinental Movers, a corporation, Lincoln, Nebr., of a portion of the operating rights in Certificate in No. MC 107956, issued October 28, 1955, to L. W. Hoskins, and Audrey M. Hoskins, doing business as Ralph's Transfer & Storage Company, The Dalles, Oreg., authorizing the transportation, over irregular routes, of: household goods, as defined by the Commission, between points in Washington and those in Wheeler, Morrow, Gilliam, Grant, and Umatilla Counties, Oreg. R. E. Powell, Suite 621 Terminal Building, Lincoln, Nebr., 68508, attorney for applicants.

No. MC–FC 66725. By order of April 28, 1964, the Transfer Board approved the transfer to L. C. Corp., a corporation, Boston, Mass., of the operating rights issued by the Commission June 13, 1941, under Certificate in No. MC 18547, to C. J. Hogan, Inc., Cambridge, Mass., authorizing the transportation, over irregular routes, of printed matter, from Lowell, Mass., to points in Rhode Island, Maine, New Hampshire, and Vermont; groceries, meat, fish and produce, from Boston, Mass., to Providence and Pawtucket, R.I.; sugar, from Charlestown, Mass., to Portland, Maine; steel, between Cambridge, Mass., on the one hand, and, on the other, Providence, R.I., and Dover, N.H.; lubricating oil and empty oil drums, between Boston, Mass., on the one hand, and, on the other, Providence, R.I., and Keene, N.H.; wool and mohair, between Boston, Mass., on the one hand, and, on the other, Sanford, Maine, and Bristol, R.I.; and alcoholic beverages, between Boston, Mass., on the one hand, and, on the other, Brooklyn, N.Y., and Hartford, Conn. Charles W. Singer, 33 North LaSalle Street, Chicago 2, Ill., attorney for applicants.

No. MC–FC 66751. (Republication.) By order of April 28, 1964, as amended, the Transfer Board approved the transfer to The Connecticut Bus Company, a corporation, New Haven, Conn., of the operating rights in Certificate in No. MC 78374, issued June 27, 1962, and Nos. MC 78374 (Sub-No. 4), MC 78374 (Sub-No. 5) and MC 78374 (Sub-No. 6) issued April 20, 1964, to The Connecticut Company, a corporation, New Haven, Conn., authorizing the transportation, over irregular routes, of: Passengers and their baggage, restricted to traffic originating in the territory indicated, in charter operations, from points in Connecticut (except points in New London County), to points in New York, New Jersey, Pennsylvania, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, Delaware, Maryland, Virginia, and the District of Columbia, and return and those operations authorized in the subsequently filed proceedings, included by amendment, dated April 21, 1964, authorizing the transportation of: Passengers and their baggage, in round-trip special operations, beginning and ending at points in Connecticut, and extending to specified points New York, N.Y., Long Island, N.Y., and Yonkers, N.Y. Francis F. McGuire, 68 Federal Street, New London, Conn., attorney for applicants.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 64–4455; Filed, May 4, 1964; 8:48 a.m.]

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