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FEDERAL REGISTER

VOLUME 29 NUMBER 96

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Title 3—THE PRESIDENT

Proclamation 3591

WORLD TRADE WEEK, 1964

By the President of the United States of America

A Proclamation

WHEREAS reciprocal world trade advances our progress toward global prosperity and abundance, freedom, and well-being; and

WHEREAS the Kennedy Round of multilateral trade negotiations, which was opened in Geneva, Switzerland, on May 4, is designed to reduce international trade barriers in order to expand market opportunities for the benefit of both developed and developing countries of the world; and

WHEREAS the expansion of United States export trade is vital to the improvement of our balance of international payments, to the continuing growth of American industry, and to the fuller employment of American workers; and

WHEREAS the quickening pace of economic progress in nations around the world is enlarging the opportunities for our businessmen to sell American products abroad; and

WHEREAS the progressive opening of national markets everywhere to greater international competition challenges American businessmen to participate more vigorously in the exchange of goods and services among nations and, thus, to provide an inspiring demonstration of the vigor and value of competitive private enterprise:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby proclaim the week beginning May 17, 1964, as World Trade Week; and I request the appropriate Federal, State, and local officials to cooperate in the observance of that week.

I also urge business, labor, agriculture, educational and civic groups, as well as the people of the United States generally, to observe World Trade Week with gatherings, discussions, exhibits, ceremonies, and other appropriate activities designed to promote continuing awareness of the importance of world trade to our economy and our relations with other nations.

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

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

LYNDON B. JOHNSON

By the President:

GEORGE W. BALL,
Acting Secretary of State.

[F.R. Doc. 64-4902; Filed, May 13, 1964; 1:45 p.m.]

Proclamation 3592

WOMEN VOTERS WEEK, 1964

By the President of the United States of America

A Proclamation

WHEREAS the maximum participation of our citizens in the elective process is a basic need for the development of our democracy; and

WHEREAS within our voting-age population there are considerably more women than men; and

WHEREAS the participation of American women in past elections has not been as great as that of men; and

WHEREAS the League of Women Voters and other dedicated groups of our citizens have been undertaking special programs to ensure an increased participation of women in our elections:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby designate the week beginning September 13, 1964, as Women Voters Week; and I urge that a special effort be made during this week to ensure maximum registration of qualified women.

I also invite and urge all local election officials throughout the United States to join with private citizens and citizen organizations to publicize registration arrangements during that week and during the whole of the pre-election registration period so as to bring the greatest possible number of our citizens to the polls on November 3.

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

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

LYNDON B. JOHNSON

By the President:

GEORGE W. BALL,
Acting Secretary of State.

[F.R. Doc. 64-4903; Filed, May 13, 1964; 1:45 p.m.]

Rules and Regulations

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER E—AIRSPACE [NEW]

[Airspace Docket No. 64-EA-24]

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

PART 73—SPECIAL USE AIRSPACE [NEW]

Revocation of Restricted Area and Alteration of Federal Airways and Controlled Airspace

The purpose of these amendments to §§ 71.123, 71.143, 71.165, 71.171 and 73.41 of the Federal Aviation Regulations is to revoke the Chicopee Falls, Mass. (Westover AFB), Restricted Area/Military Climb Corridor and alter the description of VOR Federal airways 39, 106 and 1727, the Chicopee Falls control area extension and the Chicopee Falls control zone.

The Department of the Air Force has stated that it no longer has a requirement for Restricted Area/Military Climb Corridor R-4108. Therefore, an assignment of airspace is not justified for this area and revocation thereof will be in the public interest. Such action is taken herein.

The descriptions of VOR Federal airways 39, 106, 1727, the Chicopee Falls control area extension and the Chicopee Falls control zone now includes a requirement for prior approval from appropriate authority for use of that airspace which coincides with R-4108. Upon revocation of R-4108, this requirement is no longer necessary and therefore is deleted herein from the descriptions.

Since these amendments reduce a burden on the public, compliance with the Notice, public procedure and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary and they may be made effective upon publication.

In consideration of the foregoing, the following actions are taken:

1. In § 73.41 (29 F.R. 1256), R-4108 Chicopee Falls, Mass. (Westover AFB), Restricted Area/Military Climb Corridor is revoked.

2. In § 71.123 (29 F.R. 1009), the following actions are taken:

a. Federal airway No. 39, "The airspace within R-4108 shall be used only after obtaining prior approval from the appropriate authority." is deleted.

b. Federal airway No. 106, "The airspace within R-4108 shall be used only after obtaining prior approval from the appropriate authority." is deleted.

3. In § 71.143 (29 F.R. 1049), the following action is taken: Federal airway No. 1727, "The airspace within R-4108 shall be used only after obtaining prior approval from appropriate authority." is deleted.

4. In § 71.165 (29 F.R. 1073), the following action is taken: Chicopee Falls, Mass., "The portion of this control area extension which coincides with R-4108 shall be used only after obtaining prior approval from the appropriate authority." is deleted.

5. In § 71.171 (29 F.R. 1101), the following action is taken: Westover, Mass., "The portion of this control zone within R-4108 shall be used only after obtaining prior approval from the appropriate authority." is deleted.

These amendments shall become effective upon date of publication in the FEDERAL REGISTER.

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

Issued in Washington, D.C., on May 7, 1964.

LEE E. WARREN,
Director, Air Traffic Service.

[F.R. Doc. 64-4830; Filed, May 14, 1964; 8:45 a.m.]

[Airspace Docket No. 63-LAX-16]

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

PART 73—SPECIAL USE AIRSPACE [NEW]

Alteration of Restricted Area and Continental Control Area

The purpose of these amendments to §§ 71.151 and 73.23 of the Federal Aviation Regulations is to redesignate the Fort Huachuca, Arizona, Restricted Area R-2303 as two joint use restricted areas of lesser dimensions, namely R-2303A and R-2303B, and include the new areas in the continental control area.

The Federal Aviation Agency has determined that R-2303 encompasses airspace no longer required for accomplishment of Army artillery firing and drone flight activities. Accordingly, action is taken herein to return the excess portions of R-2303 to public use, designate the remaining restricted airspace as joint use areas R-2303A and R-2303B with the Phoenix ARTC Center as controlling agency, and include the new restricted areas in the continental control area.

Since these amendments will reduce a burden on the public, compliance with the notice, public procedure and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary and they may be made effective upon publication.

In consideration of the foregoing, the following actions are taken:

1. Section 73.23 (29 F.R. 1236) is amended as follows:

a. R-2303 Fort Huachuca, Arizona, is revoked.

b. R-2303A Fort Huachuca, Arizona, is designated as follows:

Boundaries. Beginning at latitude 31°29'-00" N., longitude 110°00'30" W.; to latitude 31°29'00" N., longitude 110°15'00" W.; to latitude 31°34'00" N., longitude 110°15'00" W.; to latitude 31°34'00" N., longitude 110°-22'00" W.; to latitude 31°33'00" N., longitude 110°23'00" W.; to latitude 31°29'00" N., longitude 110°23'00" W.; to latitude 31°29'-00" N., longitude 110°41'20" W.; to latitude 31°34'00" N., longitude 110°43'30" W.; to latitude 31°38'30" N., longitude 110°42'00" W.; to latitude 31°38'30" N., longitude 110°-39'30" W.; to latitude 31°41'00" N., longitude 110°33'30" W.; to latitude 31°41'00" N., longitude 110°11'40" W.; to latitude 31°36'20" N., longitude 110°03'00" W.; to the point of beginning.

Designated altitudes. Surface to 35,000 feet MSL.

Time of designation. Continuous..

Controlling agency. Federal Aviation Agency, Phoenix ARTC Center.

Using agency. Commanding General, U.S. Army Electronic Proving Ground, Fort Huachuca, Arizona.

c. R-2303B Fort Huachuca, Arizona, is designated as follows:

Boundaries. Beginning at latitude 31°29'-00" N., longitude 110°41'20" W.; to latitude 31°29'00" N., longitude 110°23'00" W.; to latitude 31°33'00" N., longitude; 110°23'00" W.; to latitude 31°34'00" N., longitude 110°-22'00" W.; to latitude 31°34'00" N., longitude 110°15'00" W.; to latitude 31°29'00" N., longitude 110°15'00" W.; to latitude 31°29'00" N., longitude 110°18'00" W.; to latitude 31°-23'45" N., longitude 110°18'00" W.; to latitude 31°23'45" N., longitude 110°39'00" W.; to the point of beginning.

Designated altitudes. 15,000 feet MSL to 35,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Agency, Phoenix ARTC Center.

Using agency. Commanding General, U.S. Army Electronic Proving Ground, Fort Huachuca, Arizona.

2. In § 71.151 (29 F.R. 1067), "R-2303A Fort Huachuca, Arizona" and "R-2303B Fort Huachuca, Arizona" are added.

These amendments shall become effective upon the date of publication in the FEDERAL REGISTER.

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

Issued in Washington, D.C., on May 7, 1964.

LEE E. WARREN,
Director, Air Traffic Service.

[F.R. Doc. 64-4831; Filed, May 14, 1964; 8:45 a.m.]

[Airspace Docket No. 63-WE-56]

PART 73—SPECIAL USE AIRSPACE [NEW]

Alteration of Restricted Areas

On January 17, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 436) stating that the Federal Aviation Agency was considering amendments to § 73.25 of the Federal Aviation Regulations which would expand the boundaries of the

Naval Missile Facility, Point Arguello, Calif., Restricted Areas R–2516 and R–2517.

Comments regarding the proposed amendments were received from the Regional Manager, Air Transport Association and the Manager, Santa Maria Public Airport.

The Air Transport Association offered no objection to the proposed amendments.

The Manager of the Santa Maria Public Airport was concerned that the northward expansion of R–2516 would make it impossible for agricultural aircraft to carry out dusting and spraying operations in the airspace over farmland to the southwest of Guadalupe, Calif., not heretofore encompassed by the restricted area. As a result of discussions held between the Manager of the Santa Maria Public Airport and representatives of the Commander Pacific Missile Range, procedures have been established for use in carrying out agricultural flight operations within R–2516. In consideration of these agreements, the Santa Maria Airport Manager has withdrawn his protest to the enlargement of the restricted area.

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

The substance of the proposed amendments has been published therefore for the reasons stated herein and in the Notice, the following actions are taken:

In § 73.25 (29 F.R. 1238), R–2516 Naval Missile Facility, Point Arguello, Calif., and R–2517 Naval Missile Facility, Point Arguello, Calif., are amended to read as follows:

R–2516 Naval Missile Facility, Point Arguello, Calif.

Boundaries. Beginning at latitude 34°–59'32" N., longitude 120°41'50" W.; to latitude 34°49'00" N., longitude 120°27'15" W.; to latitude 34°46'15" N., longitude 120°26'–40" W.; to latitude 34°39'50" N., longitude 120°31'15" W.; to latitude 34°35'00" N., longitude 120°31'40" W.; to latitude 34°–34'52" N., longitude 120°42'37" W.; thence three nautical miles from and parallel to the shoreline to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Using agency. Commander, Pacific Missile Range, Point Mugu, Calif.

R–2517 Naval Missile Facility, Point Arguello, Calif.

Boundaries. Beginning at latitude 34°34'–52" N., longitude 120°42'37" W.; to latitude 34°35'00" N., longitude 120°31'40" W.; to latitude 34°24'45" N., longitude 120°27'20" W.; to latitude 34°24'00" N., longitude 120°–30'00" W.; thence three nautical miles from and parallel to the shoreline to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Using agency. Commander, Pacific Missile Range, Point Mugu, Calif.

These amendments shall become effective 0001 e.s.t., July 23, 1964.

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

Issued in Washington, D.C., on May 7, 1964.

LEE E. WARREN,
Director, Air Traffic Service.

[F.R. Doc. 64–4832; Filed, May 14, 1964; 8:46 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES [NEW]

[Reg. Docket No. 5046; Special Federal Aviation Regs. 6]

PART 91—GENERAL OPERATING AND FLIGHT RULES [NEW]

Prohibition of Air Traffic Over and in Vicinity of Gainesville, Georgia

On May 8, 1964, President Lyndon B. Johnson will address an assemblage at Gainesville, Georgia. The interest of the public in the President and the large number of persons in the assemblage should attract numerous aircraft that will be operated in the area through the airspace generally used by transiting aircraft. In addition the Secret Service has requested that we take appropriate action for his safety and the safety of other persons present.

In order to provide appropriate safeguards for aircraft operations in the area and for persons and property on the ground, I have determined that a temporary restriction must be imposed on air traffic to prohibit the operation of all types of aircraft in the vicinity of Gainesville below 3,000 feet above the surface unless authorized by air traffic control. This authorization may be obtained most readily by communicating with Atlanta Air Route Traffic Control Center.

I have determined that there is a requirement for the immediate adoption of this regulation for the safety of air commerce. Therefore, I find it contrary to the public interest to comply with the notice and public procedure provisions of the Administrative Procedure Act and that good cause exists for making this regulation effective immedately.

In consideration of the foregoing, the following Special Federal Aviation Regulation is adopted:

1. Unless otherwise authorized by air tarffic control, no person, during the period 0800 to 1300 hours, e.s.t., on May 8, 1964, may operate an aircraft below 3,000 feet above the surface of the area within five nautical miles horizontally from the center of Gainesville, Georgia.

2. This regulation becomes effective immediately and expires at 1300, e.s.t., May 8, 1964.

(Sec. 307 of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on May 8, 1964.

N. E. HALABY,
Administrator.

[F.R. Doc. 64–4833; Filed, May 14, 1964; 8:46 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–404]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Passenger Names and Addresses

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of April 1964.

On September 4, 1963, the Board issued a notice of proposed rule making, EDR–59, Docket 14736, 28 F.R. 9824, in which it stated that it had under consideration changes in several of its regulations to require that the names and addresses of all passengers on charter trips and special services appear legibly on flight manifests and that the manifests be retained for one year by the carriers. In addition to Part 207, it was proposed also to amend Part 208 (Terms, Conditions and Limitations of Certificates to Engage in Supplemental Air Transportation), Part 212 (Off-route Charter Trips by Foreign Air Carriers), Part 249 (Preservation of Air Carrier Accounts, Records and Memoranda), and Part 292 (Classification and Exemption of Alaskan Air Carriers).

Simultaneously with the notice of the above rule changes, the Board issued an order (E–19983) initiating a re-examination of its approval of an IATA agreement (Agreement CAB 16847, R–7, Docket 13777, March 28, 1963), to determine whether condition (c) thereto should be changed to require retention of the names and addresses of passengers on charters to and from the United States governed by such IATA agreement.

Under the notice of rule making the name and address requirement would have applied to domestic and international charter flights by U.S. and foreign air carriers except those for the U.S. military. All but one of the U.S. air carriers commenting, the Air Transport Association, the Administrator of the Federal Aviation Agency and Swissair opposed applying the requirement to charters in foreign air transportation. The majority urged that the Board rely on the information which is submitted in duplicate by all passengers to the Immigration and Naturalization Service on a slip of paper known as the Arrival-Departure Manifest (INS Form I–94).

Upon consideration of these comments we have determined not to require the carriers to prepare a passenger manifest for charters in foreign air transportation. Accordingly, we will not adopt the proposed amendments to Part 212, nor those portions of the proposed amendments to Parts 207 and 208 which would have extended the name and address requirement to foreign charters. We have also, by order adopted simultaneously herewith, terminated our re-examination of the pertinent IATA agreement without imposing any condition relating to names and addresses of charter passengers.

We will adopt the proposed requirement for a list of names and addresses to

be obtained by air carriers performing charters in interstate and overseas air transportation. Since the recent elimination by the Federal Aviation Agency of the requirement in Part 42 of the Civil Air Regulations for passenger addresses on aircraft load manifests, our enforcement staff has been without its major source of information for investigating possible violations of charter regulations in interstate and overseas air transportation. We find that the public interest in strict enforcement of the charter regulations requires that a record of the names and addresses of passengers be obtained and kept available for inspection by the Board's staff not only by the carriers operating charters under Part 42 of the Civil Air Regulations but also by the certificated route carriers performing on or off-route charters under Parts 40 and 41 of the Civil Air Regulations in interstate and overseas air transportation.

Under the notice of rule making, the address requirement would have applied both to pro rata and single entity charters except those performed under contract with a department of the U.S. Military Establishment. The Board's enforcement staff seldom has occasion to communicate with passengers in any investigation of possible violations involving single entity charters and we will, therefore, not make such charters subject to the name and address requirement.

We will not amend Part 292 to apply the name and address requirement to charters of Alaskan air carriers. In the past five years there have been no complaints against Alaskan air carriers, the investigation of which would have been facilitated by having passenger names and addresses available.

Under the notice it was provided in each of the proposed rule changes that no person would be transported unless his name and address appeared on a passenger manifest. This would have had the effect of requiring the carriers to obtain names and addresses before takeoff. In the comments, certain of the air carriers urged that the rule be made more flexible to permit them to collect the names and addresses from charter passengers in flight. Since there is no requirement for this information before take-off, the rules amendments have been so modified.

The carriers presently maintain a load manifest for FAA, and, as indicated above, an Arrival-Departure Manifest for INS (Form I–94) on international flights. To avoid confusion we are not referring to our requirement as a manifest but simply as a record of passenger names and addresses.

In order that supplemental airlines need not maintain the passenger record for the Board and the load manifest for FAA at different places, we are providing in Part 208 that our records may be maintained by these carriers either at their principal office or principal operations base. To further minimize the burden on all the carriers covered we will require that the records be retained for six months instead of a year as proposed in the notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 207 of the Economic Regulations (14 CFR Part 207) by adding a new section, effective June 15, 1964, reading as follows:

§ 207.14 Passenger names and addresses.

Each air carrier shall maintain a record of the names and addresses of all passengers transported by it on each pro rata charter trip operated on-route or off-route, and in interstate or overseas air transportation. Such record shall be retained in accordance with Part 249 of this subchapter.

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply sec. 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 766; 49 U.S.C. 1377)

Effective date. June 15, 1964.

Adopted: April 24, 1964.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 64–4875; Filed, May 14, 1964; 8:50 a.m.]

[Reg. ER–405]

PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Passenger Names and Addresses

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of April 1964.

On September 4, 1963, the Board issued a notice of proposed rule making, EDR–59, Docket 14736, 28 F.R. 9824, in which it proposed to amend several regulations including Part 208, to require that the names and addresses of all passengers on charter trips appear legibly on flight manifests and that the manifests be retained for one year by the carriers.

In the light of the comments received and the findings set out in Regulation ER–404 published simultaneously herewith, the Board hereby amends Part 208 of the Economic Regulations (14 CFR Part 208) by adding a new section, effective June 15, 1964, reading as follows:

§ 208.4 Passenger names and addresses.

Each supplemental air carrier shall maintain a record of the names and addresses of all passengers transported by it on each pro rata charter trip operated in interstate or overseas air transportation. Such record shall be retained in accordance with Part 249 of this subchapter except that it may be maintained at either the principal office or principal operations base of the carrier.

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply sec. 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 766; 49 U.S.C. 1377)

Effective date. June 15, 1964.

Adopted: April 24, 1964.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 64–4876; Filed, May 14, 1964; 8:50 a.m.]

[Reg. ER–406]

PART 249—PRESERVATION OF AIR CARRIER ACCOUNTS RECORDS AND MEMORANDA

Passenger Names and Addresses

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of April 1964.

On September 4, 1963, the Board issued a notice of proposed rule making, EDR–59, Docket 14736, 28 F.R. 9824, in which it proposed to amend several regulations including Part 249 to require the preparation and preservation for one year of passenger manifests for charter trips and special services.

In the light of the comments received and for the reasons given in the preamble of Regulation ER–404 published simultaneously herewith, the Civil Aeronautics Board hereby amends Part 249 (14 CFR Part 249) as follows:

1. By amending § 249.8 by adding a new Item 12 in the schedule of records to read as follows:

§ 249.8 Period of preservation of records by certified supplemental or large irregular air carriers.

* * * * *

Category of records	Period to be retained
* * *	
12. Names and addresses of all passengers transported on each pro rata charter trip operated in interstate or overseas air transportation.	6 months.

2. By amending § 249.13(f) by adding a new item 302(c) in the schedule of records to read as follows:

§ 249.13 Period of preservation of records by certified route air carriers.

* * * * *

(f) * * *

SCHEDULE OF RECORDS

Category of records	Period to be retained	Microfilm indicator
* * *		
OPERATING STATISTICS		
* * *		
(c) Names and addresses of all passengers transported on each pro rata charter trip operated in interstate or overseas air transportation.	6 months	

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply sec. 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 766; 49 U.S.C. 1377)

NOTE: The record-retention requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Effective date. June 15, 1964.

Adopted: April 24, 1964.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 64-4877; Filed, May 14, 1964; 8:50 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 1985; Amdt. 729]

PART 507—AIRWORTHINESS DIRECTIVES

Lockheed Models 188A and 188C Series Aircraft

A proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring inspection of the upper wing planks on all Lockheed Models 188A and 188C Series aircraft was published in 29 F.R. 2651.

Interested persons have been afforded an opportunity to participate in the making of this amendment. A comment requested that the AD permit a ferry flight to a maintenance base where the repairs can be made. Since such flights are considered necessary and will not adversely affect safety if conducted in accordance with the provisions of the Civil Air Regulations, this AD has been revised to permit a ferry flight in accordance with CAR 1.76 to a base where the repairs are to be made.

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:

LOCKHEED. Applies to all Models 188A and 188C Series aircraft.

Compliance required as indicated.

Cracks have been detected in the upper wing planks on both the inboard and outboard sides of the nacelle where the inboard nacelle skate angles attach to the wing planks. As a result of these cracks, accomplish the following:

(a) Within the next 450 hours' time in service after the effective date of this AD, and thereafter at intervals not to exceed 450 hours' time in service, externally inspect the wing planks in accordance with Section 2.A. of Lockheed Service Bulletin 88/SB-600 or FAA approved equivalent. The external inspections may be discontinued when the internal inspection program prescribed by (b) is initiated.

(b) Within the next 900 hours' time in service after the effective date of this AD, unless accomplished within 2,100 hours' time in service prior to the effective date of this AD, and thereafter at intervals not to exceed 3,000 hours' time in service, internally inspect the wing planks by X-ray or visual means in accordance with Section 2.B. of Lockheed Service Bulletin 88/SB-600 or FAA approved equivalent.

(c) Any cracks found during the accomplishment of (a) or (b) shall be repaired before further flight (except that the aircraft may be ferried in accordance with the provisions of CAR 1.76 to the base at which the repairs are to be accomplished) in accordance with the Lockheed Electra Structural Repair Manual, Section 57-2-1, or an equivalent approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) The repetitive inspections of (b) may be discontinued for those aircraft which exhibit no signs of cracks 6,000 hours' time in service after the initial internal inspection is accomplished.

(e) For aircraft on which cracks are detected and repaired in accordance with (c), the repetitive inspections of (b) may be discontinued if no cracks are detected 6,000 hours' time in service after the repair is accomplished.

(f) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for such operator.

(Lockheed Alert Bulletin 88/SB-600 dated June 24, 1963, covers this same subject.)

This amendment shall become effective June 15, 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 May 8, 1964.

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

[F.R. Doc. 64-4835; Filed, May 14, 1964; 8:46 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

SUBCHAPTER D—FEDERAL INTERMEDIATE CREDIT BANKS AND PRODUCTION CREDIT ASSOCIATIONS

PART 50—PRODUCTION CREDIT ASSOCIATIONS

Subpart A—Loans to Members

STOCKHOLDER ENDORSEMENTS

Pursuant to the authority vested in the Governor of the Farm Credit Administration by section 20 of the Farm Credit Act of 1933, as amended (12 U.S.C. 1131d), and, as prescribed by the farm credit board of each district with the approval of the Farm Credit Administration pursuant to section 23 of said Act, as amended (12 U.S.C. 1131g), § 50.103 of Title 6 of the Code of Federal Regulations (21 F.R. 10328) is hereby amended to read as follows:

§ 50.103 Stockholder endorsements.

When a loan is made to a corporation, either the holder or holders of at least a majority of its outstanding shares of voting stock or, with the consent of the Federal Intermediate Credit Bank (called the "Bank" in this part), a principal stockholder or stockholders must (a) endorse, or sign as comakers, all notes evidencing such loan; or (b) execute continuing guaranties of all indebtedness of such corporation to the association. Requirement (b) may be met by two or more stockholders each executing a guaranty for a specified percentage of the indebtedness, with the aggregate of such guaranties affording personal liability for 100 percent of the indebtedness. If such personal liability of stockholders of the borrowing corporation cannot be obtained by reason of ownership of its capital stock by another corporation, the stockholder liability requirement may be met by like endorsement or guaranty on the part of an individual stockholder or stockholders of such parent or affiliated corporation.

(Secs. 20, 23, 48 Stat. 259, 261, as amended; 12 U.S.C. 1131d, 1131g)

R. B. TOOTELL,
Governor,
Farm Credit Administration.

[F.R. Doc. 64-4828; Filed, May 14, 1964; 8:45 a.m.]

Title 7—AGRICULTURE

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[C.C.C. Texas Flaxseed Bulletin, 1964 Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1964 Texas Flaxseed Purchase Program

PURCHASE PRICES, PREMIUMS AND DISCOUNTS

A purchase program has been authorized for 1964 crop flaxseed produced in designated Texas counties. This subpart contains provisions applicable to the 1964 program and together with the provisions contained in CCC Texas Flaxseed Bulletin (26 F.R. 3979 and 29 F.R. 6245) constitutes the 1964 Texas Flaxseed Purchase Program.

§ 1421.3102 Purchase prices, premiums, and discounts.

(a) *1964 county purchase prices.* Basic purchase prices per bushel of eligible flaxseed of the 1964-crop which is produced in the authorized counties listed below and which is delivered to authorized dealers under this program for the account of CCC will be at the rate established for the county where the flaxseed is delivered. The basic purchase prices for flaxseed grading No. 1 and containing from 10.6 to 11.0 percent moisture are as follows:

TEXAS

County	Rate per bushel	County	Rate per bushel
Aransas	$2.71	Karnes	$2.65
Atascosa	2.60	Kimble	2.52
Bastrop	2.60	Kleberg	2.69
Bee	2.70	La Salle	2.53
Bell	2.57	Lavaca	2.60
Bexar	2.60	Lee	2.63
Blanco	2.57	Live Oak	2.67
Bowie	2.49	McCulloch	2.52
Brooks	2.62	McMullen	2.62
Brown	2.54	Mason	2.54
Burnet	2.54	Matagorda	2.65
Caldwell	2.60	Maverick	2.47
Calhoun	2.62	Medina	2.59
Cameron	2.57	Milam	2.59
Coleman	2.51	Mills	2.54
Collin	2.54	Nueces	2.72
Colorado	2.67	Real	2.52
Comal	2.60	Red River	2.49
Concho	2.51	Refugio	2.70
De Witt	2.61	Runnels	2.49
Dimmit	2.49	San Patricio	2.73
Duval	2.64	San Saba	2.54
Frio	2.57	Taylor	2.47
Galveston	2.71	Travis	2.60
Goliad	2.67	Uvalde	2.52
Gonzales	2.60	Victoria	2.64
Guadelupe	2.60	Webb	2.56
Hamilton	2.50	Wharton	2.68
Hays	2.60	Willacy	2.58
Hildalgo	2.56	Williamson	2.59
Jackson	2.60	Wilson	2.63
Jim Hogg	2.61	Zapata	2.52
Jim Wells	2.69	Zavala	2.49

(b) *1964 terminal market purchase prices.* (1) The basic purchase price shall be $2.92 per bushel for No. 1 flaxseed containing 10.6 to 11.0 percent moisture delivered by rail in carload lots to authorized dealers at the Corpus Christi and Houston, Texas terminal markets. There shall be deducted from such rate, the transportation cost, if any, as determined by the Kansas City ASCS Commodity Office, for moving the flaxseed to a tidewater facility located within the same switching limits.

(2) In determining the purchase price for flaxseed of such grade and quality delivered by truck to authorized dealers at such terminal markets, there shall be deducted from the terminal rate, 4.5 cents per bushel plus the transportation cost, if any, as determined by the Kansas City ASCS Commodity Office, for moving the flaxseed to a tidewater facility located within the same switching limits.

(c) *Premiums for low moisture content.* The following premiums for low moisture content are applicable to eligible flaxseed which grades No. 1 or No. 2:

Moisture content (percent):	Premium (cents per bushel)
10.6 to 11.0 inclusive	0
10.1 to 10.5 inclusive	1
9.6 to 10.0 inclusive	2
9.1 to 9.5 inclusive	3
9.0 or less	4

(d) *Grade discounts.*

(1) No. 2 ..... 6 cents

(2) Sample Grade.

Apply the 6-cent discount for No. 2 flaxseed plus the following discounts as applicable:

(i) Moisture, 1 cent for each 1/10 percent of moisture in excess of 11.0 percent.

(ii) Test weight, 3 cents for each 1/2 pound or fraction thereof of test weight below 47 pounds;

(iii) Other factors, as determined by CCC.

(Sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs, 301, 401, 63 Stat. 1053, 1054, as amended; 15 U.S.C. 714 b and c, 7 U.S.C. 1447, 1421)

Effective date. Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C. on May 12, 1964.

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

[F.R. Doc. 64-4874; Filed, May 14, 1964; 8:50 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[9th Gen. Rev. of Export Regs.; Amdt. 84]

PART 371—GENERAL LICENSES

Revocation of Certain Regulations

Section 371.27 *General License GCU; shipments of certain commodities to Cuba,* and § 371.54 *Supplement 4; Commodities subject to General License GCU* are revoked.

This amendment shall become effective on May 14, 1964.

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

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

[F.R. Doc. 64-4944; Filed, May 14, 1964; 11:36 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 14—ADMINISTRATIVE INTERPRETATIONS

Guides for the Mail Order Insurance Industry

Guides for the Mail Order Insurance Industry as adopted by the Federal Trade Commission are hereinafter set forth.

Primary objectives of the guides are the prevention of deception of purchasers of insurance and the maintenance of fair competition in the industry.

The industry for which these guides have been established is comprised of the persons, firms, corporations and organizations engaged in the sale or offering for sale of insurance of any kind in commerce[1] by means of the United States mails in any State in which they are not licensed to conduct the business of insurance or in which, though licensed, they do not have any agents. The guides are applicable to all advertising and sales promotions of insurance sold under such circumstances. The establishment and promulgation of such guides by the Commission is not to be understood as delimiting the jurisdiction of the Commission with respect to the business of insurance under the Clayton Act and Federal Trade Commission Act as such Acts are affected by Public Law 15, 79th Congress, as amended.

Effective date. These guides become effective July 14, 1964.

§ 14.11 Guides for the Mail Order Insurance Industry.

(a) *Definitions.* (1) "Advertisement" for the purpose of this section, shall mean any of the following material when used in connection with solicitation of the original purchase of a policy, or renewal or reinstatement thereof:

(i) Any printed or published material, descriptive literature, statements or depictions of an insurer used in newspapers, magazines, radio, and TV scripts or presentations, billboards, and similar displays, and

(ii) Descriptive literature and sales aids of all kinds issued or caused to be issued by an insurer or by an insurer's agent or broker for presentation to members of the public, including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters, and policy forms.

(2) "Policy" for the purpose of this section, shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement which provides insurance benefits for any kind of loss or expense.

(3) "Insurer" for the purpose of this section, shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, and any other legal entity, engaged in the advertisement and sale of a policy as herein defined.

(b) *Deception (general).* No advertisement shall be used which because of words, phrases, statements or illustrations therein or information omitted therefrom has the capacity and tendency to mislead or deceive purchasers or prospective purchasers, irrespective of whether a policy advertised is made available to an insured prior to the consummation of the sale, or an offer is made of a premium refund if a purchaser is not satisfied. Words or phrases which are misleading or deceptive because the meaning thereof is not clear, or is clear only to persons familiar with insurance terminology, shall not be used. [Guide 1]

(c) *Advertisement of benefits, losses covered or premiums payable—(1) Disclosure as to exceptions, reductions and limitations.* (i) No advertisement shall refer to any loss covered or benefit provided by an insurance policy, period of time for which any benefit is payable, or the cost of a policy, without clearly and conspicuously disclosing in close conjunction therewith such exceptions, reductions and limitations relating thereto as will fully relieve the advertisement of all capacity to deceive.

[1] As "commerce" is defined in the Federal Trade Commission Act.

(ii) The disclosure requirements of this paragraph are not applicable to advertisements which mention only the general kind of insurance (e.g., "Life," "Accident," "Hospitalization"), give no information as to losses covered, benefits or premiums, and serve the purpose of merely inviting inquiries or a show of interest on the part of the recipients.

(iii) As used in this paragraph:

(*a*) The term "exception" means any provision in a policy whereby coverage for a specified hazard is entirely eliminated. It is a statement of risk not assumed under the policy.

(*b*) The term "reduction" shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction clause not been used.

(*c*) The term "limitation" means any provision which restricts the duration or extent of coverage, losses covered, or benefits payable under the policy other than an exception or a reduction.

(iv) *Waiting, elimination, probationary or similar periods:* When there is a time period between the effective date of a policy and the effective date of coverage under the policy, or a time period between the date a loss occurs must be clearly and conspicuously disclosed in close conjunction with any reference to such coverage or benefits made in any advertisement.

(v) Benefits contingent on conditions: When a policy pays varying amounts of benefits for the same loss occurring under different conditions or which pays benefits only when a loss occurs under certain conditions, any reference to such benefits in an advertisement must be closely accompanied by clear and conspicuous disclosure of such different or limited conditions as are applicable.

(vi) Pre-existing conditions: If a policy provides any limitations on the coverage of a loss if the cause of such loss is traceable to a condition existing prior to the effective date of the policy, or prior to any other particular time, any reference to the policy coverage of the loss made in any advertisement must be closely accompanied by clear and conspicuous disclosure of such limitations. (See also paragraph (d) of this section.)

(vii) Deceptive words or phrases: (*a*) No words, terms or phrases shall be used as descriptive of the coverage provided by a policy which misrepresent the extent of such coverage. Words such as "all," "full," "complete," "unlimited," and words of similar import must not be used to refer to any coverage which under the terms of the policy is subject to exceptions, reductions or limitations. Other words, terms, or phrases representing or implying broad insurance coverage must not be used as descriptive of losses covered or benefits provided by a policy which are subject to exceptions, reductions or limitations without disclosure of the applicable exceptions, reductions or limitations as required by this subparagraph (1).

(*b*) The terms "hospitalization," "accident," or "life" must not be used as descriptive of an insurance policy which provides benefits for only unusual or unique sicknesses, accidents, or causes of death unless in close conjunction with such terms clear and conspicuous disclosure is made of such coverage (e.g. "Leukemia Hospitalization," "Death by Drowning").

(*c*) Words or phrases such as "up to," "as high as," etc. shall not be used as descriptive of the dollar amount payable for any kind of represented losses or expenses unless the policy provides benefit payments up to such amount in all cases for such losses or expenses actually sustained by a policyholder, or there is full and conspicuous disclosure in close conjunction with such words or phrases of either—

(*1*) the complete schedule of payments provided by the policy, or

(2) the specific loss or expense for which the represented dollar amount is provided by the policy; and also disclosure that benefits provided by the policy for losses or expenses of the kind represented vary in amount depending on the particular kind of loss or expense incurred, if such is the case, as for example—"Policy provides surgical benefits which vary in amount depending on kind of operation performed. For example, pays up to $150 for operation to remove a lung." and there is also disclosure of such other exceptions, reductions or limitations as required by this subparagraph (1).

(*d*) An advertisement must not contain representations such as "This policy pays $1800 for hospital room and board expenses" without clear and conspicuous disclosure in close conjunction therewith of the maximum daily benefit and the maximum time limit for such hospital room and board expense.

(*e*) An advertisement must not represent the weekly, monthly, or other periodic benefits payable under a policy without clearly and conspicuously disclosing in close conjunction with such representation the limitation of time over which such benefits will be paid or of the number of payments or total amount thereof which will be made if, by the terms of the policy, payment of benefits for any loss or aggregate of losses is limited in time, number, or total amount.

(viii) Age limitation: Any reference in an advertisement to any insurance coverage or benefits which by the terms of the policy are limited to a certain age group must be closely accompanied by clear and conspicuous disclosure of such fact.

(2) *Deception as to coverage and additional benefits.* (i) A policy covering only one disease or certain specified diseases must not be advertised in such manner as to imply coverage beyond the terms of the policy, either by use of synonymous words or terms to refer to any disease or physical condition so as to imply broader coverage, or by other means.

(ii) An advertisement must not represent, directly or indirectly, that a policy provides for the payment of certain benefits in addition to other benefits when such is not the fact. [Guide 2]

(d) *Health of the applicant or insured.* No advertisement shall be used which represents or implies—

(1) That the condition of the applicant's or insured's health prior to, or at the time of issuance of a policy, or thereafter, will not be considered by the insurer in determining its liability or benefits to be furnished for or in the settlement of a claim when such is not the fact (see also paragraph (c)(1)(vi) of this section); or

(2) That no medical examination is required if the furnishing of benefits by an insurer under a policy so represented is or may be contingent on a medical examination under any condition; or

(3) That no medical examination is required, even though such is the case, without conspicuously disclosing in close conjunction therewith all the conditions pertaining to or involving the insured's health under which the insurer is not liable for the furnishing of benefits under a policy. [Guide 3]

(e) *Disclosure of policy provisions relating to renewability, cancellability, or termination.* (1) No advertisement shall refer, directly or by implication, to renewability, cancellability, or termination of a policy or a policy benefit, or contain any statement or illustration of time or age in connection with any benefit payable, loss, eligibility of applicants, or continuation of a policy, unless in close conjunction with such reference, statement or illustration there is clear and conspicuous disclosure of the material provisions in the policy relating thereto.

(2) No advertisement shall represent or imply that an insurance policy may be continued in effect indefinitely or for any period of time, when, in fact, said policy provides that it may not be renewed or may be canceled by the insurer, or terminated under any circumstances over which insured has no control, during the period of time represented. [Guide 4]

(f) *Testimonials, appraisals or analyses.* No testimonial, appraisal or analysis shall be used in any advertisement which is not genuine, does not represent the current opinion of the author, does not accurately describe the facts, does not correctly reflect the present practices of an insurer, is not applicable to the policy or insurer advertised or is not accurately reproduced.

NOTE: An insurer makes as his own all statements contained in any testimonial which he uses in his advertisement, and the advertisement including such statements is subject to all of the provisions of this section.

[Guide 5]

(g) *Deceptive use of statistics.* (1) No advertisement shall be used in which representations are made as to the time within which claims are paid, the dollar amounts of claims paid, the number of claims paid or the number of persons insured under a particular policy or otherwise, or which contains other statistical information relating to any insurer or policy, unless such advertisement accurately reflects all the relevant facts. The advertisement shall not imply that the statistics are derived from a policy advertised unless such is the fact.

(2) No advertisement shall be used which misrepresents that claim settlements by an insurer are liberal or generous beyond the terms of a policy. [Guide 6]

(h) *Identification of plan or number of policies.* (1) No advertisement shall offer a choice of the amount of benefits without clearly and conspicuously disclosing that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of benefits.

(2) No advertisement shall refer to various benefits which may be contained in two or more policies, other than group master policies, without clearly and conspicuously disclosing that such benefits are provided only through a combination of such policies. [Guide 7]

(i) *Deception as to introductory, initial or special offers.* No representation shall be made in an advertisement, directly or by implication, that a policy or combination of policies is an introductory, initial, special or limited offer and that applicants will receive advantages not available at a later date, unless such is the fact. [Guide 8]

(j) *Misrepresentation as to licensing, approval or endorsement of insurer, policy or advertisement.* No advertisement shall represent directly or by implication—

(1) That an insurer, or any policy or advertisement thereof, has been licensed, approved, endorsed or recommended by any governmental agency or department, unless such is the fact;

(2) That an insurer, or a policy or an advertisement thereof, has been approved, endorsed or recommended by any individual, group of individuals, society, association, or other organization, unless such is the fact. [Guide 9]

(k) *Deception as to "group" or "quasi-group" policies.* No advertisement shall represent, directly or indirectly, that prospective policyholders become group or quasi-group members and as such enjoy special rates or underwriting privileges ordinarily associated with group insurance as recognized in the industry, unless such is the fact. [Guide 10]

(l) *Allocation of benefits under a "family group" policy.* No advertisement shall refer to a benefit payable under a "Family Group" policy when the full amount of such benefit is not payable upon the death or disability, etc. of only one member of the family unless clear and conspicuous disclosure of such fact is made in the advertisement. [Guide 11]

(m) *Deceptive use of trade names, service marks, etc.* There shall not be used in an advertisement any trade name, service mark, slogan, symbol, or other device which has the capacity and tendency to mislead or deceive prospective purchasers as to the true identity of the insurer or its relation with public or private institutions. [Guide 12]

(n) *Disparagement.* No advertisement shall be used which, directly or indirectly, falsely disparages competitors, their policies, services, or business methods. [Guide 13]

(o) *Misrepresentation concerning the insurer.* No advertisement shall be used which, directly or by implication, has the capacity and tendency to mislead or deceive prospective purchasers with respect to an insurer's assets, corporate structure, financial standing, age, relative position in the insurance business, or in any other material respect. [Guide 14]

(Secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46)

Approved: April 28, 1964.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 64-4861; Filed, May 14, 1964; 8:48 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 D—Food Additives Permitted in Food for Human Consumption

SODIUM LAURYL SULFATE AS AN EMULSIFIER IN EGG WHITE PRODUCTS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1272) filed by Davis Gelatine, Inc., 375 Park Avenue, New York 22, New York, and other relevant material, has concluded that the food additive regulations (21 CFR 121.1012) should be amended to provide for the safe use of sodium lauryl sulfate as a whipping agent in the preparation of marshmallows. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.90; 29 F.R. 471), § 121.1012 is amended by changing the section heading, the introduction to the section, paragraph (b), and paragraph (c)(2) to read as follows:

§ 121.1012 Sodium lauryl sulfate.

The food additive sodium lauryl sulfate may be safely used in food in accordance with the following conditions:

* * * * *

(b) It is used or intended for use:

(1) As an emulsifier in or with egg whites whereby the additive does not exceed the following limits:

Egg white solids, 1,000 parts per million (0.1 percent).
Frozen egg whites, 125 parts per million (0.0125 percent).
Liquid egg whites, 125 parts per million (0.0125 percent).

(2) As a whipping agent at a level not to exceed 5,000 parts per million (0.5 percent) by weight of gelatine used in the preparation of marshmallows.

(c) * * *

(2) Adequate use directions to provide a final product that complies with the limitations prescribed in paragraph (b) of this section.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: May 8, 1964.

JOHN L. HARVEY, *Deputy Commissioner of Food and Drugs.*

[F.R. Doc. 64-4863; Filed, May 14, 1964; 8:48 a.m.]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES; DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Juvenile Chemistry Sets Etc.; Exemptions From Labeling Requirements

There have been presented to the Commissioner of Food and Drugs a number of requests to exempt containers of chemicals which are packaged and sold in sets primarily for use by juveniles, and replacement chemicals for such sets, from the requirements of section 2(p) of the Hazardous Substances Labeling Act and certain requirements of § 191.101 of the regulations promulgated thereunder.

The facts submitted to the Commissioner show that the size of the containers used in these sets is not large enough to permit full compliance with § 191.101 of the regulations and, further, that a general caution statement, on the outer carton and on the front of the instruction leaflet or booklet, together with the prescribed cautionary label statements on the immediate containers, will serve to alert the purchasers and users of such sets to the fact that certain of the chemicals may be hazardous. The Commissioner has concluded that full compliance with the labeling requirements of section 2(p) of the act is not necessary for adequate protection of the public health and safety. Therefore, pursuant to the provisions of the Federal Hazardous Substances Labeling Act (sec. 3(c), 74 Stat. 374; 15 U.S.C. 1262) and under the authority vested in the Secretary of Health, Education, and Welfare and delegated to the Commissioner (21 CFR 2.90; 29 F.R. 471), § 191.63(a) is amended by adding thereto a new subparagraph (23) reading as follows:

§ 191.63 Exemptions for small packages, minor hazards, and special circumstances.

(a) * * *

(23) Chemistry sets and other science education sets intended primarily for use by juveniles, and replacement containers of chemicals for such sets, are exempt from the requirements of section 2(p)(1) of the act, *Provided*, That:

(i) The immediate container of each chemical that is hazardous as defined in the act and regulations bears on its main panel the name of such chemical, the appropriate signal word for that chemical, and the additional statement "Read back panel before using" (or "Read side panel before using," if appropriate), and bears on the back (or side) panel of the immediate container the remainder of the appropriate cautionary statement for the specific chemical in the container; and

(ii) The experiment manual or other instruction booklet accompanying such set bears on the front page of the leaflet as a preface to any written matter in the leaflet (or on the cover, if any there be), the following caution statement, within the borders of a rectangle and in the type size specified in § 191.101:

> WARNING—This set contains chemicals that may be harmful if misused. Read cautions on individual containers carefully. Not to be used by children except under adult supervision.

and

(iii) The outer carton of such set bears on the main display panel within the borders of a rectangle and in the type size specified in § 191.101 the caution statement specified in subdivision (ii) of this subparagraph.

Notice and public procedure and delayed effective date are not necessary prerequisites to the promulgation of this order, and I so find, since the Federal Hazardous Substances Labeling Act contemplates such modification of the labeling requirements under certain conditions.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 3(c), 74 Stat. 374; 15 U.S.C. 1262)

Dated: May 8, 1964.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 64-4864; Filed, May 14, 1964; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER G—CIVIL DEFENSE

REDESIGNATION OF CIVIL DEFENSE REGULATIONS

CROSS REFERENCE: For document redesignating the regulations in Subchapter G, Chapter I, Title 32 of the Code of Federal Regulations as Chapter XVIII of Title 32, see F.R. Doc. 64-4850, *infra*.

Chapter XVIII—Office of Civil Defense, Office of the Secretary of the Army

REDESIGNATION OF CIVIL DEFENSE REGULATIONS

1. References: (a) Executive Order 10952 dated July 20, 1961, assigning civil defense responsibilities to the Secretary of Defense and others; (b) DOD Directive 5160.50 dated March 31, 1964, assigning civil defense responsibilities to the Secretary of the Army; (c) Department of Defense, Secretary of the Army, Establishment of the Office of Civil Defense and Delegation of Authority Regarding Civil Defense Functions, published April 10, 1964 (29 F.R. 5017).

2. Wherever appearing in the regulations listed in this Notice and Redesignation of Civil Defense Regulations, "Office of Civil Defense, Department of Defense" means "Office of Civil Defense, Office of the Secretary of the Army" and "Assistant Secretary of Defense (Civil Defense)" (whether stated completely or as "Assistant Secretary" or in other abbreviated form) means the Director of Civil Defense and his authorized delegate or delegates.

3. The regulations in Chapter I, Subchapter G—"Civil Defense" of Title 32 of the Code of Federal Regulations are redesignated as Parts of Chapter XVIII of Title 32 of the Code of Federal Regulations, as follows:

Old part	Title of regulation	New part
220	Definitions	1800
221	Contribution for Civil Defense Equipment	1801
222	Surplus Property	1802
223	Procedure for Stopping or Withholding Payments Under Section 201(l) of the Federal Civil Defense Act of 1950	1803
224	Financial Assistance from Reconstruction Finance Corporation for Civil Defense Purposes	1804
225	United States Civil Defense Corps	1805
226	Official Civil Defense Insigne	1806
227	Contributions for Civil Defense Personnel and Administrative Expenses	1807
228	Labor Standards for Federally Assisted Contracts	1808
229	Reimbursement Toward Expenses of Students Attending OCDM Schools	1809
231	Civil Defense Identification for Federal Employees, Reservists and Non-Federal Support Personnel	1810

4. This Notice and Redesignation of Civil Defense Regulations shall be effective upon publication in the FEDERAL REGISTER.

(Subsection 401(g), 64 Stat. 1255, 50 U.S.C. App. 2253; Reorg. Plan No. 1 of 1958, 72 Stat. 1799; E.O. 10952, 26 F.R. 6577; Establishment and Delegation of Authority Regarding Civil Defense Functions, 29 F.R. 5017)

MAY 7, 1964.

WILLIAM P. DURKEE,
Director of Civil Defense.

[F.R. Doc. 64-4850; Filed, May 14, 1964; 8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 3390]

[Fairbanks 030976]

ALASKA

Revoking Executive Order No. 6973 of February 19, 1935, as Amended by Public Land Order No. 1159 of June 2, 1955

By virtue of the authority vested in the President by section 1 of the Act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Executive Order No. 6973 of February 19, 1935, which withdrew a tract of land, described by metes and bounds, at McGrath, Alaska, and reserved the same for the joint use and occupancy of the Department of Agriculture and the Alaska Game Commission as a headquarters site in connection with the administration of the Alaska Game Laws, and which was amended by Public Land Order No. 1159 of June 2, 1955 to describe the tract as U.S. Survey No. 3140 A and B, Alaska, Townsite of McGrath, Lot 4, Block 2, Tract A, containing 5.54 acres, but which is shown by official plat of survey to contain 1.23 acres, is hereby revoked.

The tract described has been conveyed to the State of Alaska under the provisions of section 45(a) of the Alaska Omnibus Act of June 25, 1959 (73 Stat. 152).

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

MAY 11, 1964.

[F.R. Doc. 64-4851; Filed, May 14, 1964; 8:47 a.m.]

[Public Land Order 3391]

[Sacramento 067436]

CALIFORNIA

Withdrawals for Forest Service Recreation Areas

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 (17 F.R. 4831), of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the minerals in the following-described lands in the Plumas National Forest are hereby withdrawn from prospecting, location, entry, and purchase under the mining laws of the United States but not from leasing under the mineral leasing laws,

in aid of programs of the Forest Service for utilization of the lands as indicated:

MOUNT DIABLO MERIDIAN

GRIZZLY VALLEY RECREATION AREA

T. 23 N., R. 13 E.,
Sec. 1, SW¼NW¼ and W½SW¼;
Sec. 2, Lot 2, S½NE¼ and S½;
Sec. 3, SW¼NW¼, SE¼SW¼ and NE¼SE¼.
T. 24 N., R. 13 E.,
Sec. 17, SE¼SW¼ and SW¼SE¼;
Sec. 19, NE¼NE¼ and E½SE¼;
Sec. 20, S½NE¼, NW¼NW¼, NE¼SW¼ and SW¼SW¼;
Sec. 21, NW¼NE¼ and SW¼NW¼;
Sec. 22, NW¼NW¼, S½NW¼, SW¼ and E½SE¼;
Sec. 23, SW¼SW¼;
Sec. 26, NW¼, NE¼SW¼ and W½SE¼;
Sec. 27, E½NE¼, NE¼NW¼, NW¼SW¼, S½SW¼ and SW¼SE¼;
Sec. 28, S½NE¼, NW¼NW¼, N½SE¼, and SW¼SE¼;
Sec. 29, NE¼, NE¼NW¼, S½NW¼, NE¼SW¼, and SW¼SE¼;
Sec. 32, S½NE¼;
Sec. 33, S½NW¼ and NW¼SE¼;
Sec. 35, NE¼NE¼ and SE¼SE¼.

ANTELOPE VALLEY RECREATION AREA

T. 27 N., R. 12 E.,
Sec. 10, S½SW¼SE¼;
Sec. 13, SW¼SW¼;
Sec. 14, S½SW¼ and SE¼SE¼;
Sec. 15, NW¼NE¼, S½N½, and S½;
Sec. 22, E½ and NE¼NW¼;
Sec. 23, NE¼NE¼, S½NE¼, NW¼, S½SW¼, and NE¼SE¼;
Sec. 24, N½, N½S½, and SE¼SE¼;
Sec. 25, E½NE¼ and S½NW¼;
Sec. 26, NW¼NE¼.
T. 27 N., R. 13 E.,
Sec. 19, Lots 1, 2, 3, and 4.

ABBEY BRIDGE RECREATION AREA

T. 24 N., R. 13 E.,
Sec. 4, Lots 1, 2, and 3;
Sec. 5, Lots 1, 2, 3, and 4;
Sec. 6, Lots 1 and 2;
Sec. 7, NE¼NE¼;
Sec. 8, N½N½;
Sec. 9, NE¼, N½NW¼, SE¼NW¼, N½NW¼SE¼, and NE¼SE¼;
Sec. 10, NE¼, N½NW¼, SW¼NW¼, NW¼SW¼, and N½SE¼SW¼;
Sec. 11, N½NW¼;
Sec. 12, NE¼SE¼.
T. 25 N., R. 13 E.,
Sec. 32, SE¼;
Sec. 33, S½;
Sec. 34, SW¼.

DIXIE REFUGE RECREATION AREA

T. 26 N., R. 14 E.,
Sec. 13, SE¼;
Sec. 23, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 24;
Sec. 25, NW¼NE¼, NW¼, and NW¼SW¼;
Sec. 26, NE¼ and NE¼SE¼.
T. 26 N., R. 15 E.,
Sec. 19, Lots 1, 2, 3, 4, E½W½, W½E½, and SE¼SE¼;
Sec. 29, W½NW¼ and NW¼SW¼;
Sec. 30, Lot 1, NE¼, E½NW¼, and NE¼SE¼.

FRENCHMAN RECREATION AREA

T. 24 N., R. 16 E.,
Sec. 8, SE¼NE¼ and E½SE¼;
Sec. 17, NE¼NE¼;
Sec. 21, S½SW¼ and SW¼SE¼;
Sec. 28, NW¼NE¼, N½NW¼, and W½SE¼;
Sec. 29, NE¼, S½NW¼, E½SW¼, and N½SE¼;
Sec. 30, NE¼SE¼;
Sec. 32, E½NE¼;
Sec. 33, S½N½.

The areas described aggregate approximately 11,070 acres.

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

MAY 11, 1964.

[F.R. Doc. 64-4852; Filed, May 14, 1964; 8:47 a.m.]

[Public Land Order 3392]

[Sacramento 050711]

CALIFORNIA

Withdrawal for Forest Service Recreation Area, Partly Revoking Public Land Order No. 3155 of July 30, 1963

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the minerals in the following-described national forest land in the Shasta National Forest are hereby withdrawn from prospecting, location, entry and purchase under the mining laws of the United States but not from leasing under the mineral leasing laws, in aid of programs of the Forest Service, Department of Agriculture for utilization of the surface as a recreation area:

MOUNT DIABLO MERIDIAN

EAGLE CREEK

T. 38 N., R. 7 W.,
Sec. 16, S½SE¼NE¼.

Containing approximately 20 acres.

2. Public Land Order No. 3155 of July 30, 1963, which withdrew national forest land in the Shasta and Trinity National Forests for recreation areas, is hereby revoked so far as it affects the following described land in the Shasta National Forest:

T. 38 N., R. 7 W.,
Sec. 16, S½NE¼NE¼.

Containing approximately 20 acres.

3. At 10:00 a.m. on June 15, 1964, the land described in paragraph two of this order shall be open to such forms of disposition as may by law be made of national forest lands.

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

MAY 11, 1964.

[F.R. Doc. 64-4853; Filed, May 14, 1964; 8:47 a.m.]

[Public Land Order 3393]

[Oregon 03644]

OREGON

Partly Revoking Reclamation Withdrawal (Rogue River Project)

By virtue of the authority vested in the Secretary of the Interior by section 3 of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), it is ordered as follows:

1. The order of the Bureau of Reclamation of October 25, 1954, concurred in by the Bureau of Land Management on January 24, 1956, which withdrew lands in Oregon for reclamation purposes in connection with the Rogue River Project, is hereby revoked so far as it affects the following-described land:

WILLAMETTE MERIDIAN

T. 36 S., R. 2 E.,
Sec. 30, NE¼SE¼.

Containing 40 acres.

2. Subject to any valid existing rights and equitable claims, the requirements of applicable laws, rules and regulations, and the provisions of any existing withdrawals, the land is hereby opened to filing of applications, selections and locations in accordance with the following:

All valid applications and selections under the non-mineral public land laws presented at or prior to 10:00 a.m. on June 15, 1964, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing. The land has been open to applications and offers under the mineral leasing laws. It will be open to location under the United States mining laws at 10:00 a.m. on June 15, 1964.

3. The State of Oregon has waived the preference right of application granted by R.S. 2276, as amended (43 U.S.C. 852).

Inquiries should be addressed to the Manager, Land Office, Bureau of Land Management, Portland, Oregon.

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

MAY 11, 1964.

[F.R. Doc. 64-4854; Filed, May 14, 1964; 8:47 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6734]

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

Foreign Base Company Income of Controlled Foreign Corporations

On December 27, 1962, notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 12759) regarding the amendment of the Income Tax Regulations (26 CFR Part 1) to conform such regulations to section 954 of the Internal Revenue Code of 1954, as added by section 12(a) of the Revenue Act of 1962 (76 Stat. 1006). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following amendments (except for so much of the proposed subdivision (i) of § 1.954-2(c) (3) and (4) as defines when rents or royalties will be considered to be derived in the active conduct of a trade or business) are hereby adopted, effective with respect to taxable years of foreign corporations beginning after December 31, 1962, and to taxable years of United States shareholders within which or with which such taxable years of such

corporations end. The proposed rules which are so excepted from § 1.954–2(c)(3) and (4) are withdrawn, and proposed regulations in lieu thereof are published elsewhere in today's FEDERAL REGISTER.

§ 1.954 Statutory provisions; foreign base company income.

SEC. 954. *Foreign base company income*—(a) *Foreign base company income.* For purposes of section 952(a)(2), the term "foreign base company income" means for any taxable year the sum of—

(1) The foreign personal holding company income for the taxable year (determined under subsection (c) and reduced as provided in subsection (b)(5)),

(2) The foreign base company sales income for the taxable year (determined under subsection (d) and reduced as provided in subsection (b)(5)), and

(3) The foreign base company services income for the taxable year (determined under subsection (e) and reduced as provided in subsection (b)(5)).

(b) *Exclusions and special rules*—(1) *Exclusion of certain dividends, interest, and gains from qualified investments in less developed countries.* For purposes of subsection (a), foreign base company income does not include—

(A) Dividends and interest received during the taxable year from investments which at the time of receipt are qualified investments in less developed countries (as defined in section 955(b)), or

(B) If the gains from the sale or exchange during the taxable year of investments which at the time of sale or exchange are qualified investments in less developed countries exceed the losses from the sale or exchange during the taxable year of such qualified investments, the amount by which such gains exceed such losses.

The preceding sentence shall apply only to the extent that the sum of the dividends and interest described in subparagraph (A) and the amount described in subparagraph (B) does not exceed the increase for the taxable year in qualified investments in less developed countries of the controlled foreign corporation (as determined under subsection (f)).

(2) *Exclusion of certain shipping income.* For purposes of subsection (a), foreign base company income does not include income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce, or the performance of services directly related to the use of any such aircraft or vessel.

(3) *Special rule where foreign base company income is less than 30 percent or more than 70 percent of gross income.* For purposes of subsection (a)—

(A) If the foreign base company income (determined without regard to paragraphs (1) and (5)) is less than 30 percent of gross income, no part of the gross income of the taxable year shall be treated as foreign base company income.

(B) If the foreign base company income (determined without regard to paragraphs (1) and (5)) exceeds 70 percent of gross income, the entire gross income of the taxable year shall, subject to the provisions of paragraphs (1), (2), (4), and (5), be treated as foreign base company income.

(4) *Exception for foreign corporations not availed of to reduce taxes.* For purposes of subsection (a), foreign base company income does not include any item of income received by a controlled foreign corporation if it is established to the satisfaction of the Secretary or his delegate with respect to such item that the creation or organization of the controlled foreign corporation receiving such item under the laws of the foreign country in which it is incorporated does not have the effect of substantial reduction of income, war profits, or excess profits taxes or similar taxes.

(5) *Deductions to be taken into account.* For purposes of subsection (a), the foreign personal holding company income, the foreign base company sales income, and the foreign base company services income shall be reduced, under regulations prescribed by the Secretary or his delegate, so as to take into account deductions (including taxes) properly allocable to such income.

(c) *Foreign personal holding company income*—(1) *In general.* For purposes of subsection (a)(1), the term "foreign personal holding company income" means the foreign personal holding company income (as defined in section 553), modified and adjusted as provided in paragraphs (2), (3), and (4).

(2) *Rents included without regard to 50 percent limitation.* For purposes of paragraph (1), all rents shall be included in foreign personal holding company income without regard to whether or not such rents constitute 50 percent or more of gross income.

(3) *Certain income derived in active conduct of trade or business.* For purposes of paragraph (1), foreign personal holding company income does not include—

(A) Rents and royalties which are derived in the active conduct of a trade or business and which are received from a person other than a related person (within the meaning of subsection (d)(3)), or

(B) Dividends, interest, and gains from the sale or exchange of stock or securities derived in the conduct of a banking, financing, or similar business, or derived from the investments made by an insurance company of its unearned premiums or reserves ordinary and necessary for the proper conduct of its insurance business, and which are received from a person other than a related person (within the meaning of subsection (d)(3)).

(4) *Certain income received from related persons.* For purposes of paragraph (1), foreign personal holding company income does not include—

(A) Dividends and interest received from a related person which (i) is created or organized under the laws of the same foreign country under the laws of which the controlled foreign corporation is created or organized, and (ii) has a substantial part of its assets used in its trade or business located in such same foreign country;

(B) Interest received in the conduct of a banking, financing, or similar business from a related person engaged in the conduct of a banking, financing, or similar business if the businesses of the recipient and the payor are predominantly with persons other than related persons; and

(C) Rents, royalties, and similar amounts received from a related person for the use of, or the privilege of using, property within the country under the laws of which the controlled foreign corporation is created or organized.

(d) *Foreign base company sales income*—(1) *In general.* For purposes of subsection (a)(2), the term "foreign base company sales income" means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with the purchase of personal property from a related person and its sale to any person, the sale of personal property to any person on behalf of a related person, the purchase of personal property from any person and its sale to a related person, or the purchase of personal property from any person on behalf of a related person where—

(A) The property which is purchased (or in the case of property sold on behalf of a related person, the property which is sold) is manufactured, produced, grown, or extracted outside the country under the laws of which the controlled foreign corporation is created or organized, and

(B) The property is sold for use, consumption, or disposition outside such foreign country, or, in the case of property purchased on behalf of a related person, is purchased for use, consumption, or disposition outside such foreign country.

(2) *Certain branch income.* For purposes of determining foreign base company sales income in situations in which the carrying on of activities by a controlled foreign corporation through a branch or similar establishment outside the country of incorporation of the controlled foreign corporation has substantially the same effect as if such branch or similar establishment were a wholly owned subsidiary corporation deriving such income, under regulations prescribed by the Secretary or his delegate the income attributable to the carrying on of such activities of such branch or similar establishment shall be treated as income derived by a wholly owned subsidiary of the controlled foreign corporation and shall constitute foreign base company sales income of the controlled foreign corporation.

(3) *Related person defined.* For purposes of this section, a person is a related person with respect to a controlled foreign corporation, if—

(A) Such person is an individual, partnership, trust, or estate which controls the controlled foreign corporation;

(B) Such person is a corporation which controls, or is controlled by, the controlled foreign corporation; or

(C) Such person is a corporation which is controlled by the same person or persons which control the controlled foreign corporation.

For purposes of the preceding sentence, control means the ownership, directly or indirectly, of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote. For purposes of this paragraph, the rules for determining ownership of stock prescribed by section 958 shall apply.

(e) *Foreign base company services income.* For purposes of subsection (a)(3), the term "foreign base company services income" means income (whether in the form of compensation, commissions, fees, or otherwise) derived in connection with the performance of technical, managerial, engineering, architectural, scientific, skilled, industrial, commercial, or like services which—

(1) Are performed for or on behalf of any related person (within the meaning of subsection (d)(3)), and

(2) Are performed outside the country under the laws of which the controlled foreign corporation is created or organized.

The preceding sentence shall not apply to income derived in connection with the performance of services which are directly related to the sale or exchange by the controlled foreign corporation of property manufactured, produced, grown, or extracted by it and which are performed prior to the time of the sale or exchange, or of services directly related to an offer or effort to sell or exchange such property.

(f) *Increase in qualified investments in less developed countries.* For purposes of subsection (b)(1), the increase for any taxable year in qualified investments in less developed countries of any controlled foreign corporation is the amount by which—

(1) The qualified investments in less developed countries (as defined in section 955(b)) of the controlled foreign corporation at the close of the taxable year, exceeds

(2) The qualified investments in less developed countries (as so defined) of the controlled foreign corporation at the close of the preceding taxable year.

[Sec. 954 as added by section 12 (a), Rev. Act 1962 (76 Stat. 1006)]

§ 1.954–1 **Foreign base company income.**

(a) *In general.* The subpart F income of a controlled foreign corporation for any taxable year includes its foreign base company income for such taxable year. See section 952(a). The foreign base company income of a controlled foreign corporation consists of the sum of its foreign personal holding company income, as defined in § 1.954–2, its foreign base company sales income, as defined in § 1.954–3, and its foreign base company services income, as defined in § 1.954–4, modified and adjusted in accordance with this section.

(b) *Exclusions from foreign base company income.* Foreign base company income does not include the following items:

(1) *Dividends, interest, and gains from qualified investments in less developed countries.* Foreign base company income does not include (i) dividends and interest, after allowance for deductions properly allocable to such income, received during the taxable year from investments which at the time of receipt are qualified investments in less developed countries and (ii) the excess of gains over losses from the sale or exchange of investments which at the time of sale or exchange are qualified investments in less developed countries, after allowance for deductions properly allocable to such income, but only to the extent the sum of such net dividends, interest, and gains does not exceed the controlled foreign corporation's increase for the taxable year in qualified investments in less developed countries. See section 954(b)(1). See also section 955(b) and § 1.955–2 for definition of the term "qualified investments in less developed countries." See section 954(f) and § 1.954–5 for rules relating to the determination of the increase for a taxable year in qualified investments in less developed countries.

(2) *Income derived from aircraft and ships*—(i) *In general.* Foreign base company income does not include income derived from, or in connection with, (*a*) the use, or hiring or leasing for use, of any aircraft or vessel in foreign commerce or (*b*) the performance of services directly related to the use, or hiring or leasing for use, of any such aircraft or vessel in foreign commerce, after allowance for deductions properly allocable to such income. See section 954(b)(2).

(ii) *Meaning of use in foreign commerce.* For purposes of subdivision (i) of this subparagraph, a vessel or aircraft is used in foreign commerce if it is used in transportation of property or passengers—

(*a*) Between a port (or airport) in the United States or possession of the United States and a port (or airport) in a foreign country, or

(*b*) Between one port (or airport) in a foreign country and another in the same country or between a port (or airport) in a foreign country and one in another foreign country.

A lighter or beacon lightship which serves vessels when so used in foreign commerce shall, to the extent so used, be treated as used in foreign commerce for purposes of subdivision (i) of this subparagraph.

(iii) *Illustrations.* The application of this subparagraph may be illustrated by the following examples:

Example (1). Controlled foreign corporation A acts as managing agent for controlled foreign corporation B, a related person which contracts to construct and charter a foreign flag vessel for use in foreign commerce. As managing agent for B Corporation, A Corporation performs a broad range of services relating to use of the vessel, including arranging for, and supervising of, construction and chartering of the vessel, and handling of operating services after construction is completed. Corporation A's services on behalf of B Corporation are performed outside the country under the laws of which A Corporation is organized. The income derived by A Corporation from its management and operating services constitutes income derived in connection with the use of the vessel in foreign commerce.

Example (2). Controlled foreign corporation A owns a foreign flag vessel which it charters under a long-term charter to controlled foreign corporation B, a related person. The vessel is used by B Corporation as a tramp which has no fixed or regular schedule. The vessel carries bulk and packaged cargoes, as well as occasional passengers, under charter parties, contracts of affreightment, or other contracts of carriage. The carriage of cargoes and passengers is between a port in the United States and a port in a foreign country or between a port in one foreign country and another port in the same or a different foreign country. The charter hire paid to A Corporation by B Corporation, and the charter hire and freight and passenger revenue (including demurrage and dead freight) derived by B Corporation, constitute income derived from the use, or hiring or leasing for use, of the vessel in foreign commerce.

Example (3). Controlled foreign corporation A owns a foreign flag tanker which it charters under a long-term bareboat charter to foreign corporation B, a related person, for use in foreign commerce. Corporation B produces oil in a foreign country and ships the oil to other foreign countries and to the United States. The vessel chartered by B Corporation, when not engaged in carrying B Corporation's oil, is used to carry bulk cargoes for unrelated persons in foreign commerce as opportunity offers. Corporation B is forced to lay up the vessel as a result of adverse market developments. The vessel is laid up outside the foreign country under the laws of which A Corporation is organized. Pursuant to the terms of the charter, B Corporation continues to pay charter hire to A Corporation during the period of lay-up. The charter hire received by A Corporation during the period of lay-up constitutes income derived in connection with the use, or hiring or leasing for use, of the vessel in foreign commerce.

(3) *Income of controlled foreign corporations not availed of to substantially reduce income or similar taxes*—(i) *General rule.* Foreign base company income does not include any item of gross income if it is established to the satisfaction of the district director that the creation or organization of the controlled foreign corporation receiving such item of gross income does not have the effect of substantially reducing income, war profits, excess profits, or similar taxes with respect to such item. See section 954(b)(4).

(ii) *Foreign personal holding company income.* Creation or organization of a controlled foreign corporation will be considered not to have the effect of substantially reducing income, war profits, excess profits, or similar taxes with respect to an item of foreign personal holding company income described in § 1.954–2, if it can be established that, if such item were the only income of such corporation for the taxable year and the United States shareholder of such corporation were a corporate United States shareholder making a first-tier election (as defined in paragraph (b)(4) of § 1.963–1) to receive a minimum distribution for such year with respect to stock which it directly owns in such controlled foreign corporation, no minimum distribution would be required to be received by such shareholder from such controlled foreign corporation. If the rate of tax imposed by a country for the taxable year with respect to the income of a controlled foreign corporation which is distributed is less than the rate of such tax with respect to its income which is not distributed, this subdivision shall not apply with respect to a corporate United States shareholder to exclude an item of income of such controlled foreign corporation unless the effective rate of tax paid to such country by such controlled foreign corporation on such item of income (after allocable deductions other than income, war profits, excess profits, or similar taxes) for the taxable year of such controlled foreign corporation equals or exceeds 91 percent of a percentage which equals the sum of the normal tax rate and the surtax rate (determined without regard to the surtax exemption) prescribed by section 11 for the taxable year of the United States shareholder within which or with which ends such taxable year of such controlled foreign corporation.

(iii) *Foreign base company sales and services income.* Creation or organization of a controlled foreign corporation will be considered not to have the effect of substantially reducing income, war profits, excess profits, or similar taxes with respect to an item of foreign base company sales income described in § 1.954–3 or an item of foreign base company services income described in § 1.954–4 if the effective rate of such taxes paid to a country or countries for the taxable year in respect to such item of income by the controlled foreign corporation equals or exceeds 90 percent of, or is not as much as 5 percentage points less than—

(*a*) In the case of an item of foreign base company sales income described in § 1.954–3, the lesser of—

(*1*) The effective rate of income, war profits, excess profits, or similar taxes that would have been paid for such year in respect to the item of income to the country which, within the meaning of paragraph (a)(3) of § 1.954–3, is the country of use, consumption, or disposition of the property which is sold, or

(*2*) The effective rate of income, war profits, excess profits, or similar taxes that would have been paid for such year in respect to the item of income to the country which, within the meaning of paragraph (a)(2) of § 1.954–3, is the

country of manufacture, production, construction, growth, or extraction of such property,

if, under the law of such country described in this subdivision (*a*), all the income of the corporation for such year had been considered derived from sources therein from doing business through a permanent establishment in such country, received in such country, and allocable to such permanent establishment, and the controlled foreign corporation had been created or organized under the laws of, and managed and controlled in, such country; or

(*b*) In the case of an item of foreign base company services income described in § 1.954–4, the effective rate of income, war profits, excess profits, or similar taxes that would have been paid for the taxable year in respect to the item of income to the country which, within the meaning of paragraph (c) of § 1.954–4, is the country where the services are performed, if, under the law of such country, all the income of the corporation for such year had been considered derived from sources therein from doing business through a permanent establishment in such country, received in such country, and allocable to such permanent establishment, and the controlled foreign corporation had been created or organizd under the laws of, and managed and controlled in, such country.

(iv) *Determination of hypothetical tax.* In determining under subdivision (iii) of this subparagraph the effective rate of income, war profits, excess profits, or similar taxes that would have been paid for the taxable year in respect to an item of income to the country described in (*a*) or (*b*) of such subdivision by a controlled foreign corporation, such taxes shall be computed on the basis of the actual facts concerning such corporation (except for the assumptions made under such subdivision as to source, receipt, and allocation of income, type of establishment, place of doing business, and place of creation, management, and control) and by deducting from such item of income all deductions allocable thereto other than income, war profits, excess profits, or similar taxes. Thus, if the laws of the country impose a graduated rate of income tax on income of corporations, such tax shall be computed on the basis of the amount of such corporation's income which would be taken into acount for the taxable year in determining the tax under such assumptions but otherwise using the actual facts concerning such corporation. Similarly, if the effective rate of tax which such country imposes differs from class to class of income (whether because the law of such country prescribes a different rate for each such class or does so in effect by prescribing special deductions or credits with respect to such class), the tax in respect of the item of income shall be computed on the basis of the tax which under such assumptions would have been imposed for the taxable year on the class containing such item but otherwise using the actual facts concerning the corporation. Likewise, if the rate of tax imposed by such country on a corporation with respect to income not distributed differs from the rate with respect to its distributed income, the tax in respect of the item of income shall be computed at the effective rate of tax applicable to such corporation for the taxable year, computed on the basis of such assumptions and the distributions actually made for such year by such corporation.

(v) *Other facts and circumstances.* Although a failure to meet the 90-percent test or the 5-percentage-point test described in subdivision (iii) of this subparagraph with respect to an item of foreign base company sales income or foreign base company services income will be regarded as a significant factor, foreign base company income will not include such item if, on the basis of other facts and circumstances, it is established to the satisfaction of the district director that the creation or organization of the controlled foreign corporation receiving such item does not have the effect of substantially reducing income, war profits, excess profits, or similar taxes with respect to such item.

(vi) *Effect of exclusion upon other amounts.* In considering whether the creation or organization of a controlled foreign corporation results in a substantial reduction of income, war profits, excess profits, or similar taxes, the fact that the exclusion of items of income from foreign base company income under this subparagraph results in other items of income being excluded from foreign base company income under section 954 (b) (3) (A) and paragraph (d) (1) of this section shall not be taken into account. For example, the fact that 29 percent of a controlled foreign corporation's gross income will be excluded from subpart F income under section 954(b) (3) (A) and paragraph (d) (1) of this section if the remaining 71 percent of the gross income is excluded under section 954(b) (4) and this subparagraph will not prevent the application of section 954(b) (4) and this subparagraph.

(vii) *Branch rule.* The same rules as those set forth in subdivisions (i) to (vi), inclusive, of this subparagraph shall also apply to an item of income derived by a branch or similar establishment of a controlled foreign corporation which is treated as a separate wholly owned subsidiary corporation under section 954 (d) (2) and paragraph (b) of § 1.954–3.

(viii) *Illustrations.* The application of this subparagraph may be illustrated by the following examples:

Example (1). Controlled foreign corporation A, incorporated under the laws of foreign country X, and controlled foreign corporation B, incorporated under the laws of foreign country Y, are both wholly owned subsidiaries of domestic corporation M. All corporations use the calendar year as the taxable year. In 1963, B Corporation derived foreign base company sales income described in § 1.954–3 when it purchased from A Corporation an article manufactured by A Corporation in country X and sold the article to D Corporation, an unrelated person, for use in foreign country Z. With respect to this item of income, B Corporation paid an income tax to country Y in an amount effectively equal to 26 percent of the income (after allocable deductions other than income or similar taxes) from the transaction. No other income or similar tax was paid by B Corporation with respect to this item. If B Corporation had been incorporated under the laws of country X, it would have paid income tax to country X in an amount effectively equal to 40 percent of the income (after allocable deductions other than income or similar taxes) derived from the purchase and sales transaction. If, however, B Corporation had been managed and controlled in country Z, it would have paid income tax to country Z in an amount effectively equal to 30 percent of the income (after allocable deductions other than income or similar taxes) derived from the purchase and sale transaction. Therefore, with respect to this item of income, organization of B Corporation in country Y did not have the effect of substantially reducing income or similar taxes (26 percent being less than 90 percent of 30 percent but not being as much as 5 percentage points less than 30 percent), and foreign base company income of B Corporation does not include income derived from such transaction.

Example (2). Assume the same facts as in example (1), except that B Corporation also derived foreign base company services income described in § 1.954–4 when it performed services in country Z for C Corporation, a related person incorporated under the laws of country Z and also using the calendar year as the taxable year. With respect to this item of income, B Corporation paid an income tax to country Y in an amount effectively equal to 15 percent of the income (after allocable deductions other than income or similar taxes) from the service activity. No other income or similar tax was paid by B Corporation with respect to this item. If B Corporation had been managed and controlled in country Z, it would have paid income tax to country Z in an amount effectively equal to 25 percent of the income (after allocable deductions other than income or similar taxes) from the service activity. Therefore, with respect to this item of income, organization of B Corporation in country Y did have the effect of substantially reducing income or similar taxes (15 percent being less than 90 percent of 25 percent and as much as 5 percentage points less than 25 percent), and the exclusion from foreign base company income provided by section 954(b) (4) will not apply to such item.

Example (3). Controlled foreign corporation A, incorporated under the laws of foreign country X, is a wholly owned subsidiary of domestic corporation M. Both corporations use the calendar year as the taxable year. In 1963, A Corporation derived interest and rent not excluded under section 954(c) (3) or (4). The rate of tax imposed by country X for the taxable year on a corporation of such country with respect to income such corporation distributes for such year is the same as that imposed with respect to its income which is not distributed. With respect to the item of interest, A Corporation paid an income tax to country X in an amount effectively equal to 47 percent of such item (after allocable deductions other than income or similar taxes) and, with respect to the item of rent, paid an income tax to country Y in an amount effectively equal to 40 percent of such item (after allocable deductions other than income or similar taxes). No other income or similar tax was paid by A Corporation with respect to such items. If M Corporation were to elect under § 1.963–1 to receive a minimum distribution for 1963 from A Corporation and if the item of interest were the only income of A Corporation, M Corporation would not be required to receive a minimum distribution from A Corporation (effective foreign tax rate being 47 percent and such a distribution not being required under sec. 963 (b)); but, if the rent item were A Corporation's only income, M Corporation would be required to receive a minimum distribution from A Corporation (effective foreign tax

rate being 40 percent and such a distribution being required under sec. 963 (b)). Therefore, with respect to the item of rent, organization of A Corporation in country X did have the effect of substantially reducing income or similar taxes, and the exclusion from foreign base company income provided by section 954(b)(4) will not apply to such item. With respect to the item of interest, however, the organization of A Corporation in such country did not have the effect of substantially reducing such taxes, and such interest is not included in foreign base company income of A Corporation.

Example (4). Controlled foreign corporation A is incorporated under the laws of foreign country X. Corporation A uses the calendar year as the taxable year. Corporation A has conducted business for a substantial period of years prior to 1963. In 1962, A Corporation is subject, under the laws of country X, to an effective tax rate of 46.6 percent on the income (after allocable deductions other than income or similar taxes) derived from purchasing and selling activities conducted throughout the world. A substantial part of its income for 1962 is derived from transactions in which it purchases from an unrelated person in foreign country Z raw materials produced in country Z and sells them to B Corporation, a related person organized under the laws of foreign country Y, for use in country Y. If A Corporation were incorporated under the laws of country Y, it would pay income and similar taxes to country Y for 1962 in an amount effectively equal to 51.2 percent of the income (after allocable deductions other than income or similar taxes) derived from the sales to B Corporation. If A Corporation were incorporated under the laws of country Z, it would pay income and similar taxes to country Z for 1962 in an amount effectively equal to 52 percent of the income (after allocable deductions other than income or similar taxes) derived from the sales to B Corporation. In 1963, A Corporation also derives a substantial part of its income from transactions in which it purchases from an unrelated person in country Z raw materials produced in country Z and sells them to B Corporation for use in country Y. Effective January 1, 1963, there is a general reduction in income tax rates in country X, so that A Corporation pays an income tax to country X for 1963 in an amount effectively equal to 45 percent of the income (after allocable deductions other than income or similar taxes) from the sales to B Corporation. The income tax laws of countries Y and Z applicable for 1962 remain applicable to 1963 without change. During years both before and after the reduction in country X tax, A Corporation actively conducts a trade or business of purchasing personal property from unrelated persons and selling such property to unrelated persons as well as to B Corporation. For 1963 the percentage of total income of A Corporation derived from sales of the raw materials to B Corporation and the nature of the raw materials so sold to B Corporation remain substantially unchanged from that for 1962. Although the rate of income and similar taxes paid by A Corporation to country X for 1963 on the income from the sales to B Corporation is less than 90 percent of, and as much as 5 percentage points less than, the rate (51.2 percent) of the income and similar taxes which A Corporation would have paid to country Y on the income from the sales to B Corporation, under subdivision (v) of this subparagraph the other facts and circumstances in this example will establish to the satisfaction of the district director that organization of A Corporation in country X did not have the effect, with respect to the income derived from the sales to B Corporation during 1963, of substantially reducing income or similar taxes. Foreign base company income of A Corporation for 1963 does not include income derived from such sales.

(c) *Gross income and deductions to be taken into account.* For purposes of section 954 and this section, foreign personal holding company income as defined in § 1.954–2, foreign base company sales income as defined in § 1.954–3, and foreign base company services income as defined in § 1.954–4 shall be taken into account in determining foreign base company income after allowance for deductions properly allocable to such categories of income. For determination of gross income and deductions for purposes of section 954, see section 952 and the regulations thereunder. For purposes of this section, expenses, taxes, and other deductions shall first be allocated to items or categories of gross income to which they directly relate; then, expenses, taxes, and other deductions which cannot definitely be allocated to some item or category of gross income shall be ratably apportioned among all items or categories of gross income, except that no expense, tax, or other deduction shall be allocated to an item or category of income to which it clearly does not apply. However, if the foreign base company income of a controlled foreign corporation exceeds 70 percent (as determined under paragraph (d) of this section) of gross income, the entire expenses, taxes, and other deductions shall be taken into account, except expenses, taxes, and other deductions properly allocable to amounts excluded from foreign base company income under the provisions of paragraphs (1), (2), and (4) of section 954(b) and paragraph (b) of this section and expenses, taxes, and other deductions allowable to such controlled foreign corporation under section 882(c) and § 1.882–3.

(d) *Special rules where foreign base company income is less than 30 percent or more than 70 percent of gross income*—(1) *Less than 30 percent of gross income.* If foreign base company income of a controlled foreign corporation for its taxable year amounts to less than 30 percent of the gross income of such corporation for such year, no amount shall be included in subpart F income, as defined in section 952 and the regulations thereunder, of the controlled foreign corporation as foreign base company income. See section 954(b)(3)(A).

(2) *More than 70 percent of gross income.* If foreign base company income of a controlled foreign corporation for its taxable year amounts to more than 70 percent of the gross income of such corporation for such year, the entire gross income of such corporation for the taxable year shall, except as provided in paragraphs (1), (2), (4), and (5) of section 954(b) and paragraphs (b) and (c) of this section, be treated as foreign base company income. See section 954(b)(3)(B).

(3) *Method of computation.* For purposes of determining the percentage which foreign base company income is of gross income under subparagraphs (1) and (2) of this paragraph—

(i) *Computation of foreign base company income.* The foreign base company income of a controlled foreign corporation shall be determined without giving effect to—

(*a*) The exclusion allowed under section 954(b)(1) and paragraph (b)(1) of this section for dividends, interest, and net gain from qualified investments in less developed countries, and

(*b*) The deductions allowed under section 954(b)(5) and paragraph (c) of this section.

(ii) *Computation of gross income.* The gross income of a controlled foreign corporation for a taxable year shall be determined, with respect to a United States shareholder of such controlled foreign corporation, by excluding distributions received by such corporation which are excluded from such income under section 959(b) with respect to such shareholder.

(4) *Branches of controlled foreign corporations treated as separate corporations.* The 30-percent and 70-percent tests described in subparagraphs (1) and (2) of this paragraph apply to the foreign base company income of each controlled foreign corporation. In addition, if a branch or similar establishment of a controlled foreign corporation is treated as a separate wholly owned subsidiary corporation of such corporation under section 954(d)(2) and paragraph (b) of § 1.954–3, the 30-percent and 70-percent tests apply separately to the income allocated under such paragraph to such branch or similar establishment, to other branches and similar establishments similarly treated, and to the remainder of the controlled foreign corporation. The application of this subparagraph may be illustrated by the following example:

Example. Controlled foreign corporation A is incorporated under the laws of foreign country X. Corporation A manufactures goods in country X, and all the gross income which it derives from the sale of such goods it derives through its branch B in foreign country Y; of such gross income, 80 percent is derived from sales by branch B to C for use in foreign country Z and 20 percent from sales to D for use in country Y. Corporation A and branch B are treated under paragraph (b) of § 1.954–3 as separate corporations for purposes of determining foreign base company sales income. The total gross sales income allocated under paragraph (b) of § 1.954–3 to branch B is $900,000, and such income is not excluded from foreign base company income under section 954(b)(4). The remainder of A Corporation derives total gross income of $4,000,000, consisting of $3,900,000 from operations and of $100,000 from dividends not excluded from foreign base company income. The 30-percent and 70-percent tests of section 954(b)(3) apply to A Corporation and branch B as follows:

A CORPORATION

Gross income attributable to manufacturing operations	$3,900,000
Gross dividend income	100,000
Total gross income	4,000,000

Since foreign base company income of A Corporation, before deductions, is less than 30 percent of gross income of A Corporation ($100,000/$4,000,000, or 2½ percent), no part of its gross income, as determined for purposes of section 954(b)(3), is treated as foreign base company income.

Branch B	
Gross income attributable to sales operations conducted by Branch B	$900,000
Foreign base company sales income (80 percent of $900,000)	720,000

Since foreign base company sales income of branch B, before deductions, constitutes more than 70 percent of its gross income ($720,000/$900,000, or 80 percent), the entire gross income of $900,000, subject to deductions as provided in section 954(b)(5) and paragraph (c) of this section, is treated as foreign base company income of branch B and is included in the subpart F income of A Corporation under section 952(a). Such amount is not included in the gross income of A Corporation, other than branch B, for purposes of again applying the 30 percent and 70 percent tests of section 954(b)(3) to A Corporation.

(e) *Definition of a related and unrelated person.* For purposes of section 954 and §§ 1.954–1 to 1.954–5, inclusive—

(1) *Related person.* The following persons are considered under section 954(d)(3) to be related persons with respect to a controlled foreign corporation:

(i) *Individuals, etc.* A person who is an individual, partnership, trust, or estate if such individual, partnership, trust, or estate owns, within the meaning of section 958 and the regulations thereunder, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of the controlled foreign corporation. This subdivision shall apply whether or not the person is a citizen or resident of the United States or is domestic or foreign as to the United States.

(ii) *Corporations.* A person which is a foreign or domestic corporation if—

(*a*) Such foreign or domestic corporation owns, within the meaning of section 958 and the regulations thereunder, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of the controlled foreign corporation,

(*b*) The controlled foreign corporation owns, within the meaning of section 958 and the regulations thereunder, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of such foreign or domestic corporation, or

(*c*) More than 50 percent of the total combined voting power of all classes of stock entitled to vote of both such foreign or domestic corporation and the controlled foreign corporation is owned, within the meaning of section 958 and the regulations thereunder, by the same person or persons.

(2) *Unrelated person.* A person is an unrelated person with respect to a controlled foreign corporation if such person is not, within the meaning of subparagraph (1) of this paragraph, a related person with respect to such corporation.

(f) *Classification of an item of income.* For purposes of section 954 and §§ 1.954–1 to 1.954–5, inclusive—

(1) *In accordance with the substance of a transaction.* Items of income shall be classified in accordance with the substance of the transaction, and not in accordance with the designation applied by the parties to the transaction. For example, an amount received as "interest" which actually constitutes rent shall not be classified as "interest" but shall be classified as rent; an amount received as "rent" which actually constitutes income from the sale of property, royalties, or income from services shall not be classified as "rent" but shall be classified as income from the sale of property, royalties, or income from services, respectively. Local law shall not be controlling in classifying an item of income.

(2) *In accordance with predominant characteristic.* All of the income derived by a controlled foreign corporation from the performance of an integrated business transaction shall, unless the United States shareholder of such corporation establishes that a different method is proper, be classified in accordance with the predominant characteristic of the transaction, even though a part of such income could incidentally be imputed to another class of income. Thus, for example, if a controlled foreign corporation derives income under a contract which provides for the rental of property which it owns and also for the furnishing by such corporation of an incidental amount of maintenance services in respect of the rented property, the entire amount of the income derived under such contract shall be treated as rent. If a controlled foreign corporation contracts to provide engineering services consisting of planning a project and incidental to such planning uses its own equipment, or if it contracts to construct a project and does so using its own employees and equipment, the entire income derived under such contract shall be treated as derived from the performance of services. Similarly, if a controlled foreign corporation engaged in manufacturing a product uses a patent or other industrial property right which it owns to manufacture such product, the entire income derived from the manufacturing of such product shall be treated as manufacturing income. If a controlled foreign corporation in its business of purchasing and selling personal property incidentally receives interest on an account receivable arising from such a sale, such interest shall be treated as income derived in connection with the sale of the property although interest on such account, if the account were sold to a finance company, would constitute interest when derived by such company. On the other hand, where a controlled foreign corporation is engaged in performing separate transactions, even though pursuant to the same contract or arrangement, the income from each such transaction shall be separately classified. For example, if a controlled foreign corporation contracts to rent construction equipment and also to furnish engineering services consisting of planning a construction project, the income derived under such contract shall be treated as derived in part as rent and in part as income from the performance of services.

§ 1.954–2 Foreign personal holding company income.

(a) *In general.* Foreign personal holding company income of a controlled foreign corporation shall consist of the items of gross income defined in accordance with section 553 and § 1.553–1, relating to foreign personal holding company income, except for the adjustment to rents provided in section 954(c)(2) and paragraph (b) of this section and the exclusions provided in section 954(c)(3) and (4), section 959(b), and paragraphs (c) to (e), inclusive, of this section. However, no amount which would be considered a dividend under section 553, solely by reason of the application of section 555(b), shall constitute foreign personal holding company income under section 954(c) and this section. See section 954(c)(1). See also section 954(b)(5) and paragraph (c) of § 1.954–1 for deductions to be taken into account in determining foreign base company income. As used in this section and unless the context otherwise requires, the term "rent" includes compensation paid for the use or possession of real or personal property; the term "leasing" includes hiring; the term "lease" includes a bailment; and the term "lessor" includes a bailor.

(b) *Rents.* For purposes of paragraph (a) of this section, rents received by a controlled foreign corporation shall, except as provided in paragraphs (d)(1) and (e)(3) of this section, be included in foreign personal holding company income of such corporation without regard to whether or not such rents constitute 50 percent or more of the gross income of such corporation.

(c) *Dividends attributable to amounts previously included in gross income of United States shareholders.* Foreign personal holding company income of a controlled foreign corporation does not include, with respect to a United States shareholder of such corporation, dividends received by such corporation which are excluded under section 959(b) from the income of such corporation with respect to such shareholder.

(d) *Certain income received from unrelated persons in the active conduct of a trade or business*—(1) *Rents and royalties*—(i) *In general.* Foreign personal holding company income of a controlled foreign corporation does not include rents and royalties which are derived in the active conduct of a trade or business and received from an unrelated person, as defined in paragraph (e)(2) of § 1.954–1. See section 954(c)(3)(A). Whether or not rents or royalties are derived in the active conduct of a trade or business is to be determined from the facts and circumstances of each case; but see subdivision (ii) or (iii) of this subparagraph for specific cases in which rents or royalties will be considered for purposes of this subparagraph to be derived in the active conduct of a trade or business. The frequency with which a foreign corporation enters into transactions from which rents or royalties are derived will not of itself establish the fact that such rents or royalties are derived in the active conduct of a trade or business.

(ii) [Reserved]

(iii) [Reserved]

(2) *Dividends, interest, and gains on securities, received in banking or other financing business from unrelated persons*—(i) *In general.* Foreign personal

holding company income of a controlled foreign corporation does not include dividends, interest, or the excess of gains over losses from sales or exchanges of stock or securities, derived in the conduct of a banking, financing, or similar business if such dividends or interest is received from, or if such sales or exchanges are made to or with, unrelated persons, as defined in paragraph (e)(2) of § 1.954–1. See section 954(c)(3)(B).

(ii) *Meaning of banking or other financing business.* A controlled foreign corporation will be considered to conduct a banking, financing, or similar business for purposes of this subparagraph if it is primarily engaged in the active conduct of a business consisting of one or more of the following activities:

(*a*) Receiving deposits of money from the public;

(*b*) Making loans to the public;

(*c*) Purchasing, or purchasing and discounting, accounts receivable, notes receivable, or installment contracts receivable; or

(*d*) Purchasing stock or debt obligations from the issuer or obligor (or from a person or persons controlling, controlled by, or under common control with, such issuer or obligor) thereof for the purpose of distributing such stock or obligations through resale to the public.

A controlled foreign corporation will be considered to be primarily engaged in the conduct of a banking, financing, or similar business if for the taxable year it derives more than 50 percent (determined without regard to income described in subdivision (iii) of this subparagraph) of its entire gross income for such year from business activities described in the preceding sentence. Although subjection to the banking and credit laws of a foreign country is significant in determining the business which a controlled foreign corporation is authorized and intends to carry on, the character of the business actually done in the taxable year shall determine whether it is conducting a banking, financing, or similar business for purposes of section 954(c)(3)(B). If, in addition to the conduct of a banking, financing, or similar business, a controlled foreign corporation is engaged in other businesses, for example, the business of selling goods, wares, merchandise, or commodities, or the production or manufacture of articles, only those dividends, interest, and excess gains from sales or exchanges of stock or securities, derived in the conduct of the banking, financing, or similar business shall be excluded from foreign personal holding company income of the controlled foreign corporation under section 954(c)(3)(B).

(iii) *Incidental income.* If shares of stock or securities are acquired as an ordinary and necessary incident to the conduct of a banking, financing, or similar business, as defined in subdivision (ii) of this subparagraph, the dividend and interest income from, and the excess of gains over losses from sales or exchanges of, such stock or securities will be considered to be derived in the conduct of a banking, financing, or similar business for purposes of this subparagraph but only so long as the retention of such property remains an ordinary and necessary incident to the conduct of such business. Thus, the acquisition of stock or a security, acquired as a result of, or in order to prevent, a loss in such business upon a loan contracted in the ordinary course of such business will be considered ordinary and necessary to the conduct of such business, but dividends, interest, gain, or loss on such stock or security will be considered derived or incurred in the conduct of the banking, financing, or similar business only so long as the holding of such stock or security remains an ordinary and necessary incident to the conduct of such business. Also, to the extent that the retention of cash (in excess of immediate requirements because of seasonal fluctuations or similar occurrences) for a peak period of requirements is an ordinary and necessary incident to the conduct of a banking, financing, or similar business, interest from short-term securities in which such cash is invested will be treated as derived in the conduct of such business.

(iv) *Income of foreign corporations owned by Edge Act or Agreement corporations—(a) In general.* Notwithstanding subdivisions (ii) and (iii) of this subparagraph, dividends, interest, or the excess of gains over losses from sales or exchanges of stock or securities, derived by a controlled foreign corporation described in (*b*) of this subdivision will be considered for purposes of this subparagraph to be derived in the conduct of a banking, financing, or similar business.

(*b*) *Foreign corporations included.* A controlled foreign corporation to which (*a*) of this subdivision applies is a controlled foreign corporation of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned within the meaning of section 958(a), or is considered as owned by applying the rules of ownership of section 958(b), by a domestic corporation which is either organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611–631) or has an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of such Act (12 U.S.C. 601–604a), but only if—

(*1*) All of the stock (except qualifying shares) of the domestic corporation is owned by a national or State bank which is a member of the Federal Reserve System; and

(*2*) For each taxable year of such controlled foreign corporation beginning after December 31, 1962, not more than 20 percent of the gross income (determined before the application of paragraph (d) of § 1.954–1) of such corporation consists of—

(*i*) Foreign personal holding company income, determined as provided in § 1.954–2 but by excluding from such foreign personal holding company income dividends, interest, and the excess of gains over losses from sales or exchanges of stock or securities.

(*ii*) Foreign base company sales income, as defined in § 1.954–3, and

(*iii*) Foreign base company services income, as defined in § 1.954–4.

(3) *Dividends, interest, and gains on securities, derived from investments by insurance companies and received from unrelated persons.* Foreign personal holding company income of a controlled foreign corporation which is an insurance company does not include dividends or interest derived from, or the excess of gains over losses from sales or exchanges of stock or securities held as, investments of its unearned premiums or of its reserves which are ordinary and necessary for the proper conduct of its insurance business, if such dividends or interest is received from, or if such sales or exchanges are made to or with, unrelated persons, as defined in paragraph (e)(2) of § 1.954–1. See section 954(c)(3)(B). Although the name, charter powers, and subjection to the insurance laws of a foreign country are significant in determining the business which a controlled foreign corporation is authorized and intends to carry on, the character of the business actually done in the taxable year shall determine whether it is an insurance company for purposes of section 954(c)(3)(B). The term "unearned premium," as used in this subparagraph, means the amount which will cover the cost of carrying the insurance risk for the period for which the premium has been paid in advance. A reserve will be considered ordinary and necessary for the proper conduct of an insurance business if, under the principles of paragraph (c) of § 1.953–4, such reserve would qualify as a reserve required by law.

(e) *Certain income received from related persons—(1) Dividends and interest received from a related corporation organized under the laws of the same foreign country as the income recipient—(i) In general.* Foreign personal holding company income of a controlled foreign corporation does not include dividends or interest received from a related foreign corporation, as defined in paragraph (e)(1)(ii) of § 1.954–1, which (*a*) is created or organized under the laws of the same foreign country as that under the laws of which the controlled foreign corporation is created or organized and (*b*) for its taxable year has a substantial part of the assets, which are used in its trade or business, located in such same foreign country. See section 954(c)(4)(A). Dividends shall be excluded from foreign personal holding company income under this subparagraph only to the extent they are paid out of earnings and profits which are earned or accumulated during a period in which the payer is a related foreign corporation as to the controlled foreign corporation and the requirements of both (*a*) and (*b*) of this subdivision are satisfied or, to the extent earned or accumulated during a taxable year of the related foreign corporation ending on or before December 31, 1962, during a period in which the payer is a related foreign corporation as to the controlled foreign corporation and the requirements of (*a*) and (*b*) of this subdivision are substantially satisfied.

Whether a substantial part of the assets used by a foreign corporation in a trade or business will be considered to be located in the country under the laws of which such corporation is created or organized will depend on the facts and

circumstances of each case. In every case, however, a substantial part of the assets used by a foreign corporation in a trade or business will be considered to be located for the taxable year in the country under the laws of which it is created or organized if for each quarter during such taxable year the average value of its assets which are used in the trade or business and are located in such country constitute 80 percent or more of the average value of all its assets used in such trade or business. For such purpose the value at which bills receivable, accounts receivable, notes receivable, and open accounts held by a foreign corporation using the cash receipts and disbursements method of accounting shall be taken into account is their actual value (not reduced by liabilities), which, in the absence of affirmative evidence to the contrary, shall be deemed to be their face value; and the value at which other assets shall be taken into account is their actual value (not reduced by liabilities), which, in the absence of affirmative evidence to the contrary, shall be deemed to be their adjusted basis.

(ii) *Location of assets.* For purposes of this subparagraph, property (other than stock in trade or other property of a kind which would properly be included in inventory of the foreign corporation if on hand at the close of the taxable year, or property held primarily for sale to customers in the ordinary course of the trade or business of the foreign corporation) purchased for use in a trade or business and temporarily located outside the country under the laws of which the foreign corporation is created or organized will be considered located in such country while temporarily located outside such country if, but only if, such property is shipped to and received in such country promptly after such purchase. Bills receivable, accounts receivable, notes receivable, and open accounts shall be considered to be used in the trade or business and located in the country under the laws of which the foreign corporation is created or organized if, but only if—

(*a*) Such obligations arise out of the rental of property located in such country, the performance of services within such country, or the sale of property manufactured, produced, grown, or extracted in such country, but only to the extent that the aggregate amount of such obligations at any time during the taxable year of such corporation does not exceed an amount which is ordinary and necessary to carry on the business of both parties to the transactions if such transactions are between unrelated persons or, if such transactions are between related persons, an amount which would be ordinary and necessary to carry on the business of both parties to the transactions if such transactions were between unrelated persons; or

(*b*) In the case of bills receivable, accounts receivable, notes receivable, and open accounts arising out of transactions other than those referred to in (*a*) of this subdivision—

(*1*) If the obligor is an individual, such individual is a resident of such country and no other country;

(2) If the obligor is a corporation which as to the foreign corporation is a related person, as defined in paragraph (e)(1) of § 1.954–1, such obligor derives 80 percent or more of its gross income, for the 3-year period ending with the close of its annual accounting period in which the obligation is incurred, or for such part of such 3-year period as such corporation has been in existence, whichever period is shorter, from sources within such country as determined under the provisions of sections 861 through 864 and §§ 1.861–1 through 1.863–5, in the application of which the name of such country shall be substituted for "the United States"; or

(3) If the obligor is a corporation which as to the foreign corporation is an unrelated person, as defined in paragraph (e)(2) of § 1.954–1, it is reasonable, on the basis of ascertainable facts, for the obligee to believe that the obligor meets, with respect to the period described in (2) of this subdivision, the 80-percent gross income requirement described therein.

Interests in real estate, such as, leaseholds of land or improvements thereon, mortgages on real property (including interests in mortgages on leaseholds of land or improvements thereon), and mineral, oil, or gas interests shall be considered located in the country under the laws of which the foreign corporation is created or organized if, but only if, the underlying real estate is located in such country. Intangible property (other than that previously described in this subdivision) used in the trade or business of the foreign corporation shall be considered to be located in such country in the same ratio that the amount of the foreign corporation's tangible property and property described in the two preceding sentences used in its trades or businesses and located or deemed located in such country bears to the total amount of its tangible property and property so described used in its trades or businesses.

(2) *Interest received in banking or other financing business from a related person.* Foreign personal holding company income of a controlled foreign corporation does not include interest received in the conduct of a banking, financing, or similar business if such interest is received from a related person, as defined in paragraph (e)(1) of § 1.954–1, if the related person is primarily engaged in the conduct of a banking, financing, or similar business and if the businesses of the recipient and the payer are predominantly with unrelated persons, as defined in paragraph (e)(2) of § 1.954–1. See section 954(c)(4)(B). For purposes of this subparagraph, the businesses of the recipient and the payer of interest will be considered to be predominantly with unrelated persons for a taxable year if both the recipient and the payer each receive more than 70 percent of their gross income for the taxable year from unrelated persons. Moreover, the payer of the interest will be considered to be primarily engaged in the conduct of a banking, financing, or similar business for a taxable year if such person receives more than 50 percent of its gross income for the taxable year from such a business. Determinations as to compliance with such 70-percent and 50-percent tests shall be made for the taxable year of the controlled foreign corporation in which the interest is received and for the taxable year of the related person in which the interest is paid. The rules provided in paragraph (d)(2) of this section shall apply under this subparagraph for purposes of determining whether a person is engaged in the conduct of a banking, financing, or similar business and whether interest is received in the conduct of such a business. The application of this subparagraph may be illustrated by the following example:

Example. Controlled foreign corporation A is organized under the banking laws of foreign country X. Corporation A's sole business activity consists of transactions with the public in which it receives deposits of money and makes loans. In the conduct of its banking business A Corporation receives in 1965 5 percent of its gross interest income from payments made in such year by foreign corporation B, a related person incorporated under the laws of foreign country Y. Both corporations A and B use the calendar year as the taxable year. For 1965, B Corporation is engaged in the conduct of a financing business and derives more than 50 percent of its gross income from the conduct of such business. Corporations A and B each derive more than 70 percent of their gross income for 1965 from unrelated persons. Interest income of A Corporation received from B Corporation in 1965 is excluded from A Corporation's foreign personal holding company income under section 954(c)(4)(B).

(3) *Rents and royalties received from related persons for use of property in country of incorporation.* Foreign personal holding company income of a controlled foreign corporation does not include rents, royalties, and similar amounts received from a related person, as defined in paragraph (e)(1) of § 1.954–1, for the use of, or for the privilege of using, property within the foreign country under the laws of which the controlled foreign corporation is created or organized. See section 954(c)(4)(C). If the property is used both within and without the country under the laws of which the controlled foreign corporation is created or organized, the part of the rent or royalty attributable to the use of, or the privilege of using, the property outside such country of incorporation is, unless otherwise provided, foreign personal holding company income for purposes of section 954(c)(1).

§ 1.954–3 Foreign base company sales income.

(a) *Income included*—(1) *In general.* Foreign base company sales income of a controlled foreign corporation shall, except as provided in subparagraphs (2), (3), and (4) of this paragraph, consist of gross income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with (i) the purchase of personal property from a related person and its sale to any person, (ii) the sale of personal property to any person on behalf of a related person, (iii) the purchase of personal property from any person and its sale to a related person, or (iv) the purchase of personal

property from any person on behalf of a related person. See section 954(d)(1). This section shall apply to the purchase and/or sale of personal property, whether or not such property was purchased and/or sold in the ordinary course of trade or business, except that income derived in connection with the sale of tangible personal property will not be considered to be foreign base company sales income if such property is sold to an unrelated person, as defined in paragraph (e)(2) of § 1.954–1, after substantial use has been made of the property by the controlled foreign corporation in its trade or business. This section shall not apply to the excess of gains over losses from sales or exchanges of securities or from futures transactions, to the extent such excess gains are includible in foreign personal holding company income of the controlled foreign corporation under § 1.954–2; nor shall it apply to the sale of the controlled foreign corporation's property (other than its stock in trade or other property of a kind which would properly be included in its inventory if on hand at the close of the taxable year, or property held primarily for sale to customers in the ordinary course of its trade or business) if substantially all the property of such corporation is sold pursuant to the discontinuation of the trade or business previously carried on by such corporation. The term "any person" as used in this subparagraph includes a related person, as defined in paragraph (e)(1) of § 1.954–1. The application of this subparagraph may be illustrated by the following examples:

Example (1). Controlled foreign corporation A, incorporated under the laws of foreign country X, is a wholly owned subsidiary of domestic corporation M. Corporation A purchases from M Corporation, a related person, articles manufactured in the United States and sells the articles in the form in which purchased to P, not a related person, for delivery and use in foreign country Y. Gross income of A Corporation derived from the purchase and sale of the personal property is foreign base company sales income.

Example (2). Corporation A in example (1) also purchases from P, not a related person, articles manufactured in country Y and sells the articles in the form in which purchased to foreign corporation B, a related person, for use in foreign country Z. Gross income of A Corporation derived from the purchase and sale of the personal property is foreign base company sales income.

Example (3). Controlled foreign corporation C, incorporated under the laws of foreign country X, is a wholly owned subsidiary of domestic corporation N. By contract, N Corporation agrees to pay C Corporation, a related person, a commission equal to 6 percent of the gross selling price of all personal property shipped by N Corporation as the result of orders solicited by C Corporation in foreign countries Y and Z. In fulfillment of such orders, N Corporation ships products manufactured by it in the United States. Corporation C does not assume title to the property sold. Gross commissions received by C Corporation from N Corporation in connection with the sale of such property for use in countries Y and Z constitute foreign base company sales income.

Example (4). Controlled foreign corporation D, incorporated under the laws of foreign country Y, is a wholly owned subsidiary of domestic corporation R. In 1964, D Corporation acquires a United States manufactured lathe from R Corporation. In 1972, after having made substantial use of the lathe in its manufacturing business, D Corporation sells the lathe to an unrelated person for use in foreign country Z. Gross income from the sale of the lathe is not foreign base company sales income since it is sold to an unrelated person after substantial use has been made of it by D Corporation in its business.

Example (5). Controlled foreign corporation E, incorporated under the laws of foreign country Y, is a wholly owned subsidiary of domestic corporation P. Corporation E purchases from P Corporation articles manufactured by P Corporation outside of country Y and sells the articles to F Corporation, an unrelated person, for use in foreign country Z. Corporation E finances the purchase of the articles by F Corporation by agreeing to accept payment over an extended period of time and receives not only the purchase price but also interest and service fees. All gross income of E Corporation derived in connection with the purchase and sale of the personal property, including interest and service fees derived from financing the sale to F Corporation, constitutes foreign base company sales income.

(2) *Property manufactured, produced, constructed, grown, or extracted within the country in which the controlled foreign corporation is created or organized.* Foreign base company sales income does not include income derived in connection with the purchase and sale of personal property (or purchase or sale of personal property on behalf of a related person) in a transaction described in subparagraph (1) of this paragraph if the property is manufactured, produced, constructed, grown, or extracted in the country under the laws of which the controlled foreign corporation which purchases and sells the property (or acts on behalf of a related person) is created or organized. See section 954(d)(1)(A). The principles set forth in subparagraph (4) of this paragraph with respect to the manufacture, production, or construction of personal property shall apply under this subparagraph in determining what constitutes manufacture, production, or construction of property. The application of this subparagraph may be illustrated by the following examples:

Example (1). Controlled foreign corporation A, incorporated under the laws of foreign country X, is a wholly owned subsidiary of domestic corporation M. Corporation A purchases coffee beans grown in country X from foreign corporation P, a related person, and sells the beans to M Corporation, a related person, for use in the United States. Income from the purchase and sale of the coffee beans by A Corporation is not foreign base company sales income since the beans were grown in country X.

Example (2). Controlled foreign corporation B, incorporated under the laws of foreign country X, is a wholly owned subsidiary of controlled foreign corporation C, also incorporated under the laws of country X. Corporation B purchases and imports into country X rough diamonds mined in foreign country Y; in country X it cuts, polishes, and shapes the diamonds in a process which constitutes manufacturing within the meaning of subparagraph (4) of this paragraph. Corporation B sells the finished diamonds to C Corporation, a related person, which in turn sells them for use in foreign country Z. Since for purposes of this subparagraph the finished diamonds are manufactured in country X, gross income derived by C Corporation from their sale is not foreign base company sales income.

(3) *Property sold for use, consumption, or disposition within the country in which the controlled foreign corporation is created or organized.*—(i) *In general.* Foreign base company sales income does not include income derived in connection with the purchase and sale of personal property (or purchase or sale of personal property on behalf of a related person) in a transaction described in subparagraph (1) of this paragraph, (*a*) if the property is sold for use, consumption, or disposition in the country under the laws of which the controlled foreign corporation which purchases and sells the property (or sells on behalf of a related person) is created or organized or (*b*), where the property is purchased by the controlled foreign corporation on behalf of a related person, if such property is purchased for use, consumption, or disposition in the country under the laws of which such controlled foreign corporation is created or organized. See section 954(d)(1)(B).

(ii) *Rules for determining country of use, consumption, or disposition.* As a general rule, personal property which is sold to an unrelated person will be presumed for purposes of this subparagraph to have been sold for use, consumption, or disposition in the country of destination of the property sold; for such purpose, the occurrence in a country of a temporary interruption in shipment of goods shall not constitute such country the country of destination. However, if at the time of a sale of personal property to an unrelated person the controlled foreign corporation knew, or should have known from the facts and circumstances surrounding the transaction, that the property probably would not be used, consumed, or disposed of in the country of destination, the controlled foreign corporation must determine the country of ultimate use, consumption, or disposition of the property or the property will be presumed to have been used, consumed, or disposed of outside the country under the laws of which the controlled foreign corporation is created or organized. A controlled foreign corporation which sells personal property to a related person is presumed to sell such property for use, consumption, or disposition outside the country under the laws of which the controlled foreign corporation is created or organized unless such corporation establishes the use made of the property by the related person; once it has established that the related person has disposed of the property, the rules in the two preceding sentences relating to sales by a controlled foreign corporation to an unrelated person will apply at the first stage in the chain of distribution at which a sale is made by a related person to an unrelated person. Notwithstanding the preceding provisions of this subdivision, a controlled foreign corporation which sells personal property to any person all of whose business except for an insubstantial part consists of selling from inventory to retail customers at retail outlets all within one country may assume at the time of such sale to such person that such property will be used,

consumed, or disposed of within such country.

(iii) *Fungible goods.* For purposes of this subparagraph, a controlled foreign corporation which sells to a purchaser personal property which because of its fungible nature cannot reasonably be specifically traced to other purchasers and to the countries of ultimate use, consumption, or disposition shall, unless such corporation establishes a different disposition as being proper, treat such property as being sold, for ultimate use, consumption, or disposition in those countries, and to those other purchasers, in the same proportions in which property from the fungible mass of the first purchaser is sold in the regular course of business by such first purchaser. No apportionment need be made, however, on the basis of sporadic sales by the first purchaser. This subdivision shall apply only in a case where the controlled foreign corporation knew, or should have known from the facts and circumstances surrounding the transaction, the manner in which the first purchaser disposes of goods from the fungible mass.

(iv) *Illustrations.* The application of this subparagraph may be illustrated by the following examples:

Example (1). Controlled foreign corporation A, incorporated under the laws of foreign country X, and controlled foreign corporations B, incorporated under the laws of foreign country Y, are related persons. Corporation A purchases from B Corporation electric transformers produced by B Corporation in country Y and sells the transformers to D Corporation, an unrelated person, for installation in a factory building being constructed in country X. Since the personal property purchased and sold by A Corporation is to be used within the country in which A Corporation is incorporated, income of A Corporation derived from the purchase and sale of the electric transformers is not foreign base company sales income.

Example (2). Controlled foreign corporaton C, incorporated under the laws of foreign country X, is a wholly owned subsidiary of domestic corporation N. Corporation C purchases from N Corporation sewing machines manufactured in the United States by N Corporation and sells the sewing machines to retail department stores, unrelated persons, located in foreign country X. The entire activities of the department stores to which C Corporation sells the machines consist of selling goods from inventory to retail customers at retail outlets in country X. Under these circumstances, at the time of sale C Corporation may assumue the sewing machines will be used, consumed, or disposed of in country X, and no attempt need be made by C Corporation to determine where the sewing machines will ultimately be used by the customers of the retail department stores. Gross income of C Corporation derived from the sales to the department stores located in country X is not foreign base company sales income.

Example (3). Controlled foreign corporation D, incorporated under the laws of foreign country Y, and controlled foreign corporation E, incorporated under the laws of foreign country X, are related persons. Corporation D purchases from E Corporation sulphur extracted by E Corporation from deposits located in country X. Corporation D sells the sulphur to F Corporation, an unrelated person, for delivery to F Corporation's storage facilities located in country Y. At the time of the sale of the sulphur from D Corporation to F Corporation, D Corporation knows that F Corporation is actively engaged in the business of selling a large amount of sulphur in country Y but also that F Corporation sells, in the normal course of its business, 25 percent of its sulphur for ultimate consumption in foreign country Z. However, D Corporation has no knowledge at the time of sale whether any portion of the particular shipment it sells to F Corporasion will be resold by F Corporation for ultimate use, consumption, or disposition outside country Y. Moreover, delivery of the sulphur to F Corporation's storage facilities constitutes more than a temporary interruption in the shipment of the sulphur. Under such circumstances, D Corporation may, but is not required to, trace the ultimate disposition by F Corporation of the personal property sold to F Corporation; however, if D Corporation does not trace the ultimate disposition and if it does not establish a different disposition as being proper, 25 percent of the sulphur sold by D Corporation to F Corporation will be treated as being sold for consumption in country Z and 25 percent of the gross income from the sale of sulphur by D Corporation to F Corporation will be treated as foreign base company sales income.

Example (4). Controlled foreign corporation G, incorporated under the laws of foreign country X, is a wholly owned subsidiary of domestic corporation P. Corporation G purchases from P Corporation toys manufactured in the United States by P Corporation and sells the toys to R, an unrelated person, for delivery to a duty-free port in country X. Instructions for the assembly and operation of the toys are printed in a language which is not commonly used in country X. From the facts and circumstances surrounding the sales to R, G Corporation knows, or should know, that the toys will probably not be used, consumed, or disposed of within country X. Therefore, unless G Corporation determines the use to be made of the toys by R, such property will be presumed to have been sold by R for use, consumption, or disposition outside of country X, and the entire gross income of G Corporation derived from the sales will be considered foreign base company sales income.

(4) *Property manufactured or produced by the controlled foreign corporation*—(i) *In general.* Foreign base company sales income does not include income of a controlled foreign corporation derived in connection with the sale of personal property manufactured, produced, or constructed by such corporation in whole or in part from personal property which it has purchased. A foreign corporation will be considered, for purposes of this subparagraph, to have manufactured, produced, or constructed personal property which it sells if the property sold is in effect not the property which it purchased. In the case of the manufacture, production, or construction of personal property, the property sold will be considered, for purposes of this subparagraph, as not being the property which is purchased if the provisions of subdivision (ii) or (iii) of this subparagraph are satisfied. For rules of apportionment in determining foreign base company sales income derived from the sale of personal property purchased and used as a component part of property which is not manufactured, produced, or constructed, see subparagraph (5) of this paragraph.

(ii) *Substantial transformation of property.* If purchased personal property is substantially transformed prior to sale, the property sold will be treated as having been manufactured, produced, or constructed by the selling corporation. The application of this subdivision may be illustrated by the following examples:

Example (1). Controlled foreign corporation A, incorporated under the laws of foreign country X, operates a paper factory in foreign country Y. Corporation A purchases from a related person wood pulp grown in country Y. Corporation A, by a series of processes, converts the wood pulp to paper which it sells for use in foreign country Z. The transformation of wood pulp to paper constitutes the manufacture or production of property for purposes of this subparagraph.

Example (2). Controlled foreign corporation B, incorporated under the laws of foreign country X, purchases steel rods from a related person which produces the steel in foreign country Y. Corporation B operates a machining plant in country X in which it utilizes the purchased steel rods to make screws and bolts. The transformation of steel rods to screws and bolts constitutes the manufacture or production of property for purposes of this subparagraph.

Example (3). Controlled foreign corporation C, incorporated under the laws of foreign country X, purchases tuna fish from unrelated persons who own fishing boats which catch such fish on the high seas. Corporation C receives such fish in country X in the condition in which taken from the fishing boats and in such country processes, cans, and sells the fish to related person D, incorporated under the laws of foreign country Y, for consumption in foreign country Z. The transformation of such fish into canned fish constitutes the manufacture or production of property for purposes of this subparagraph.

(iii) *Manufacture of a product when purchased components constitute part of the property sold.* If purchased property is used as a component part of personal property which is sold, the sale of the property will be treated as the sale of a manufactured product, rather than the sale of component parts, if the operations conducted by the selling corporation in connection with the property purchased and sold are substantial in nature and are generally considered to constitute the manufacture, production, or construction of property. Without limiting this substantive test, which is dependent on the facts and circumstances of each case, the operations of the selling corporation in connection with the use of the purchased property as a component part of the personal property which is sold will be considered to constitute the manufacture of a product if in connection with such property conversion costs (direct labor and factory burden) of such corporation account for 20 percent or more of the total cost of goods sold. In no event, however, will packaging, repackaging, labeling, or minor assembly operations constitute the manufacture, production, or construction of property for purposes of section 954(d)(1). The application of this subdivision may be illustrated by the following examples:

Example (1). Controlled foreign corporation A, incorporated under the laws of foreign country X, sells industrial engines for use, consumption, and disposition outside country X. Corporation A, in connection with the assembly of such engines, performs machining and assembly operations. In addition, A Corporation purchases, from related and unrelated persons, components manufactured in foreign country Y. On a

per unit basis, A Corporation's selling price and costs of such engines are as follows:

Selling price		$400
Cost of goods sold:		
Material—		
Acquired from related persons	$100	
Acquired from others	40	
Total material	$140	
Conversion costs (direct labor and factory burden)	70	
Total cost of goods sold		210
Gross profit		190
Administrative and selling expenses		50
Taxable income		140

The conversion costs incurred by A Corporation are more than 20 percent of total costs of goods sold ($70/$210 or 33 percent). Although the product sold, an engine, is not sufficiently distinguishable from the components to constitute a substantial transformation of the purchased parts within the meaning of subdivision (ii) of this subparagraph, A Corporation will be considered under this subdivision to have manufactured the product it sells.

Example (2). Controlled foreign corporation B, incorporated under the laws of foreign country X, operates an automobile assembly plant. In connection with such activity, B Corporation purchases from related persons assembled engines, transmissions, and certain other components, all of which are manufactured outside of country X; purchases additional components from unrelated persons; conducts stamping, machining, and subassembly operations; and has a substantial investment in tools, jigs, welding equipment, and other machinery and equipment used in the assembly of an automobile. On a per unit basis, B Corporation's selling price and costs of such automobiles are as follows:

Selling price		$2,500
Cost of goods sold:		
Material—		
Acquired from related persons	$1,200	
Acquired from others	275	
Total material	$1,475	
Conversion costs (direct labor and factory burden)	325	
Total cost of goods sold		1,800
Gross profit		700
Administrative and selling expenses		300
Taxable income		400

The product sold, an automobile, is not sufficiently distinguishable from the components purchased (the engine, transmission, etc.) to constitute a substantial transformation of purchased parts within the meaning of subdivision (ii) of this subparagraph. Although conversion costs of B Corporation are less than 20 percent of total cost of goods sold ($325/$1800 or 18 percent), the operations conducted by B Corporation in connection with the property purchased and sold are substantial in nature and are generally considered to constitute the manufacture of a product. Corporation B will be considered under this subdivision to have manufactured the product it sells.

Example (3). Controlled foreign corporation C, incorporated under the laws of foreign country X, purchases from related persons radio parts manufactured in foreign country Y. Corporation C designs radio kits, packages component parts required for assembly of such kits, and sells the parts in a knocked-down condition to unrelated persons for use outside country X. These packaging operations of C Corporation do not constitute the manufacture, production, or construction of personal property for purposes of section 954(d)(1).

(5) *Rules for apportionment of income derived from the sale of purchased components used in property not manufactured, produced, or constructed.* The foreign base company sales income derived by a controlled foreign corporation for the taxable year from sales of personal property purchased and used as a component part of property which is not manufactured, produced, or constructed by such corporation within the meaning of subparagraph (4) of this paragraph shall, unless the records of the controlled foreign corporation show that a different apportionment of income is proper or unless all the income from such sales is treated as foreign base company sales income, be determined by first making for such year the following separate classifications and subclassifications with respect to the property which is sold and then by apportioning the income for such year from such sales in accordance with the rules of this subparagraph:

(i) A classification of the cost of components used in the property which is sold into two classes consisting of the cost of components manufactured, produced, constructed, grown, or extracted—

(*a*) Within the country under the laws of which the controlled foreign corporation is created or organized, and

(*b*) Outside such country;

(ii) A subclassification of the class described in subdivision (i)(*b*) of this subparagraph into—

(*a*) The cost of such components purchased from unrelated persons, and

(*b*) The cost of such components purchased from related persons;

(iii) A classification of the income derived from such sales into two classes consisting of income derived from sales for use, consumption, or disposition—

(*a*) Within the country under the laws of which the controlled foreign corporation is created or organized, and

(*b*) Outside such country; and

(iv) A subclassification of the class described in subdivision (iii)(*b*) of this subparagraph into income from—

(*a*) Sales to unrelated persons, and

(*b*) Sales to related persons. The foreign base company sales income for the taxable year from purchases of the property from related persons and sales to unrelated persons shall be the amount which bears to the amount described in subdivision (iv)(*a*) of this subparagraph the same ratio that the amount described in subdivision (ii)(*b*) of this subparagraph bears to the total cost of components used in the product which is sold. The foreign base company sales income for the taxable year from purchases of the property from related persons and sales to related persons is the amount which bears to the amount described in subdivision (iv)(*b*) of this subparagraph the same ratio that the amount described in subdivision (ii)(*b*) of this subparagraph bears to the total cost of components used in the product which is sold. The foreign base company sales income for the taxable year from purchases of the property from unrelated persons and sales to related persons is the amount which bears to the amount described in subdivision (iv)(*b*) of this subparagraph the same ratio that the amount described in subdivision (ii)(*a*) of this subparagraph bears to the total cost of components used in the product which is sold. The application of this subparagraph may be illustrated by the following examples:

Example (1). Controlled foreign corporation C, which is incorporated under the laws of foreign country X, uses the calendar year as the taxable year. For 1964, C Corporation purchases radio parts of which some are manufactured in foreign country Y; and others, in country X. Some of the parts manufactured in country Y are purchased from related persons. Corporation C uses the purchased parts in radio kits which it designs and sells for assembly by its customers, unrelated persons, some of whom use the kits outside country X. Unless the records of C Corporation show that a different apportionment of income is proper, the foreign base company sales income for 1964 is determined in the following manner upon the basis of the following factual classifications for such year:

Cost of components purchased from all persons:		
Manufactured within country X		$20
Manufactured outside country X		40
Total cost		60
Cost of components manufactured outside country X:		
Purchased from unrelated persons		10
Purchased from related persons		30
Total cost		40
Gross income from sales:		
Gross receipts from sales		120
Cost of goods sold:		
Components	$60	
Direct labor and factory burden	10	70
Gross income		50
Gross income from sales:		
For use within country X		26
For use outside country X		24
Gross income		50
Foreign base company sales income from purchases from related persons and sales to unrelated persons ($24x$30/$60)		12

Example (2). The facts are the same as in example (1) except that none of the purchases are from related persons and some of the sales for use outside country X are to related persons. Unless the records of C Corporation show that a different apportionment of income is proper, the foreign base company sales income for 1964 is determined in the following manner upon the basis of the following additional factual classification for such year:

Gross income from sales for use outside country X—		
To unrelated persons		$8
To related persons		16
Total gross income		24
Foreign base company sales income from purchases from unrelated persons and sales to related persons ($16 x $40/$60)		10.67

Example (3). The facts are the same as in example (1) except that some of the sales for use outside country X are to related persons as in example (2). Unless the records of C Corporation show that a different apportionment of income is proper, the foreign base company sales income for 1964 is determined in the following manner:

Foreign base company sales income from purchases from related persons and sales to unrelated persons ($8 x $30/$60)	$4.00
Foreign base company sales income from purchases from related persons and sales to related persons ($16 x $30/$60)	8.00
Foreign base company sales income from purchases from unrelated persons and sales to related persons ($16 x $10/$60)	2.67
Total foreign base company sales income	14.67

(b) *Branches of controlled foreign corporation treated as separate corporations*—(1) *General rules for determining when to apply separate treatment*—(i) *Sales or purchase branch*—(a) *In general.* If a controlled foreign corporation carries on purchasing or selling activities by or through a branch or similar establishment located outside the country under the laws of which such corporation is created or organized and the use of the branch or similar establishment for such activities has substantially the same tax effect as if the branch or similar establishment were a wholly owned subsidiary corporation of such controlled foreign corporation, the branch or similar establishment and the remainder of the controlled foreign corporation will be treated as separate corporations for purposes of determining foreign base company sales income of such corporation. See section 954(d)(2).

(b) *Allocation of income and comparison of effective rates of tax.* The determination as to whether such use of the branch or similar establishment has the same tax effect as if it were a wholly owned subsidiary corporation of the controlled foreign corporation shall be made by allocating to such branch or similar establishment only that income derived by the branch or establishment which, when the special rules of subparagraph (2)(i) of this paragraph are applied, is described in paragraph (a) of this section (but determined without applying subparagraphs (2), (3), and (4) of such paragraph). The use of the branch or similar establishment for such activities will be considered to have substantially the same tax effect as if it were a wholly owned subsidiary corporation of the controlled foreign corporation if the income allocated to the branch or similar establishment under the immediately preceding sentence is, by statute, treaty obligation, or otherwise, taxed in the year when earned at an effective rate of tax that is less than 90 percent of, and at least 5 percentage points less than, the effective rate of tax which would apply to such income under the laws of the country in which the controlled foreign corporation is created or organized, if, under the laws of such country, the entire income of the controlled foreign corporation were considered derived by the corporation from sources within such country from doing business through a permanent establishment therein, received in such country, and allocable to such permanent establishment, and the corporation were managed and controlled in such country.

(c) *Use of more than one branch.* If a controlled foreign corporation carries on purchasing or selling activities by or through more than one branch or similar establishment located outside the country under the laws of which such corporation is created or organized, or by or through one or more such branches or similar establishments in a case where subdivision (ii) of this subparagraph also applies, then (b) of this subdivision shall be applied separately to the income derived by each such branch or similar establishment (by treating such purchasing or selling branch or similar establishment as if it were the only branch or similar establishment of the controlled foreign corporation and as if any such other branches or similar establishments were separate corporations) in determining whether the use of such branch or similar establishment has substantially the same tax effect as if such branch or similar establishment were a wholly owned subsidiary corporation of the controlled foreign corporation.

(ii) *Manufacturing branch*—(a) *In general.* If a controlled foreign corporation carries on manufacturing, producing, constructing, growing, or extracting activities by or through a branch or similar establishment located outside the country under the laws of which such corporation is created or organized and the use of the branch or similar establishment for such activities with respect to personal property purchased or sold by or through the remainder of the controlled foreign corporation has substantially the same tax effect as if the branch or similar establishment were a wholly owned subsidiary corporation of such controlled foreign corporation, the branch or similar establishment and the remainder of the controlled foreign corporation will be treated as separate corporations for purposes of determining foreign base company sales income of such corporation. See section 954(d)(2).

(b) *Allocation of income and comparison of effective rates of tax.* The determination as to whether such use of the branch or similar establishment has substantially the same tax effect as if the branch or similar establishment were a wholly owned subsidiary corporation of the controlled foreign corporation shall be made by allocating to the remainder of such controlled foreign corporation only that income derived by the remainder of such corporation, which, when the special rules of subparagraph (2)(i) of this paragraph are applied, is described in paragraph (a) of this section (but determined without applying subparagraphs (2), (3), and (4) of such paragraph). The use of the branch or similar establishment for such activities will be considered to have substantially the same tax effect as if it were a wholly owned subsidiary corporation of the controlled foreign corporation if income allocated to the remainder of the controlled foreign corporation under the immediately preceding sentence is, by statute, treaty obligation, or otherwise, taxed in the year when earned at an effective rate of tax that is less than 90 percent of, and at least 5 percentage points less than, the effective rate of tax which would apply to such income under the laws of the country in which the branch or similar establishment is located, if, under the laws of such country, the entire income of the controlled foreign corporation were considered derived by such corporation from sources within such country from doing business through a permanent establishment therein, received in such country, and allocable to such permanent establishment, and the corporation were created or organized under the laws of, and managed and controlled in, such country.

(c) *Use of one or more sales or purchase branches in addition to a manufacturing branch.* If, with respect to personal property manufactured, produced, constructed, grown, or extracted by or through a branch or similar establishment located outside the country under the laws of which the controlled foreign corporation is created or organized, purchasing or selling activities are carried on by or through more than one branch or similar establishment, or by or through one or more branches or similar establishments located outside such country, of such corporation, then (b) of this subdivision shall be applied separately to the income derived by each such purchasing or selling branch or similar establishment (by treating such purchasing or selling branch or similar establishment as though it alone were the remainder of the controlled foreign corporation) for purposes of determining whether the use of such manufacturing, producing, constructing, growing, or extracting branch or similar establishment has substantially the same tax effect as if such branch or similar establishment were a wholly owned subsidiary corporation of the controlled foreign corporation.

(2) *Special rules*—(i) *Determination of treatment as a wholly owned subsidiary corporation.* For purposes of determining under this paragraph whether the use of a branch or similar establishment which is treated as a separate corporation has substantially the same tax effect as if the branch or similar establishment were a wholly owned subsidiary corporation of a controlled foreign corporation—

(a) *Treatment as separate corporations.* The branch or similar establishment will be treated as a wholly owned subsidiary corporation of the controlled foreign corporation, and such branch or similar establishment will be deemed to be incorporated in the country in which it is located.

(b) *Activities treated as performed on behalf of remainder of corporation.* With respect to purchasing or selling activities performed by or through the branch or similar establishment, such purchasing or selling activities shall—

(1) With respect to personal property manufactured, produced, constructed,

grown, or extracted by the controlled foreign corporation, or

(2) With respect to personal property (other than property described in (1) of this subdivision (b)) purchased or sold, or purchased and sold, by the controlled foreign corporation,

be treated as performed on behalf of the controlled foreign corporation.

(c) *Activities treated as performed on behalf of branch.* With respect to manufacturing, producing, constructing, growing, or extracting activities performed by or through the branch or similar establishment, purchasing or selling activities performed by or through the remainder of the controlled foreign corporation with respect to the personal property manufactured, produced, constructed, grown, or extracted by or through the branch or similar establishment shall be treated as performed on behalf of the branch or similar establishment.

(d) *Determination of hypothetical tax.* To the extent applicable, the principles of paragraph (b)(3)(iv) of § 1.954–1 shall be used in determining, under subdivision (i) of subparagraph (1) of this paragraph, the effective rate of tax which would apply to the income of the branch or similar establishment under the laws of the country in which the controlled foreign corporation is created or organized, or in determining, under subdivision (ii) of such subparagraph, the effective rate of tax which would apply to the income of the branch or similar establishment under the laws of the country in which the manufacturing, producing, constructing, growing, or extracting branch or similar establishment is located.

(e) *Tax laws to be taken into account.* Tax determinations shall be made by taking into account only the income, war profits, excess profits, or similar tax laws (or the absence of such laws) of the countries involved.

(ii) *Determination of foreign base company sales income.* Once it has been determined under subparagraph (1) of this paragraph that a branch or similar establishment and the remainder of the controlled foreign corporation are to be treated as separate corporations, the determination of whether such branch or similar establishment, or the remainder of the controlled foreign corporation, as the case may be, has foreign base company sales income shall be made by applying the following rules:

(a) *Treatment as separate corporations.* The branch or similar establishment will be treated as a wholly owned subsidiary corporation of the controlled foreign corporation, and such branch or similar establishment will be deemed to be incorporated in the country in which it is located.

(b) *Activities treated as performed on behalf of remainder of corporation.* With respect to purchasing or selling activities performed by or through the branch or similar establishment, such purchasing or selling activities shall—

(1) With respect to personal property manufactured, produced, constructed, grown, or extracted by the controlled foreign corporation, or

(2) With respect to personal property (other than property described in (1) of this subdivision (b)) purchased or sold, or purchased and sold, by the controlled foreign corporation,

be treated as performed on behalf of the controlled foreign corporation.

(c) *Activities treated as performed on behalf of branch.* With respect to manufacturing, producing, constructing, growing, or extracting activities performed by or through the branch or similar establishment, purchasing or selling activities performed by or through the remainder of the controlled foreign corporation with respect to the personal property manufactured, produced, constructed, grown, or extracted by or through the branch or similar establishment shall be treated as performed on behalf of the branch or similar establishment.

(d) *Items not to be twice included in income.* Income which is classified as foreign base company sales income as a result of the application of subdivision (i) of subparagraph (1) of this paragraph shall not be again classified as foreign base company sales income as a result of the application of subdivision (ii) of such subparagraph.

(e) *Comparison with ordinary treatment.* Income derived by the branch or similar establishment, or by the remainder of the controlled foreign corporation, shall not be considered foreign base company sales income if the income would not be so considered if it were derived by a separate controlled foreign corporation under like circumstances.

(f) *Priority of application.* If income derived by the branch or similar establishment, or by the remainder of the controlled foreign corporation, from a transaction would be classified as foreign base company sales income of such controlled foreign corporation under section 954(d)(1) and paragraph (a) of this section, the income shall, notwithstanding this paragraph, be treated as foreign base company sales income under paragraph (a) of this section and the branch or similar establishment shall not be treated as a separate corporation with respect to such income.

(3) *Inclusion of amounts in gross income of United States shareholders.* A branch or similar establishment of a controlled foreign corporation and the remainder of such corporation shall be treated as separate corporations under this paragraph solely for purposes of determining the foreign base company sales income of each such corporation and for purposes of including an amount in subpart F income of the controlled foreign corporation under section 952 (a). See section 954(b)(3) and paragraph (d)(4) of § 1.954–1 for rules relating to the treatment of a branch or similar establishment of a controlled foreign corporation and the remainder of such corporation as separate corporations for purposes of independently determining if the foreign base company income of each such corporation is less than 30 percent, or more than 70 percent, of its gross income. For all other purposes, however, a branch or similar establishment of a controlled foreign corporation and the remainder of such corporation shall not be treated as separate corporations. For example, if the controlled foreign corporation has a deficit in earnings and profits to which section 952(c) applies, the limitation of such section on the amount includible in the subpart F income of such corporation will apply. Moreover, income, war profits, or excess profits taxes paid by a branch or similar establishment to a foreign country will be treated as having been paid by the controlled foreign corporation for purposes of section 960 (relating to special rules for foreign tax credit) and the regulations thereunder. Also, income of a branch or similar establishment, treated as a separate corporation under this paragraph, will not be treated as dividend income of the controlled foreign corporation of which it is a branch or similar establishment.

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

Example (1). Controlled foreign corporation A, incorporated under the laws of foreign country X, is engaged in the manufacturing business in such country. Corporation A negotiates sales of its products for use outside of country X through a sales office, branch B, maintained in foreign country Y. These activities constitute the only activities of A Corporation. Country X levies an income tax at an effective rate of 50 percent on the income of A Corporation derived by the manufacturing plant in country X but does not tax the sales income of A Corporation derived by branch B in country Y. Country Y levies an income tax at an effective rate of 10 percent on the sales income derived by branch B but does not tax the income of A Corporation derived by the manufacturing plant in country X. If the sales income derived by branch B were, under the laws of country X, derived from sources within country X by A Corporation, such income would be taxed by such country at an effective rate of 50 percent. In determining foreign base company sales income of A Corporation, branch B is treated as a separate wholly owned subsidiary corporation of A Corporation, the 10 percent rate of tax on branch B's income being less than 90 percent of, and at least 5 percentage points less than, the 50 percent rate. Income derived by branch B, treated as a separate corporation, from the sale by or through it for use, consumption, or disposition outside country Y of the personal property produced in country X is treated as income from the sale of personal property on behalf of A Corporation, a related person, and constitutes foreign base company sales income. The remainder of A Corporation, treated as a separate corporation, derives no foreign base company sales income since it produces the product which is sold.

Example (2). Controlled foreign corporation C is incorporated under the laws of foreign country X. Corporation C maintains branch B in foreign country Y. Branch B manufactures articles in country Y which are sold through the sales offices of C Corporation located in country X. These activities constitute the only activities of C Corporation. Country Y levies an income tax at an effective rate of 30 percent on the manufacturing profit of C Corporation derived by branch B but does not tax the sales income of C Corporation derived by the sales offices in country X. Country X does not impose an income, war profits, excess profits, or similar tax, and no tax is paid to any foreign country with respect to income of C Corporation which is not derived by branch B. If C Corporation were

incorporated under the laws of country Y, the sales income of the sales offices in country X would be taxed by country Y at an effective rate of 30 percent. In determining foreign base company sales income of C Corporation, branch B is treated as a separate wholly owned subsidiary corporation of C Corporation, the zero rate of tax on the income derived by the remainder of C Corporation being less than 90 percent of, and at least 5 percentage points less than, the 30 percent rate. Branch B, treated as a separate corporation, derives no foreign base company sales income since it produces the product which is sold. Income derived by the remainder of C Corporation, treated as a separate corporation, from the sale by or through it for use, consumption, or disposition outside country X of the personal property produced in country Y is treated as income from the sale of personal property on behalf of branch B, a related person, and constitutes foreign base company sales income.

Example (3). Controlled foreign corporation E, incorporated under the laws of foreign country X, is a wholly owned subsidiary of controlled foreign corporation D, also incorporated under the laws of country X. Corporation E maintains branch B in foreign country Y. Both corporations use the calendar year as the taxable year. In 1964, E Corporation's sole activity, carried on through branch B, consists of the purchase of articles manufactured in country X by D Corporation, a related person, and the sale of the articles through branch B for use outside country X. The income of E Corporation derived by branch B from such transactions is taxed to E Corporation by country X only at the time E Corporation distributes such income to D Corporation and is then taxed on the basis of what the tax (a 40 percent effective rate) would have been if the income had been derived in 1964 by E Corporation from sources within country X from doing business through a permanent establishment therein. Country Y levies an income tax at an effective rate of 50 percent on income derived from sources within such country, but the income of branch B for 1964 is effectively taxed by country Y at a 5 percent rate since, under the laws of such country, only 10 percent of branch B's income is derived from sources within such country. Corporation E makes no distributions to D Corporation in 1964. In determining foreign base company sales income of E Corporation for 1964, branch B is treated as a separate wholly owned subsidiary corporation of E Corporation, the 5 percent rate of tax on branch B's income being less than 90 percent of, and at least 5 percentage points less than, the 40 percent rate. Income derived by branch B, treated as a separate corporation, from the sale by or through it for use, consumption, or disposition outside country Y of the personal property produced in country X is treated as income from the sale of personal property on behalf of E Corporation, a related person, and constitutes foreign base company sales income.

Example (4). Controlled foreign corporation F, incorporated under the laws of foreign country X, is a wholly owned subsidiary of domestic corporation M. Corporation F, through its branch B in foreign country Y, purchases from controlled foreign corporation G, a wholly owned subsidiary of M Corporation incorporated under the laws of foreign country Z, personal property which G Corporation manufactures in country Z. Corporation F sells such property for use in foreign country W. Since the income of F Corporation from such purchases and sales is classified as foreign base company sales income under section 954(d)(1) and paragraph (a) of this section, branch B will not be treated as a separate corporation with respect to such income even if the tax differential between countries X and Y would otherwise justify such treatment.

Example (5). Controlled foreign corporation A, incorporated under the laws of foreign country X, is engaged in manufacturing articles through its home office, located in country X, and selling such articles through branch B, located in foreign country Y, and through branch C, located in foreign country Z, for use outside country X. These activities constitute the only activities of A Corporation for its taxable year 1963. Each such country levies an income tax on only the income derived from sources within such country, and all income derived in 1963 by the home office, branch B, and branch C, respectively, is derived from sources within countries X, Y, and Z, respectively. The income and income taxes of A Corporation for 1963 are as follows:

	X Country	Y Country	Z Country
Income of:			
Home office	$200,000		
Branch B		$100,000	
Branch C			$100,000
Income tax	100,000	20,000	20,000
Effective rate of tax	50%	20%	20%

By applying subparagraph (1)(i) of this paragraph and by treating branch B as though it were the only branch of A Corporation, branch B is treated as a separate wholly owned subsidiary corporation of A Corporation in determining foreign base company sales income of A Corporation for 1963, the 20 percent rate of tax on the income of such branch being less than 90 percent of, and at least 5 percentage points less than, the 50 percent rate of tax which would apply to the income of branch B under the laws of country X if, under the laws of such country, all the income of A Corporation for 1963 derived through the home office and branch B were derived from sources within country X. Moreover, by applying subparagraph (1)(i) of this paragraph and by treating branch C as though it were the only branch of A Corporation, branch C is treated as a separate wholly owned subsidiary corporation of A Corporation, the 20 percent rate of tax on the income of such branch being less than 90 percent of, and at least 5 percentage points less than, the 50 percent rate of tax which would apply to the income of branch C under the laws of country X if, under the laws of such country, all the income of A Corporation for 1963 derived through the home office and branch C were derived from sources within country X. The income derived by branch B and branch C, respectively, each treated as a separate corporation, from the sale by or through each of them for use, consumption, or disposition outside country Y and country Z, respectively, is treated as income from the sale of personal property on behalf of A Corporation, a related person, and constitutes foreign base company sales income for 1963. The home office of A Corporation, treated as a separate corporation, derives no foreign base company sales income for 1963 since it produces the articles which are sold.

Example (6). Controlled foreign corporation A, incorporated under the laws of foreign country X, is engaged in manufacutring articles through branch B, located in foreign country Y, and selling such articles through branch C, located in foreign country Z, and through its home office, located in country X, for use outside country X. These activities constitute the only activities of A Corporation for its taxable year 1963. Each such country levies an income tax on only the income derived from sources within such country, and all income derived in 1963 by the home office, branch B, and branch C, respectively, is derived from sources within countries X, Y, and Z, respectively. The income and income taxes of A Corporation for 1963 are as follows:

	X Country	Y Country	Z Country
Income of:			
Home office	$100,000		
Branch B		$200,000	
Branch C			$100,000
Income tax	20,000	100,000	20,000
Effective rate of tax	20%	50%	20%

In determining foreign base company sales income of A Corporation for 1963 neither branch B nor branch C is treated, by applying subparagraph (1)(i) of this paragraph, as a separate wholly owned subsidiary corporation of A Corporation since branch B derives no income from the purchase or sale of personal property and since, in the case of branch C treated as though it were the only branch of A Corporation, the 20 percent rate of tax on the income of branch C is not less than 90 percent of, and not as much as 5 percentage points less than, the 20 percent rate of tax which would apply to the income of branch C under the laws of country X if, under the laws of such country, all the income of A Corporation for 1963 derived through the home office and branch C were derived from sources within country X. However, by applying subparagraph (1)(ii) of this paragraph and by treating the home office in country X as though it alone were the remainder of A Corporation, branch B is treated as a separate wholly owned subsidiary corporation of A Corporation, the 20 percent rate of tax on the income of the home office being less than 90 percent of, and at least 5 percentage points less than, the 50 percent rate of tax which would apply to the income of the home office under the laws of country Y if, under the laws of such country, all the income of A Corporation for 1963 derived through the home office and branch B were derived from sources within country Y. Moreover, by applying subparagraph (1)(ii) of this paragraph and by treating branch C as though it alone were the remainder of A Corporation, branch B and branch C are treated as separate wholly owned subsidiary corporations of A Corporation, the 20 percent rate of tax on the income of branch C being less than 90 percent of, and at least 5 percentage points less than, the 50 percent rate of tax which would apply to the income of branch C under the laws of country Y if, under the laws of such country, all the income of A Corporation for 1963 derived through branch B and branch C were derived from sources within country Y. The income derived by the home office and branch C, respectively, each treated as a separate corporation, from the sale by or through each of them for use, consumption, or disposition outside country X and country Z, respectively, is treated as income from the sale of personal property on behalf of branch B, a related person, and constitutes foreign base company sales income for 1963. Branch B, treated as a separate corporation, derives no foreign base company sales income since it produces the articles which are sold.

Example (7). Controlled foreign corporation A, incorporated under the laws of foreign country X, is engaged in manufacturing articles through branch B, located in foreign country Y, and selling such articles through the home office, located in country X, and through branch C, located in foreign country Z, for use outside country X. These activities constitute the only activities of A Corporation for its taxable year 1963. Each such country levies an income tax on only the income derived from sources within such country, and all income derived in 1963 by the home office, branch B, and branch C, respectively, is derived from

sources within countries X, Y, and Z, respectively. The income and income taxes of A Corporation for 1963 are as follows:

	X Country	Y Country	Z Country
Income of:			
Home office	$100,000		
Branch B		$200,000	
Branch C			$100,000
Income tax	40,000	100,000	20,000
Effective rate of tax	40%	50%	20%

By applying subparagraph (1)(i) of this paragraph and by treating branch C as though it were the only branch of A Corporation, branch C is treated as a separate wholly owned subsidiary corporation of A Corporation in determining foreign base company sales income of A Corporation for 1963, the 20 percent rate of tax on the income of branch C being less than 90 percent of, and at least 5 percentage points less than, the 40 percent rate of tax which would apply to the income of branch C under the laws of country X if, under the laws of such country, all the income of A Corporation for 1963 derived through the home office and branch C were derived from sources within country X. In addition, by applying subparagraph (1)(ii) of this paragraph and by treating the home office in country X as though it alone were the remainder of A Corporation, branch B is treated as a separate wholly owned subsidiary corporation of A Corporation, the 40 percent rate of tax on the income of the home office being less than 90 percent of, and at least 5 percentage points less than, the 50 percent rate of tax which would apply to the income of the home office under the laws of country Y if, under the laws of such country, all the income of A Corporation for 1963 derived through the home office and branch B were derived from sources within country Y. Moreover, by applying subparagraph (1)(ii) of this paragraph and by treating branch C as though it alone were the remainder of A Corporation, branch B and branch C would again be treated as separate wholly owned subsidiary corporations of A Corporation, the 20 percent rate of tax on the income of branch C being less than 90 percent of, and at least 5 percentage points less than, the 50 percent rate of tax which would apply to the income of branch C under the laws of country Y if, under the laws of such country, all the income of A Corporation for 1963 derived through branch B and branch C were derived from sources within country Y; however, for purposes of determining foreign base company sales income of A Corporation for 1963, only the classification under subparagraph (1)(i) of this paragraph shall, by reason of the application of subparagraph (2)(ii)(*d*) of this paragraph, be applied with respect to the income derived by branch C. The income derived by the home office and branch C, respectively, each treated as a separate corporation, from the sale by or through each of them for use, consumption, or disposition outside country X and country Z, respectively, is treated as income from the sale of personal property on behalf of branch B, a related person, and constitutes foreign base company sales income for 1963. Branch B, treated as a separate corporation, derives no foreign base company sales income since it produces the articles which are sold.

§ 1.954–4 Foreign base company services income.

(a) *Items included.* Except as provided in paragraph (d) of this section, foreign base company services income means income of a controlled foreign corporation, whether in the form of compensation, commissions, fees, or otherwise, derived in connection with the performance of technical, managerial, engineering, architectural, scientific, skilled, industrial, commercial, or like services which—

(1) Are performed for, or on behalf of a related person, as defined in paragraph (e)(1) of § 1.954–1, and

(2) Are performed outside the country under the laws of which the controlled foreign corporation is created or organized.

(b) *Services performed for, or on behalf of, a related person*—(1) *Specific cases.* For purposes of paragraph (a)(1) of this section, "services which are performed for, or on behalf of, a related person" include (but are not limited to) services performed by a controlled foreign corporation in a case where—

(i) The controlled foreign corporation is paid or reimbursed by, is released from an obligation to, or otherwise receives substantial financial benefit from, a related person for performing such services;

(ii) The controlled foreign corporation performs services (whether or not with respect to property sold by a related person) which a related person is, or has been, obligated to perform;

(iii) The controlled foreign corporation performs services with respect to property sold by a related person and the performance of such services constitutes a condition or a material term of such sale; or

(iv) The controlled foreign corporation is not capable of performing the services without direction, supervision, equipment, know-how, services of personnel, financial assistance (other than contributions to capital), or other assistance contributing to the ultimate completion of such services, made available to it by a related person.

Subdivision (ii) of this subparagraph shall not apply with respect to services performed by a controlled foreign corporation pursuant to a contract the performance of which is guaranteed by a related person, if the related person's sole obligation with respect to the contract is to guarantee performance of such services, if the controlled foreign corporation is fully obligated to perform the services under the contract, and if the related person (or any other person related to the controlled foreign corporation) does not in fact pay for performance of, or perform, any of such services the performance of which is so guaranteed or pay for performance of, or perform, any significant services related to such services. For purposes of the preceding sentence, a related person will be considered to guarantee performance of the services by the controlled foreign corporation whether it guarantees performance of such services by a separate contract of guaranty or enters into a service contract solely for purposes of guaranteeing performance of such services and immediately thereafter assigns the entire contract to the controlled foreign corporation for execution.

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

Example (1). Controlled foreign corporation A is paid by related corporation M for the installation and maintenance of industrial machines which M Corporation manufactures and sells to B Corporation. Such installation and maintenance services by A Corporation are performed for, or on behalf of, M Corporation for purposes of section 954(e).

Example (2). Controlled foreign corporation B, incorporated under the laws of foreign country X, enters a contract with R Corporation, an unrelated person, to drill an oil well in foreign country Y. Under the terms of the contract, B Corporation is fully obligated to perform the services under the contract. Corporation B, however, is not capable of performing such contract unless controlled foreign corporation C, a related person as to B Corporation, furnishes services of personnel to B Corporation. Corporation C makes such services available to B Corporation. The services performed by B Corporation under the contract are performed for, or on behalf of, C Corporation for purposes of section 954(e).

Example (3). Controlled foreign corporation D, a wholly owned subsidiary of domestic corporation M, procures and enters a contract with an unrelated person to construct a superhighway in a foreign country, but such person enters the contract only on the condition that M Corporation agrees to perform, or to pay for the performance by some person other than D Corporation of, the services called for by the contract if D Corporation should fail to complete their performance. Corporation D is capable of performing such contract. No related person as to D Corporation pays for, or performs, any services called for by the contract, or pays for, or performs, any significant services related to such services. The construction of the superhighway by D Corporation is not considered for purposes of section 954(e) to be the performance of services for, or on behalf of M Corporation.

Example (4). Domestic corporation M is obligated under a contract with an unrelated person to construct a superhighway in a foreign country. At a later date M Corporation assigns the entire contract to its wholly owned subsidiary, controlled foreign corporation C, and the unrelated person releases M Corporation from any obligation under the contract. The construction of such highway by C Corporation is considered for purposes of section 954(e) to be the performance of services for, or on behalf of, M Corporation.

Example (5). Domestic corporation M enters a contract with an unrelated person to construct a superhighway in a foreign country. Corporation M immediately assigns the entire contract to its wholly owned subsidiary, controlled foreign corporation C. The unrelated person does not release M Corporation of its obligation under the contract, the sole purpose of these arrangements being to have M Corporation guarantee performance of the contract by C Corporation. Corporation C is capable of performing the construction contract. Neither M Corporation nor any other person related to C Corporation pays for, or performs, any services called for by the construction contract or at any time pays for, or performs, any significant services related to the services performed under such contract. The construction of the superhighway by C Corporation is not considered for purposes of section 954(e) to be the performance of services for, or on behalf of, M Corporation.

Example (6). The facts are the same as in example (5) except that M Corporation, preparatory to entering the construction contract, prepares plans and specifications which enable the submission of bids for the contract. The construction of such highway by C Corporation is considered for purposes of section 954(e) to be the performance of services for, or on behalf of, M Corporation.

Example (7). Domestic corporation M manufactures an industrial machine which

requires specialized installation. Corporation M sells the machines for a basic price if the contract of sale contains no provision for installation. If, however, the customer agrees to employ controlled foreign corporation E, a wholly owned subsidiary of M Corporation, to install the machine and to pay E Corporation a specified installation charge, M Corporation sells the machine at a price which is less than the basic price. The installation services performed by E Corporation for customers of M Corporation purchasing the machine at the reduced price are considered for purposes of section 954(e) to be performed for, or on behalf of, M Corporation.

Example (8). Domestic corporation M manufactures and sells industrial machines with a warranty as to their performance conditional upon their installation and maintenance by a factory-authorized service agency. Controlled foreign corporation F, a wholly owned subsidiary of M Corporation, is the only authorized service agency. Any installation or maintenance services performed by F Corporation on such machines are considered for purposes of section 954(e) to be performed for, or on behalf of, M Corporation.

Example (9). Domestic corporation M manufactures electric office machines which it sells at a basic price without any provision for, or understanding as to, adjustment or maintenance of the machines. The machines require constant adjustment and maintenance services which M Corporation, certain wholly owned subsidiaries of M Corporation, and certain unrelated persons throughout the world are qualified to perform. From among the numerous persons qualified and available to perform adjustment and maintenance services with respect to such office machines, foreign corporation B, a customer of M Corporation, employs controlled foreign corporation G, a wholly owned subsidiary of M Corporation, to adjust and maintain the office machines which B Corporation purchases from M Corporation. The adjustment and maintenance services performed by G Corporation for B Corporation are not considered for purposes of section 954(e) to be performed for, or on behalf of, M Corporation.

(c) *Place where services are performed.* The place where services will be considered to have been performed for purposes of paragraph (a)(2) of this section will depend on the facts and circumstances of each case. As a general rule, services will be considered performed where the persons performing services for the controlled foreign corporation which derives income in connection with the performance of technical, managerial, architectural, engineering, scientific, skilled, industrial, commercial, or like services are physically located when they perform their duties in the execution of the service activity resulting in such income. Therefore, in many cases, total gross income of a controlled foreign corporation derived in connection with each service contract or arrangement performed for or on behalf of a related person must be apportioned, between income which is not foreign base company services income and that which is foreign base company services income, on a basis of employee-time spent within the foreign country under the laws of which the controlled foreign corporation is created or organized and employee-time spent without the foreign country under the laws of which such corporation is created or organized. In allocating time spent within and without the foreign country under the laws of which the controlled foreign corporation is created or organized, relative weight must also be given to the value of the various functions performed by persons in fulfillment of the service contract or arrangement. For example, clerical work will ordinarily be assigned little value, while services performed by technical, highly skilled, and managerial personnel will be assigned greater values in relation to the type of function performed by each individual.

(d) *Items excluded.* Foreign base company services income does not include—

(1) Income derived in connection with the performance of services by a controlled foreign corporation if—

(i) The services directly relate to the sale or exchange of personal property by the controlled foreign corporation,

(ii) The property sold or exchanged was manufactured, produced, grown, or extracted by such controlled foreign corporation, and

(iii) The services were performed before the sale or exchange of such property by the controlled foreign corporation; or

(2) Income derived in connection with the performance of services by a controlled foreign corporation if the services directly relate to an offer or effort to sell or exchange personal property which was, or would have been, manufactured, produced, grown, or extracted by such controlled foreign corporation whether or not a sale or exchange of such property was in fact consummated.

§ 1.954–5 Increase in qualified investments in less developed countries.

(a) *Determination of investments at close of current taxable year.* The increase in qualified investments in less developed countries, for purposes of section 954(b) and paragraph (b)(1) of § 1.954–1, of any controlled foreign corporation for any taxable year is, except as provided in paragraph (b) of this section, the amount by which—

(1) The controlled foreign corporation's qualified investments in less developed countries at the close of the taxable year, exceed

(2) Its qualified investments in less developed countries at the close of the preceding taxable year.

See section 954(f). See also section 955(b) and § 1.955–2 for definition of the term "qualified investments in less developed countries". For purposes of this paragraph, a taxable year which begins before January 1, 1963, may be a preceding taxable year.

(b) *Election to determine investments at close of following taxable year*—(1) *General rule.* In lieu of determining an increase in qualified investments in less developed countries for a taxable year in the manner provided in paragraph (a) of this section, a United States shareholder of a controlled foreign corporation may make an election under section 955(b)(3) to determine the increase for the corporation's taxable year by ascertaining the amount by which—

(i) Such corporation's qualified investments in less developed countries at the close of the taxable year immediately following such taxable year, exceed

(ii) Its qualified investments in less developed countries at the close of the taxable year immediately preceding such following taxable year.

(2) *Election with respect to first taxable year.* Notwithstanding subparagraph (1) of this paragraph, if an election is made by a United States shareholder under section 955(b)(3) to determine a controlled foreign corporation's increase in qualified investments in less developed countries for its first taxable year in which such shareholder is a United States shareholder, as defined in section 951(b), with respect to such corporation and such corporation realizes foreign base company income from which amounts are excluded under section 954(b)(1) and paragraph (b)(1) of § 1.954–1, the increase in such controlled foreign corporation's qualified investments in less developed countries for such taxable year shall be an amount by which—

(i) Such corporation's qualified investments in less developed countries at the close of the taxable year immediately following such taxable year, exceed

(ii) Its qualified investments in less developed countries at the close of the taxable year immediately preceding the taxable year for which the election is made.

(3) *Manner of making election.* For the manner of making an election under section 955(b)(3), and for rules pertaining to the revocation of such an election, see § 1.955–3.

(c) *Initial designation of a country as being an economically less developed country.* For purposes of determining the amount of a controlled foreign corporation's qualified investments in less developed countries at the close of the taxable year immediately preceding any taxable year in respect of which a foreign country or possession of the United States has been designated as an economically less developed country, such foreign country or possession shall, with respect to any investment held by such corporation at the close of such preceding taxable year, be deemed to have been designated as an economically less developed country for such preceding taxable year if it has not in fact been so designated, even though such preceding taxable year begins before January 1, 1963. If an increase in a controlled foreign corporation's qualified investments in less developed countries for a taxable year is being determined under paragraph (b)(2) of this section and a foreign country or possession of the United States has been designated as an economically less developed country for the taxable year immediately following such taxable year, such foreign country or possession shall, with respect to any investment held by such corporation at the close of the taxable year immediately preceding the taxable year, be deemed to have been designated, if it has not in fact been so designated, as an economically less developed country for both the taxable year and the taxable year immediately preceding the taxable year. Determinations for purposes of this paragraph with respect to taxable years

beginning before January 1, 1963, shall be made by applying the principles of section 955 and the regulations thereunder.

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

Example (1). (i) Controlled foreign corporation A, incorporated under the laws of foreign country X, is a wholly owned subsidiary of domestic corporation M. Both corporations use the calendar year as the taxable year. On December 31, 1962, the assets of A Corporation (determined as provided in paragraph (d) of § 1.955–2) consist of the following amounts:

Cash	$60,000
Bonds:	
U.S. Government bonds	5,000
X Country bonds	15,000
Y Country bonds	20,000
Total bonds	40,000
Stock in foreign corporations:	
100 shares of B Corporation stock	10,000
100 shares of C Corporation stock	40,000
Total stock	50,000
Total assets	150,000

(ii) By Executive order dated December 27, 1962, the President of the United States designates foreign countries Y and Z as economically less developed countries for purposes of sections 951 to 964, inclusive. Foreign corporations B and C use the calendar year as the taxable year, and each such corporation has 100 shares of one class of stock outstanding. For 1962, C Corporation is engaged in the active conduct of a business, derives 90 percent of its gross income (determined by using the principles of § 1.955–6) from sources within country Y, and on each day of the taxable year has 95 percent of the assets which are used in such business located in country Y. If country Y were designated as an economically less developed country for 1962, C Corporation would qualify under the principles of § 1.955–5 as a less developed country corporation for such year. For 1962, B Corporation would not so qualify as a less developed country corporation. By reason of paragraph (c) of this section, A Corporation's qualified investments in less developed countries as of December 31, 1962, amount to $60,000 ($20,000 of Y Country bonds and $40,000 of C Corporation stock).

(iii) Income of A Corporation for 1963 consists of the following amounts, after taking into account deductions allowable under paragraph (c) of § 1.954–1:

Interest from:	
U.S. Government bonds	$250
X Country bonds	750
Y Country bonds	1,000
Total interest	2,000
Dividends from:	
B Corporation	9,000
C Corporation	19,000
Total dividends	28,000
Gain from the sale on 8–1–63 of 50 shares of stock in C Corporation:	
Amount realized	25,000
Adjusted basis	20,000
Total gain on stock	5,000
Total income after deductions	35,000

(iv) On December 31, 1963, the assets of A Corporation (determined as provided in paragraph (d) of § 1.955–2) consist of the following amounts:

Cash	$75,000
Bonds:	
U.S. Government bonds	5,000
X Country bonds	15,000
Y Country bonds	20,000
Z Country bonds (acquired 10–1–63, but held for more than 6 months before disposition)	40,000
Total bonds	80,000
Stock in foreign corporations:	
100 shares of B Corporation stock	10,000
50 shares of C Corporation stock	20,000
Total stock	30,000
Total assets	185,000

(v) Corporation C qualifies under § 1.955–5 as a less developed country corporation for 1963, but B Corporation does not qualify as a less developed country corporation for such year. Corporation A's qualified investments in less developed countries as of December 31, 1963, amount to $80,000 ($20,000 of Y Country bonds, $40,000 of Z Country bonds, and $20,000 of C Corporation stock).

(vi) Corporation A for 1963, after application of section 954(b)(1), has foreign base company income of $15,000, which amount is determined as follows:

Dividends and interest from investments which at the time of receipt are qualified investments in less developed countries (sec. 954(b)(1)(A)):	
Interest from Y Country bonds	$1,000
Dividends from C Corporation stock	19,000
Total dividends and interest	20,000
Net gain from the sale of investments which at the time of sale are qualified investments in less developed countries (sec. 954(b)(1)(B)):	
Gains	5,000
Losses	0
Net gain	5,000
Total dividends, interest, and gains	25,000
Increase for 1963 in qualified investments in less developed countries (sec. 954(f)):	
Qualified investments at 12–31–63	80,000
Qualified investments at 12–31–62	60,000
Increase for 1963	20,000
Foreign base company income for 1963 determined under sec. 954 (a) but without regard to sec. 954(b)(1)	35,000
Less: Exclusion from foreign base company income ($25,000 total dividends, interest, and gains, but not to exceed the $20,000 increase in qualified investments in less developed countries)	20,000
Foreign base company income for 1963	15,000

Example (2). (i) Assume the same facts as in example (1) and the additional facts set forth in this example, except that M Corporation properly files without consent a timely election under paragraph (b)(1) of § 1.955–3 to determine A Corporation's increase for 1963 in qualified investments in less developed countries pursuant to paragraph (b)(2) of this section. On December 31, 1964, the assets of A Corporation (determined as provided in paragraph (d) of § 1.955–2) consist of the following amounts:

Cash	$80,000
Bonds:	
U.S. Government bonds	5,000
X Country bonds	15,000
Z Country bonds	70,000
Total bonds	90,000
Stock in foreign corporations:	
100 shares of B Corporation stock	10,000
50 shares of C Corporation stock	20,000
Total stock	30,000
Total assets	200,000

(ii) For 1964, B Corporation and C Corporation each qualify under § 1.955–5 as a less developed country corporation and countries X, Y, and Z are designated as economically less developed countries. Corporation A's qualified investments in less developed countries as of December 31, 1964, amount to $115,000 ($15,000 of X Country bonds, $70,000 of Z Country bonds, $10,000 of B Corporation stock, and $20,000 of C Corporation stock). By reason of paragraph (c) of this section, A Corporation's qualified investments in less developed countries as of December 31, 1962, amount to $75,000 ($15,000 of X Country bonds, $20,000 of Y Country bonds, and $40,000 of C Corporation stock).

(iii) Corporation A for 1963, after application of section 954(b)(1), has foreign base company income of $9,250, which amount is determined as follows:

Dividends and interest from investments which at the time of receipt are qualified investments in less developed countries (sec. 954(b)(1)(A):	
Interest from X Country bonds	$750
Interest from Y Country bonds	1,000
Dividends from C Corporation stock	19,000
Total dividends and interest	20,750
Net gain from the sale of investments which at the time of sale are qualified investments in less developed countries (sec. 954(b)(1)(B)):	
Gains	5,000
Losses	0
Net gain	5,000
Total dividends, interest, and gains	25,750
Increase for 1963 in qualified investments in less developed countries (sec. 955(b)(3)):	
Qualified investments at 12–31–64	115,000
Qualified investments at 12–31–62	75,000
Increase for 1963	40,000
Foreign base company income for 1963 determined under sec. 954 (a) but without regard to sec. 954(b)(1)	35,000
Less: Exclusion from foreign base company income ($25,750 total dividends, interest, and gains, but not to exceed the $40,000 increase in qualified investments in less developed countries)	25,750
Foreign base company income for 1963	9,250

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

[SEAL] D. W. BACON,
Acting Commissioner of Internal Revenue.

Approved: May 13, 1964.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 64-4899; Filed, May 14, 1964; 8:52 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Rents or Royalties Derived in the Active Conduct of a Trade or Business

On December 27, 1962, notice of proposed rule making was published in the FEDERAL REGISTER in regard to regulations under section 954 of the Internal Revenue Code of 1954 (27 F.R. 12759). So much of subdivision (i) of § 1.954–2 (c) (3) and (4) of such proposed regulations as defines when rents or royalties will be considered to be derived in the active conduct of a trade or business is withdrawn by Treasury Decision 6734, published elsewhere in today's FEDERAL REGISTER.

Notice is hereby given, pursuant to the Administrative Procedure Act, that, in lieu of the rules so withdrawn, the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington, D.C., 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER.

[SEAL] D. W. BACON,
Acting Commissioner of Internal Revenue.

On December 27, 1962, notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 12759) regarding the amendment of the Income Tax Regulations (26 CFR Part 1) to conform such regulations to section 954 of the Internal Revenue Code of 1954, as added by section 12(a) of the Revenue Act of 1962 (76 Stat. 1006). So much of subdivision (i) of § 1.954–2(c) (3) and (4) of such proposed regulations as defines when rents or royalties will be considered to be derived in the active conduct of a trade or business is withdrawn by Treasury Decision 6734, published elsewhere in today's FEDERAL REGISTER. In lieu of the rules so withdrawn, § 1.954–2 of the Income Tax Regulations, as adopted by such Treasury decision, is amended by adding subdivisions (ii) and (iii) to paragraph (d) (1), effective with respect to taxable years of foreign corporations beginning after December 31, 1962, and to taxable years of United States shareholders within which or with which such taxable years of such corporations end. These added provisions read as follows:

§ 1.954–2 Foreign personal holding company income.

* * * * *

(d) *Certain income received from unrelated persons in the active conduct of a trade or business*—(1) *Rents and royalties*—* * *

(ii) *Rents*—(*a*) *Trade or business cases.* In every case rents will be considered for purposes of this subparagraph to be derived in the active conduct of a trade or business by a controlled foreign corporation which is a lessor of property if—

(*1*) The lessor has—

(*i*) Manufactured or produced, or

(*ii*) Acquired by purchase, and added substantial value to,

the property which is leased and the lessor is continually engaged in the manufacture or production of, or in the purchase and addition of substantial value to, and leasing of, property of the kind which is so leased,

(*2*) The lessor leases real property and performs active and substantial management and operational functions with respect to the property while it is leased, or

(*3*) The lessor derives such rents from the leasing for a temporary period of personal property ordinarily used by such lessor in the active conduct of its trade or business and such leasing occurs during a period when the property would, but for such leasing, be idle in the active conduct of such trade or business.

(*b*) *Marketing functions.* (*1*) For purposes of (*a*) (*1*) (*ii*) of this subdivision, the performance of marketing functions will not be considered to add substantial value to property. Rents derived from the leasing by a controlled foreign corporation of personal property which is leased as a result of the performance of marketing functions by such corporation, however, will be considered to be derived in the active conduct of a trade or business for purposes of this subparagraph if the lessor, through its own staff of employees located in a foreign country or countries, maintains and operates an organization in such country or countries which (*i*) is continually engaged in the business of marketing, or of marketing and servicing, the leased property and (*ii*) is substantial in relation to the amount of such rents. In determining whether a lessor maintains and operates an organization in a foreign country which is continually engaged in the business of marketing, or of marketing and servicing, leased property, however, the activities of an independent contractor shall not be taken into account.

(*2*) For purposs of subdivision (*1*) (*ii*) of this subdivision (*b*) an organization in a foreign country or countries will be considered substantial in relation to the amount of rents if the sum of the deductions incurred by such organization of the lessor which are properly allocable to such rental income and which would be allowable under section 162 to the lessor (were the lessor a domestic corporation) other than—

(*i*) Deductions for compensation for personal services rendered by shareholders of, or related persons with respect to, the lessor,

(*ii*) Deductions for rents paid or accrued, and

(*iii*) Deductions which would be specifically allowable to the lessor under sections other than section 162 (were the lessor a domestic corporation)

equals or exceeds 25 percent of the amount by which the gross income of the lessor from such rental income exceeds the sum of the rents paid or accrued and the amounts which would be allowable to such lessor as deductions under section 167 (were the lessor a domestic corporation) with respect to such rental income.

(*c*) *Illustrations.* The application of this subdivision may be illustrated by the following examples:

Example (*1*). Controlled foreign corporation A is continually engaged in the production of office machines which it leases and services. The rental income of A Corporation from such leases is derived in the active conduct of a trade or business for purposes of section 954(c) (3) (A).

Example (*2*). Controlled foreign corporation B leases to others motion picture films, some of which it aquires by purchase and some of which it acquires by lease. Corporation B, through its own staff of employees located in a foreign country, maintains and operates an office in such foreign country at which a complete sales force, composed of its own employees, actively solicits customers to lease such films, conducts advertising and sales promotion campaigns intended to increase attendance at the showing of films which it leases, and engages in other promotional activities directed at increasing its contracts for the leasing of such films to others. Corporation B maintains an inventory of films in such country from which its customers may make selections. Corporation B, by its office, sales force, and inventory, maintains and operates an organization in a foreign country which is continually engaged in the business of marketing motion picture films. The deductions incurred by such organization abroad are such as to satisfy the requirements of (*b*) (*2*) of this subdivision; thus such organization is substantial in relation to the rents B Corporation receives from leasing the films. The rental income of B Corporation from such leases is derived in the active conduct of a trade or business for purposes of section 954(c) (3) (A).

Example (*3*). Controlled foreign corporation D purchases motor vehicles which it leases to others. In the conduct of its short-

term leasing of such vehicles in foreign country X, D Corporation owns a large number of motor vehicles which it services and repairs, leases motor vehicles to customers on an hourly, daily, or weekly basis, maintains offices and service facilities from which to lease and service such vehicles, and maintains a sizable staff of its own administrative, sales, and service personnel. Corporation D also leases in country X on a long-term basis, generally for a term of one year, motor vehicles which it owns. Under the terms of the long-term leases, D Corporation is required to repair and service, during the term of the lease, the leased motor vehicles without cost to the lessee. By the maintenance in country X of office, sales, and service facilities and its complete staff of administrative, sales, and service personnel, D Corporation maintains and operates an organization which is continually engaged in the business of marketing and servicing the motor vehicles which are leased. Since such organization is substantial in relation to the rents D Corporation receives from leasing the motor vehicles, such rents are derived in the active conduct of a trade or business for purposes of section 954(c)(3)(A)

Example (4). Controlled foreign corporation E owns a complex of apartment buildings which it has acquired by purchase. Corporation E engages a real estate management firm to lease the apartments and manage the buildings and pay over the net rents to the owner. The rental income of E Corporation from such leases is not derived in the active conduct of a trade or business for purposes of section 954(c)(3)(A).

Example (5). Controlled foreign corporation F owns a twenty-story office building in foreign country Y, three floors of which it occupies and the rest of which it leases. Corporation F, which has acquired this property by purchase, acts as rental agent for the leasing of offices in the building and employs a substantial staff to perform other management and maintenance functions. The rents received by F Corporation from such leasing operations are derived in the active conduct of a trade or business for purposes of section 954(c)(3)(A).

Example (6). Controlled foreign corporation G owns drilling equipment which it ordinarily uses to perform contracts in foreign countries to drill oil wells. For occasional temporary periods it is unable to obtain contracts requiring immediate performance sufficient to employ all such equipment. During such a period it sometimes leases such idle equipment temporarily. After the expiration of such temporary leasing of the property, G Corporation continues the use of such equipment in the performance of its own drilling contracts. Rents received from the temporary leasing of such idle equipment are derived in the active conduct of a trade or business for purposes of section 954(c)(3)(A).

(iii) *Royalties—(a) Trade or business cases.* In every case royalties will be considered for purposes of this subparagraph to be derived in the active conduct of a trade or business by a controlled foreign corporation if—

(*1*) The invention, book, or other property, which gives rise to the protected right which is licensed, was developed, created, or produced by such controlled foreign corporation, or

(*2*) The controlled foreign corporation has acquired by purchase, and added substantial value to, the property which gives rise to the protected right which is licensed,

and the licensor is continually engaged in the development, creation, or production of, or in the purchase and addition of substantial value to, and licensing of, property of the kind which gives rise to the right which is so licensed.

(*b*) *Marketing functions.* (*1*) For purposes of (*a*)(2) of this subdivision, the performance of marketing functions will not be considered to add substantial value to property. Royalties derived from the licensing by a controlled foreign corporation of personal property which is licensed as a result of the performance of marketing functions by such corporation, however, will be considered to be derived in the active conduct of a trade or business for purposes of this subparagraph if the licensor, through its own staff of employees located in a foreign country or countries, maintains and operates an organization in such country or countries which (*i*) is continually engaged in the business of marketing, or of marketing and servicing, the licensed property and (*ii*) is substantial in relation to the amount of such royalties. In determining whether a licensor maintains and operates an organization in a foreign country which is continually engaged in the business of marketing, or of marketing and servicing, licensed property, however, the activities of an independent contractor shall not be taken into account.

(*2*) For purposes of subdivision (*1*)(*ii*) of this subdivision (*b*) an organization in a foreign country or countries will be considered substantial in relation to the amount of royalties if the sum of the deductions incurred by such organization of the licensor which are properly allocable to such royalty income and which would be allowable under section 162 to the licensor (were the licensor a domestic corporation) other than—

(*i*) Deductions for compensation for personal services rendered by shareholders of, or related persons with respect to, the licensor,

(*ii*) Deductions for royalties paid or accrued, and

(*iii*) Deductions which would be specifically allowable to the licensor under sections other than section 162 (were the licensor a domestic corporation)

equals or exceeds 25 percent of the amount by which the gross income of the licensor from such royalty income exceeds the sum of the royalties paid or accrued and the amounts which would be allowable to such licensor as deductions under section 167 (were the licensor a domestic corporation) with respect to such royalty income.

(*c*) *Illustrations.* The application of this subdivision may be illustrated by the following examples:

Example (*1*). Controlled foreign corporation A, through its own staff of employees, maintains and operates a research facility in foreign country X. At the research facility, owned by A Corporation, employees of such corporation who are full-time scientists, engineers, and technicians continually perform experiments, tests, and other technical activities, which ultimately result in the issuance of patents which are licensed. Royalties received by A Corporation for the privilege of using patented rights which it develops as a result of such research activity are derived in the active conduct of a trade or business for purposes of section 954(c)(3)(A).

Example (*2*). Assume that A Corporation in example (1), in addition to receiving royalties for the use of patents which it develops, receives royalties for the use of patents which it acquires by purchase and licenses without adding any value thereto. Corporation A generally consummates royalty agreements on such purchased patents as the result of inquiries received by it from prospective licensees when the fact becomes known in the business community, as a result of the filing of a patent, advertisements in trade journals, announcements, and contacts by employees of A Corporation, that A Corporation has acquired rights under a patent and is interested in licensing its rights. Corporation A does not, however, maintain and operate an organization in a foreign country which is continually engaged in the business of marketing the purchased patents. The royalties received by A Corporation for the use of the purchased patents are not derived in the active conduct of a trade or business for purposes of section 954(c)(3)(A).

Example (*3*). Controlled foreign corporation B receives royalties for the use of patents which it acquires by purchase. The primary business of B Corporation, operated on a continual basis, consists of licensing patents which it has purchased "raw" from inventors and, through the efforts of a substantial staff of employees consisting of scientists, engineers, and technicians, made susceptible to commercial application. For example, B Corporation, after purchasing patent rights covering a chemical process, designs specialized production equipment required for the commercial adaptation of the process and, by so doing, substantially increases the value of the patent. Royalties received by B Corporation from the use of such patent are derived in the active conduct of a trade or business for purposes of section 954(c)(3)(A).

Example (*4*). Controlled foreign corporation D finances independent persons in the development of patented items in return for an ownership interest in such items from which it derives a percentage of royalty income, if any, subsequently derived from the use by others of the protected right. Corporation D also attempts to increase its royalty income from such patents by contacting prospective licensees and rendering to licensees advice which is intended to promote the use of the patented property. Corporation D does not, however, maintain and operate an organization in a foreign country which is continually engaged in the business of marketing the patents. Royalties received by D Corporation for the use of such patents are not derived in the active conduct of a trade or business for purposes of section 954(c)(3)(A).

Example (*5*). Controlled foreign corporation E, incorporated under the laws of foreign country X, is engaged in the music publishing business and derives substantially all of its income from the licensing and turning to account of musical compositions. The rights to exploit such compositions are acquired by license, some from related persons and some from unrelated persons. Corporation E, through its own staff of employees located in country X, maintains and operates an office at which is located its own staff of managerial, technical, administrative, and sales employees. The technical staff translates the lyrics into the language of country X or creates new and different lyrics if the original lyrics are unsuitable in such language or do not appeal to the tastes of the people of country X; the staff then prepares musical arrangements of the composition. The sales force has professional copies of the musical product printed for distribution to professional users; and, in many instances, popular copies printed for sale to the public;

the sales force also advertises the musical composition, promotes its use by artists, orchestras, radio and television stations, and phonograph recording companies. Although some of its income is derived from the sale of sheet music, the bulk of its income is from its membership in the performing rights society of country X (from which E Corporation could not derive full benefit were it not incorporated in country X) and from royalties resulting from sales of records. Corporation E, by its staff of managerial, technical, administrative, and sales employees located in country X, maintains and operates an organization in such country which is continually engaged in the business of marketing such compositions. Since such organization is substantial in relation to the royalties received by E Corporation from the licensing of such musical compositions, such royalties are derived in the active conduct of a trade or business for purposes of section 954(c)(3)(A).

* * * * *

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

[F.R. Doc. 64-4900; Filed, May 14, 1964; 8:52 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 15]

INSTANTIZED FLOURS AND INSTANT BLENDING FLOURS

Notice of Proposal To Establish Definition and Standard of Identity

Notice is given that a petition has been filed by General Mills, Inc., and the Pillsbury Company, both of Minneapolis, Minnesota, proposing the establishment of a definition and standard of identity for instantized flours and instant blending flours. The petitioners now hold temporary permits to market-test products deviating from the standards of identity for flour, enriched flour, bromated flour, and enriched bromated flour (21 CFR 15.1, 15.10, 15.20, 15.30), because in each instance the flour particles have been aggregated as granules too large to comply with the particle-size specification in the standards. Grounds set out in the petition are that market tests have shown that these flours have substantial consumer advantages. The advantages claimed are that the modified flours pour faster and cleaner, disperse easily in liquid, can be measured more accurately, and contribute to more consistent baking results.

The petition proposes that a new section be added to Part 15, Subpart A, as follows:

§ 15.25 **Instantized flours, instant blending flours; identity; label statement of optional ingredients.**

(a) Instantized flours, instant blending flours are the foods each of which conforms to the definition and standard of identity and is subject to the requirement for label statement of optional ingredients prescribed for a kind of wheat flour by §§ 15.1, 15.10, 15.20, or 15.30, except that each such flour has been modified by further processing in which a number of the individual particles have been combined into agglomerates, as a result of which the granulation specification of the standard, which was originally met, is no longer fulfilled and the product thus produced will all pass through a No. 20 mesh U.S. standard sieve (840-micron opening) and no more than 20 percent will pass through a No. 200 mesh U.S. standard sieve (74-micron opening).

(b) The name of each kind of instantized flour, instant blending flour, is the word "instantized" or the words "instant blending," followed by the name of the particular kind of flour that is prescribed in the definition and standard of identity therefor.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.90; 29 F.R. 471), all interested persons are invited to submit their views in writing regarding the proposal published herein. Such views and comments should be submitted, preferably in quintuplicate, adressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, within 30 days following the date of publication of this notice in the FEDERAL REGISTER.

Dated: May 11, 1964.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 64-4865; Filed, May 14, 1964; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1001, 1006, 1007, 1014, 1015]

[Docket Nos. AO-14 A-35, AO-203 A-17, AO-204 A-17, AO-302 A-9, AO-305 A-9]

MILK IN CERTAIN NEW ENGLAND MARKETING AREAS

Recommended Decision; Notice of Extension of Time for Filing Exceptions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Greater Boston, Springfield, and Worcester, Massachusetts, Southeastern New England, and Connecticut marketing areas, which was issued April 20, 1964 (29 F.R. 5583 and 5838), is hereby extended to and including June 1, 1964.

Signed at Washington, D.C., on May 12, 1964.

CLARENCE H. GIRARD,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 64-4870; Filed, May 14, 1964; 8:50 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 507]

[Reg. Docket No. 5048]

AIRWORTHINESS DIRECTIVES

Boeing Models 707 and 720 Series Aircraft

The Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive for Boeing Models 707 and 720 Series aircraft. There have been several instances of failure of the air conditioning bay access doors. These failures have been attributed to improper latching and excessive wear of the hinges. To correct this condition, this AD requires inspection of the air conditioning access doors, repair or replacement if the doorframes are found cracked, and replacement of defective hinges with new hinges.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. All communications received on or before June 15, 1964, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) of Part 507 (14 CFR Part 507), by adding the following airworthiness directive:

BOEING. Applies to Models 707 and 720 Series aircraft.

Compliance required as indicated.

As a result of several incidents involving loss of air conditioning bay access doors, accomplish the following:

(a) Within 550 hours' time in service after the effective date of this AD, unless accomplished within the last 2,500 hours' time in service, and at intervals thereafter not to

exceed 3,050 hours' time in service from the last inspection:

(1) On all Models 707 and 720 Series aircraft, inspect for lobe wear the five hinges on the left and right-hand air conditioning bay access doors and the mating hinges located on the bottom of the fuselage between fuselage Stations 620 and 820.

(2) Remove any hinges that have lobe wall thicknesses less than 0.030 inches and replace with new hinges of the same part number or an FAA-approved equivalent hinge, before further flight.

(3) On aircraft Serial Numbers 17586 through 17619, 17623 through 17626, 17628 through 17652, 17658 through 17673, 17675 through 17684, 17692 through 17706, 17718 through 17720, 17722 through 17724, 17903 through 17905, 17907 through 17909, 17925 through 17927 and 18013, visually inspect the air conditioning bay access doorframes and the hinges thereon for cracks around the rivets attaching the hinges to the door. Before further flight, replace cracked hinges with hinges of the same part number or an FAA-approved hinge, and if the doorframes are cracked, either replace the doors with new doors or repair them in a manner approved by the Aircraft Engineering Division, FAA Western Region.

(b) The inspections specified in (a)(3) may be discontinued when reinforcement plates and bolts are added to the access doors in accordance with Paragraph 3, Modification Data, of Boeing Service Bulletin No. 879, dated July 8, 1960, or an FAA Western Region, Aircraft Engineering Division, approved equivalent.

(c) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for such operator.

(Boeing Service Bulletin No. 879 pertains to this same subject.)

Issued in Washington, D.C., on May 8, 1964.

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

[F.R. Doc. 64-4836; Filed, May 14, 1964; 8:46 a.m.]

[14 CFR Part 507]

[Reg. Docket No. 5049]

AIRWORTHINESS DIRECTIVES

Pratt & Whitney JT4A Series Turobjet Engines

The Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive for Pratt & Whitney Aircraft JT4A Series turbojet engines. There have been instances of high compressor rotor failures attributable to excessively worn 15th stage exit vane and shroud assemblies. To correct this condition, this AD requires inspection of the 15th stage exit vane and shroud assemblies and repair or replacement of any parts found defective.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, SW., Washington, D.C., 20553. All communications received on or before June 15, 1964, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) of Part 507 (14 CFR Part 507), by adding the following airworthiness directive:

PRATT & WHITNEY. Applies to all Model JT4A Series turbojet engines.

Compliance required as indicated.

To preclude high compressor rotor failures resulting from excessively worn 15th stage exit vane and shroud assemblies P/Ns 368731, 397213, 415508, 422825, and 422885, accomplish the following:

(a) For 15th stage exit vane and shroud assemblies with 2,600 or more hours' time in service since the last engine overhaul, within the next 600 hours' time in service after the effective date of this AD unless already accomplished or unless previously overhauled in accordance with paragraph (d), accomplish the inspection of paragraph (c).

(b) For 15th stage exit vane and shroud assemblies with less than 2,600 hours' time in service since the last engine overhaul, prior to the accumulation of 3,200 hours' time in service since last engine overhaul unless already accomplished or unless previously overhauled in accordance with paragraph (d), accomplish the inspection of paragraph (c).

(c) Inspect the 15th stage exit vane and shroud assemblies both inner and outer shrouds for excessive vane slot wear, loose or displaced vanes and broken welds, using an inspection procedure approved by the FAA Engineering and Manufacturing Branch, Eastern Region. Replace or repair weld any 15th stage exit vane and shroud assemblies before further flight if any of the following limits are exceeded:

(1) Radial looseness (as defined in the Pratt & Whitney Aircraft JT4A Overhaul Manual P/N 384887, Inspection Section 72-3-7, page 301) of any of the primary or secondary vanes due to slot wear and/or broken welds shall not exceed 0.015 inch.

(2) Axial looseness (as defined in the Pratt & Whitney Aircraft JT4A Overhaul Manual P/N 384887, Inspection Section 72-3-7, page 301) of any of the primary or secondary vanes due to slot wear and/or broken welds shall not exceed 0.075 inch.

(3) Total lengthwise displacement or movement of any of the primary or secondary vanes shall not exceed 0.075 inch.

(d) At the time of next engine overhaul, replace all 15th stage exit vane and shroud assemblies which are worn beyond the limits in the Pratt & Whitney Aircraft JT4A Overhaul Manual P/N 384887, Inspection Section 72-3-7, page 301. In addition, repair weld all primary and secondary vanes of the 15th stage exit vane and shroud assemblies in accordance with the applicable instructions contained in the Pratt & Whitney Aircraft JT4A Overhaul Manual P/N 384887, Repair Section 72-3-7, page 401. This repair weld applies to both new and used serviceable vanes and shroud assemblies regardless of vane slot condition. An equivalent repair weld procedure approved by the FAA Engineering and Manufacturing Branch, Eastern Region, may be incorporated.

NOTE: To facilitate inspection of vanes, an appropriate length of one quarter inch wood dowel, sloted at one end, may be used to grasp and move the vane in each direction. Feeler stock of appropriate thickness attached to the end of soft metal rod may be used to measure the amount of slot wear.

(Pratt & Whitney Aircraft letter to operators of JT4A engines dated February 21, 1964, covers the same subject.)

Issued in Washington, D.C., on May 8, 1964.

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

[F.R. Doc. 64-4837; Filed, May 14, 1964; 8:46 a.m.]

[14 CFR Part 507]

[Reg. Docket No. 5050]

AIRWORTHINESS DIRECTIVES

General Dynamics Model 240 Series Aircraft

The Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive for General Dynamics Model 240 Series aircraft. There have been instances of a malfunction occurring when the unprotected cabin supercharger disconnect circuit faulted, resulting in an electrical fire in the cabin pressurization console. To correct this condition, this AD requires modification of the aircraft fire extinguisher circuits to provide circuit protection and incorporation of an alternate emergency power circuit.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, SW., Washington, D.C., 20553. All communications received on or before June 15, 1964, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) of Part 507 (14 CFR Part 507), by adding the following airworthiness directive:

GENERAL DYNAMICS. Applies to all Model 240 Series aircraft.

Compliance required within 500 hours' time in service after the effective date of this AD, unless already accomplished.

A fault in an unprotected cabin supercharger disconnect circuit caused an electrical fire in the cabin pressurization console on the copilot's side. To prevent recurrence of this incident provide the following circuit protection:

Modify the aircraft fire extinguisher circuits, cabin pressure dump solenoid circuit and emergency compressor shutoff valve circuit to provide circuit protection and incorporate an alternate emergency power circuit and a normally-off test light in accordance with Convair Service Engineering Report No. 240-24 dated January 3, 1964, with revision "A" dated March 9, 1964, or an FAA Western Region Engineering approved equivalent.

(Convair Service Engineering Report No. 240-24 pertains to this same subject.)

Issued in Washington, D.C., on May 8, 1964.

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

[F.R. Doc. 64-4838; Filed, May 14, 1964; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 192]

[Ex Parte No. MC-40]

DRIVING OF MOTOR VEHICLES

Qualifications and Maximum Hours of Service of Employees of Motor Carriers and Safety of Operation and Equipment

In the matter of an extension of time in which written statements containing data, views, or arguments may be submitted and the matter of motor vehicles required to stop at railroad grade crossings under proposed § 192.10 contained in the notice of proposed rule making of March 27, 1964 (29 F.R. 4814).

At a session of the Interstate Commerce Commission, Motor Carrier Board No. 2, held at its office in Washington, D.C., on the 7th day of May, A.D. 1964.

The matter of driving of motor vehicles under the Motor Carrier Safety Regulations prescribed by order of April 14, 1952, being under consideration; and

It appearing, that § 192.10(a)(4)(iv) and one provision of § 192.10(a)(5) were omitted from the text of the order of March 27, 1964, pertaining to stopping at railroad grade crossings, and

Upon consideration of the record in the above-entitled proceeding and good cause appearing therefor;

It is ordered, That § 192.10(a)(4)(iv) be added to the text of the order of March 27, 1964, and that § 192.10(a)(5) of the order of March 27, 1964, be amended, as follows:

§ 192.10 Railroad grade crossings; stopping required.

(a) * * *

(4) Every motor vehicle which in accordance with the Commission's regulations is required to be marked or placarded with one of the following markings:

* * * * *

(iv) Chlorine.

(5) Every cargo tank, whether loaded or empty, used for the transportation of any dangerous article as defined in the regulations of the Commission or for the transportation of any liquid having a flash point below 200° F., as determined by a Standard Method of Test for Flash Point of the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania, 19103.

* * * * *

It is further ordered, That the time limit for statements filed in connection with the notice of proposed rule making concerning §§ 192.10 and 192.11 of March 27, 1964, by the Commission, Motor Carrier Board No. 2, be, and it is extended from May 7, 1964, to June 30, 1964.

By the Commission, Motor Carrier Board No. 2.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 64-4857; Filed, May 14, 1964; 8:47 a.m.]

Notices

FEDERAL POWER COMMISSION

[Docket No. G–12193 etc.]

SOCONY MOBIL OIL COMPANY, INC.

Order Approving Rate Settlement Proposal, Terminating Proceedings and Prescribing Refunds

MAY 5, 1964.

There is before us for consideration a Motion for Approval of Settlement Proposal and Termination of Proceedings filed on March 30, 1964, by Socony Mobil Oil Company, Inc., Docket Nos. G–12193, et al.,[1] G–12401 (Socony), encompassing the rates for 223 of Socony's currently effective FPC Gas Rate Schedules. Comments have been filed by some of the parties to these proceedings, all of which have been given due consideration. In summary, the settlement proposal as filed by Socony provides:

(1) Settlement rates, including tax reimbursement, equal to or less than the Commission's applicable area ceilings with four exceptions hereinafter discussed;

(2) Socony waives the right to file for contractually authorized increased rates until April 1, 1969, for Rate Schedule Nos. 24 and 69 and January 1, 1967, for the remainder of the rate schedules. Socony reserves the right to file for any increased rates, if contractually authorized, up to the applicable area-rate levels established by any order or rule of the Commission, or to file for any contractually authorized increase in tax reimbursement;

(3) Socony would waive any favored nation and price redetermination clauses contained in Rate Schedule Nos. 8, 9, 10, 12, 13, 14, 21, 27, 28, 45, 47, 49, 53, 57, 73, 77, 78, 81, 83, 87, 96, 99, 118, 130, 136, 143, 178, 212, 213, 224, 225, 270, 271, 275, 285, and 296 and additionally would waive the periodic pricing provisions in Rate Schedule Nos. 65, 84, and 138.

(4) Refunds, with interest at the applicable rates, under rate schedules where collection was made subject to refund, of the difference between the revenues actually collected and those which would have been collected at the settlement rate, in each instance, commencing with December 1, 1962, to the date of issuance of this order for all of Socony's rate schedules, and in addition for the period April 1, 1960 to December 31, 1961, for Rate Schedule Nos. 275 to 306, inclusive, where collection was made subject to refund.

(5) Exclusion from the settlement proposal of all Permian Basin sales, fifteen sales related to previous offers of settlement accepted by the Commission; seven sales to other producers whose resale rates are under suspension; and those matters relating to Rate Schedule No. 16, together with its pending section 4(e) rate increase dockets (G–12201 and G–17526).[2]

In support of its proposal, Socony states that the settlement rates, refunds, moratorium periods and other provisions thereof, not specifically noted herein, are in the public interest in that they are reasonable and will provide price stability for a long period of time for natural gas moving in interstate commerce.

With respect to refunds, the parties to the settlement conferences utilized cost of service studies and revenues based on contract rates to determine Socony's revenue-cost relationship. These studies indicate that it is appropriate that we require that refunds should be computed for sales made on and after December 1, 1962. Socony proposes, as noted above, that such general refunds be made up to and including the date of issuance of this order. Additionally, studies made by the parties showed that as to Rate Schedule Nos. 275 to 306, inclusive, where collection was made subject to refund, we should require refunds from April 1, 1960, to December 31, 1961. Applicable interest shall be paid on all of the refunds through March 31, 1964. Such refunds will be approximately $12,000,000 inclusive of interest. Socony's future revenues will be decreased approximately $5,600,000 annually as a result of the settlement.

Settlement rates which are exceptions to the applicable area ceilings are proposed by Socony for two sales of natural gas made by it to United Gas Pipe Line Company (United) in South Louisiana and for two sales to Cities Service Gas Company (Cities) in the Oklahoma Panhandle and the State of Kansas.

The two sales to United are made under Socony's FPC Gas Rate Schedule Nos. 24 and 69 from the Iowa and Cameron Meadows fields, Louisiana. Prior to 1958, these sales were made under ten-year contracts which were about to expire. On May 26, 1958, Socony and United renegotiated and amended the contracts to provide for twenty-year terms, and Socony dedicated substantial additional reserves, which resulted in increased annual deliveries to United under these contracts.[3] The current rates for gas sold under the renegotiated contracts are 20.55 cents per Mcf under Rate Schedule No. 24 and 20.25 cents per Mcf under Rate Schedule No. 69. The proposed settlement rate under each rate schedule is 17.0 cents per Mcf. The proposed settlement rates, therefore, exceed the increased rate ceiling, but are below the initial rate ceiling. In view of the above circumstances surrounding these sales, we find the settlement rates of 17.0 cents per Mcf to be proper and approve the same.[4]

The other two exceptions to the applicable area ceiling involve two sales to Cities in the Oklahoma Hugoton Field (Rate Schedule No. 283) and the Kansas Hugoton Field (Rate Schedule No. 3) from shallow horizons in each of said fields. The presently effective rates under Rate Schedule Nos. 3 and 283 are 14 cents and 15 cents per Mcf respectively. Subsequent to the negotiation of the contracts for the sales of gas from the shallow horizons, deeper productive horizons were discovered in each field. When the currently effective rates under Rate Schedule Nos. 3 and 283 were renegotiated, Socony committed, by separate contracts, the deep gas reserves which had been discovered under a substantial amount of the acreage covered by the original rate schedules. The commitment of the deep horizons in the Kansas Hugoton was approximately 100,000 acres (Rate Schedule No. 262) and approximately 58,000 acres in the Oklahoma Hugoton (Rate Schedule No. 304). The currently effective rates under Rate Schedule Nos. 262 and 304 are 16 cents and 17 cents per Mcf, respectively. Consideration of all the circumstances surrounding these sales, and the interdependence of the currently effective rates for the shallow gas with the dedication of the deep gas reserves, causes us to believe them similar to others where we have considered such a unique situation to warrant exceptions to the applicable area ceiling, Cities Service Production Company, et al., Docket Nos. G–9510, et al., 28 F.P.C. 1114, order issued December 26, 1962. Therefore, we find the proposed settlement rates of 13.0 cents per Mcf to be proper for these four sales and approve the same.

As set forth above, Socony proposes to waive the favored nation, price redetermination and periodic price provisions in certain of its rate schedules and proposes settlement rates for said rate schedules in accordance with the Second Amendment to the Commission's Statement of General Policy No. 61–1, issued December 20, 1960, 24 FPC 1107, and the Seventh Amendment thereto, issued November 27, 1963, —— FPC ——. However, said amendments each specifically provide for the elimination of such provisions except for those instances where specified periodic price provisions are substituted by amendment. Therefore, we hereby require Socony to comply with said amendments by eliminating the favored nation, price redetermination

[1] The additional dockets involved herein are set forth in Appendixes A, B, and C below.

[2] Socony does not propose a settlement of the Section 4(e) proceedings involving Rate Schedule No. 16, or the termination of any refund obligation thereunder but will supersede the existing rate of 23.55 cents per Mcf with a rate of 17.0 cents per Mcf to be effective April 1, 1964, subject, however, to the Section 4(e) rate proceedings.

[3] United was represented and actively participated in the settlement negotiations herein.

[4] See: Shell Oil Co., et al., Docket Nos. G–9446, et al., 28 F.P.C. 257; Gulf Oil Corp., et al., Docket Nos. G–9520, et al., 29 F.P.C. 837; and Sinclair Oil & Gas Co., Docket Nos. G–9291, et al., ____ FPC ____, order issued July 1, 1963, for similar circumstances where exceptions to the applicable area ceiling were granted.

and periodic price provisions from those rate schedules where it merely proposes waiver.[5]

The settlement proposal also includes rates for which issuance of related permanent certificates is pending; some of which are for deliveries presently being made under temporary authority.[6] The certificate applications in Docket Nos. G–17777, CI61–271, CI62–603 and CI62–998 involve upward Btu price provisions, and are presently consolidated for hearing in the proceedings, in Sunray DX Oil Company, et al., Docket Nos. G–4281, et al., relating to the Btu adjustment provisions. Accordingly, the matter of the issuance of permanent certificates should be determined in such proceedings, and not through the abridged hearing procedure.

We propose to set the remaining pending certificate applications for abridged statutory hearing in accordance with section 7 of the Natural Gas Act, indicating that the settlement rates, as provided for herein, shall be the initial price. Certain of such applications also contain Btu adjustment provisions and are presently consolidated with the proceedings in Pan American Petroleum Company, et al., Docket Nos. G–19417, et al.[7] We shall condition the certificates to be issued in those proceedings so that the initial price, including tax reimbursement, shall not exceed 17 cents per Mcf at 14.65 psia for Docket No. CI61–1281 (insofar as it covers acreage in the Oklahoma Panhandle) and 15.0 cents per Mcf at 14.65 psia for the remainder of the dockets; the allowances for take-or-pay provisions in the related rate schedules are subject to the ultimate disposition with respect to such provisions in the rule making proceeding in Docket No. R–199; however, Socony will not be required to file take-or-pay provisions for less than 80 percent of the annual quantity dedicated under each rate schedule; the allowance for any Btu adjustment provision in the related rate schedules shall be subject to the ultimate disposition with respect to such provision in the rule making proceeding in Docket No. R–200; and in Docket No. CI61–1024 the Btu adjustment provision shall operate above or below 1,000 Btu per cubic foot as specified in the temporary certificate issued July 1, 1961, as modified by the Commission's letters of September 14, 1961 and November 17, 1961.

Two other rate schedules among such pending applications also contain Btu adjustment provisions[8] and are not consolidated in either the Sunray DX or the Pan American proceedings. The certificates issued in those proceedings shall be conditioned to make such Btu adjustment provisions subject to the ultimate disposition in the rule making proceeding in Docket No. R–200.

[5] In its Exhibit A to the appendix to its proposal, Socony states that it proposes to "delete" such provisions from the subject rate schedules rather than to merely "waive" the right to file under such provisions.

[6] See Appendix B below.

[7] See Appendix C below.

[8] Amendments to certificates in Docket Nos. G–12480 and G–14223.

On April 29, 1964, The Public Service Commission of the State of New York (PSC) filed its opposition to the settlement proposal. PSC notes Socony's statement that our approval of the settlement will result in an annual reduction in Socony's rates of approximately $5.6 million and in refunds of approximately $12.0 million, but, PSC states that a meaningful evaluation of the amounts cannot be made without knowledge of the amount of monies collected subject to refund and retained under the settlement, and the annual amount of rate increases which will be effected under the settlement. Further, PSC states that its past acquiescence in rate settlements "is necessarily premised upon our reliance on the scrutiny which such settlements receive from the Commission and its staff", and that it believes such scrutiny should not be hampered by the lack of the information it cites.[9]

The principles underlying the present settlement are consistent with those utilized in previous major independent producer rate settlements. The rates herein agreed upon are consistent with the guideline prices set forth in our Statement of General Policy 61–1, as amended. Refund dates are determined by utilizing cost of service studies prepared in accordance with prior Commission decisions, with full refunds above the settlement rates required from the date on which the conferees fix as that upon which the producer's unit revenues exceed the unit costs so determined. On this basis Socony's proposed refund of $12,000,000 will constitute approximately 45 percent of amounts collected above the settlement rates, subject to refund, and the reduced rates of $5,600,000 annually will constitute disallowance of approximately 55 percent of the increased rates currently being collected in section 4(e) proceedings.

In addition to these matters, we consider the fact that a reduction in rates is required in connection with a sale not subject to a section 4 proceeding (Socony's Rate Schedule No. 164) and that Socony has assured a period of rate stability through a moratorium on above ceiling increased rate filings until at least January 1, 1967.

Our action herein should not be construed as constituting approval of any future rate increases, if any, that may be filed under the subject rate schedules, and is without prejudice to any findings or order of the Commission in future proceedings, including area rate or similar proceedings, involving Socony's rates and rate schedules.

[9] In its response to the settlement proposal filed by PSC in Texaco Inc., et al., Docket Nos. G–8969, et al., PSC stated that it had never been a signatory or joined in any settlement agreement or proposal but rather was a "silent bystander". Consistent with that position PSC was not represented in the settlement conferences which resulted in the proposal filed by Socony herein. However, all relevant information, including that referred to in PSC's motion, is made available to the conferees and will be made available upon request of any party to the proceedings whether it attends the conferences or not.

The Commission finds: The proposed settlement of the subject proceedings on the basis described herein, as more fully set forth in the Settlement Proposal filed on March 30, 1964, is in the public interest, and it is appropriate in carrying out the provisions of the Natural Gas Act, that it be approved and made effective as hereinafter ordered, and good cause exists for approving the settlement rates, for severing and terminating certain proceedings and providing for refunds.

The Commission orders:

(A) The settlement of these proceedings on the basis of the settlement proposal, filed by Socony on March 30, 1964, is approved and made effective subject to the terms and conditions herein.

(B) The applicable settlement rates set out in Appendix A below are approved, and such rates shall be effective as of May 1, 1964.

(C) The settlement rates approved herein shall be applicable during the moratorium period herein provided for to all sales of natural gas from all acreage dedicated as of the date of issuance of this order under each of the rate schedules currently on file with the Commission whether such sales are made by Socony, its successors or assigns.

(D) The pending certificate proceedings set out in Appendix B below shall not be terminated on the basis of the approval of the settlement proposal, but shall be determined after hearing in accordance with section 7 of the Natural Gas Act and the terms and conditions of this order.

(E) Within 60 days from the date of this order, Socony shall make such filings under its rate schedules as are required to make effective the terms of the settlement proposal.

(F) Within 60 days from the date of this order, Socony shall (1) refund with interest as specified in each docket computed to March 31, 1964, the difference between the rates collected subject to refund and the related settlement rates, on and after December 1, 1962 to the date of this order for all of such of Socony's Rate Schedules, and for the period between April 1, 1960 and December 31, 1961 for Rate Schedules Nos. 275 to 306 inclusive where the rates were collected subject to refund, and (2) report to the Commission, in writing, the amount of refunds made to each of its purchasers showing separately the amount of principal and interest so paid, and the bases used for such determination, together with releases from its purchasers showing receipt of the refunds in conformity with the settlement proposal as approved herein.

(G) Upon full compliance by Socony with all the terms and provisions of this order, the section 4(e) proceedings, except those related to Rate Schedule No. 16 listed in Appendix A below, and the section 5(a) proceedings in Docket Nos. G–12401, shall terminate.

(H) Upon termination of the section 4(e) proceedings listed in Appendix C hereto, in accordance with Paragraph (G) above, said proceedings shall be severed from the consolidated proceed-

ings in Docket Nos. AR61–2, AR64–1, and AR64–2, respectively.

(I) This order is without prejudice to any findings or orders which have been or may be made hereafter by the Commission, and is without prejudice to claims or contentions which may be made by Socony, the Commission staff, or any affected party hereto, in any proceedings now pending, including area rate or similar proceedings, or hereafter instituted by or against Socony or any other companies, person or parties affected by this order.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

APPENDIX A

SOCONY MOBIL OIL COMPANY, INC.

DOCKET NO. G–12193, ET AL.

CERTIFICATED RATE SCHEDULES AND/OR 4(e) DOCKETS

Texas R.R. District No. 2

R.S.	Field	Purchaser	Certificate docket	4(e) docket	Last firm rate [a]	Rate in effect [a]	Settlement rate [a]
23	Green	United Gas	G–11917		8.6088	8.6088	8.6088
31	South Porter	do	G–11939		[b] 7.59624	[b] 7.59624	6.66376
39	Clayton	Natural Gas	G–11989		9.5169	9.5169	9.5169
43	East Provident City	Texas Eastern	G–11996		14.6	14.6	14.6
50	Helen Gohlke	do	G–11944	RI 63–337	14.3733	14.8733	14.6
51	Henze	do	G–11958	RI 63–337	13.8733	14.3733	14.1
59	Boyce	United Gas	G–11952		12.1848	12.1848	12.1848
65	Koontz and Keeran	Tennessee Gas	G–12006	G–17334	10.80887	[hh] 15.3333	[e hh] 15.0
72	Karon	Texas Eastern	G–12097	RI 63–337	13.8733	14.3733	14.1
96	Heyser	Tennessee Gas	G–12086	G–17332	11.02818	15.3333	[d] 14.6
243	Placedo	do	CI 61–189		14.0	14.0	14.0
287	Refugio	United Gas	G–7650		7.596	7.596	7.596
321	Burnell	do	CI 63–558		14.0	14.0	14.0
331	Ike West	Transco	G–1852		7.017964	7.017964	7.017964
			Texas R.R. District No. 3				
28	Frnka	Tennessee Gas	G–11934	G–17332	13.49751	16.16947	[d] 14.6
49	Chesterville	do	G–11943	G–17333			
				G–20211	13.2782	[hh] 16.16947	[d hh] 14.6
62	Old Ocean	Natural Gas	G–11997		11.48832	11.48832	11.48832
139	North Indian Hill	United Gas	G–13943		15.192	15.192	15.192
275	North Louise	Tennessee Gas	G–7637	G–16857	13.49751	16.16947	[d] 14.6
334	Southwest Pleasant	Valley Gas	CI 63–1423		14.0	14.0	14.0
			Texas R.R. District No. 4				
21	Piedre Lumbre	Tennessee Gas	G–11913	G–19892			
				RI 60–292	12.12268	17.24347	[d] 14.6
27	Edinburg	do	G–11936	G–19892			
				RI 60–292	12.12268	17.24347	[d] 14.6
45	New Government Wells	do	G–11951	G–19892			
				RI 60–292	12.12268	17.24347	[d] 14.6
47	San Salvador	do	G–11950	G–19891			
				RI 60–293	12.12268	17.24347	[d] 14.6
52	San Carlos	Trunkline Gas	G–11955	G–20344	11.1056	13.41667	[g] 14.0
53	San Ramon	Tennessee Gas	G–11954	G–19891			
				RI 60–293	12.12268	17.24347	[d] 14.6
57	Hagist Ranch, etc	do	G–11947	G–19892			
				RI 60–292	12.12268	17.24347	[d] 14.6
81	Donna	do	G–12082	G–19891			
				RI 60–293	12.12268	17.24347	[d] 14.6
83	La Reforma	do	G–12083	G–19892			
				RI 60–292	12.12268	17.24347	[d] 14.6
84	do	do	G–12084	G–19891			
				RI 60–293	12.12268	17.24347	[e] 15.0
87	Sun	do	G–12081	G–19891			
				RI 60–293	12.12268	17.24347	[d] 14.6
123	San Manuel	Texas Eastern	G–12657	G–16620			
				G–19650			
				RI 61–113			
				RI 62–112			
				RI 64–226	14.4	15.2	[c] 14.4
124	East Bishop	do	G–12686		14.6	14.6	14.6
134	Premont	Coastal States	G–13275		9.7672	9.7672	9.7672
162	San Carlos	Trunkline Gas	G–15270	G–20344	12.1152	14.41667	[h] 14.0
178	Seeligson	Tennessee Gas	G–11946	G–19892			
				RI 60–292	12.12268	17.24347	[d] 14.6
286	White Pt. Saxet, et al	United Gas	G–7648		7.596	7.596	[i i] 8.0346
288	Alfred	Coastal States	G–8832		11.1056	11.1056	11.1056
296	Seeligson	Tennessee Gas	G–7640	G–19325			
				RI 60–264	12.12268	17.24347	[d] 14.6
318	La Gloria	Transcontinental Gas	CI 63–464		8.89088	8.89088	8.89088
319	Seeligson	Tennessee Gas	CI 63–466		14.6	14.6	14.6
320	La Gloria	Natural Gas	CI 63–470		10.8231	10.8231	10.8231
332	South Lundell	do	CI 63–1299		16.0	16.0	16.0
			Texas R.R. District No. 6				
33	Carthage	United Gas	G–11937		10.8876	10.8876	10.8876
36	do	Texas Gas	G–11960		11.6232	11.6232	11.6232
42	Willow Springs	Texas Eastern	G–11998		14.6	14.6	14.6
44	Rodessa	Arkansas Louisiana	G–11986		7.5378	7.5378	7.5378
56	Winnsboro	Lone Star	G–11945		12.0768	12.0768	12.0768
64	Bethany	Arkansas Louisiana	G–12000		11.394	11.394	11.394
95	Carthage	Texas Gas	G–12092		11.6288	11.6288	11.6288
99	Bethany	Tennessee Gas	G–12085	RI 60–216	13.5	14.4248	[d] 14.4248
106	do	United Gas	G–12431		10.8876	10.8876	10.8876
107	do	do	G–12584		10.8876	10.8876	10.8876
108	do	do	G–12585		10.8876	10.8876	10.8876
109	do	do	G–12586		10.8876	10.8876	10.8876
110	Carthage	do	G–12587		10.8876	10.8876	10.8876

See footnotes at end of table.

SOCONY MOBIL OIL COMPANY, INC.—Continued

CERTIFICATED RATE SCHEDULES AND/OR 4(e) DOCKETS—continued

Texas R.R. District No. 6—Continued

R.S.	Field	Purchaser	Certificate docket	4(e) docket	Last firm rate [a]	Rate in effect [a]	Settlement rate [a]
121	Bethany	United Gas	G-12655		10.8876	10.8876	10.8876
136	Caledonia	Natural Gas	G-13543	RI 63-342	13.1	14.1	[d] 14.1
205	Bethany	United Gas	G-20252		10.8876	10.8876	10.8876
255	Lassater	Arkansas Louisiana	CI 61-903		12.5541	12.5541	12.5541
	Texas R.R. District No. 9						
*181	Wise	Natural Gas	G-16393	RI 61-268			
				RI 64-324	13.25	14.25	[p] 14.5
190	Big Mineral Creek	Lone Star Gas	G-18731		14.49	14.49	14.49
	Texas R.R. District No. 10						
11	Prairie	Panhandle Eastern	G-11870	RI 62-189	16.0	17.0	16.0
*54	Panhandle	do	G-11948	RI 61-274			
				RI 64-410	11.0	11.0	[j] 11.0
125	Perryton	Northern Natural	G-12718		15.5	15.5	15.5
137	Parnell and Northrop	do	G-13826		16.0	16.0	16.0
145	Panhandle	Shamrock Oil & Gas	G-14910		5.5	5.5	5.5
154	do	Phillips Petroleum	G-14914		9.0	9.0	9.0
185	Quinduno	Natural Gas	G-18276	RI 61-559	12.0	13.0	12.0
221	Perryton	Northern Natural	CI 60-168		16.5	16.5	16.5
239	Feldman-Tonkawa	Transwestern	G-16367		17.0	17.0	17.0
245	West Panhandle	Natural Gas	CI 61-188		13.2	13.2	13.2
251	East Panhandle	Warren Petroleum	CI 61-801		9.0	9.0	9.0
	South Louisiana Onshore						
1	Gum Cove	United Fuel	G-11985	G-12193			
				G-13437			
				G-16691			
				G-19649			
				RI 61-113			
				RI 62-112			
				RI 64-209	17.5	20.3	17.5
2	Chalkley	do	G-11956	G-12193			
				G-13437			
				G-16691			
				G-19649			
				RI 61-113			
				RI 62-112			
				RI 64-209	17.5	20.3	[q] 17.5
18	Cameron	American Louisiana	G-11912		19.75	19.75	19.75
24	Iowa	United Gas	G-11918	G-15410	11.047	20.55	17.0
37	Bearhead Creek	Trunkline Gas	G-11987	RI 62-153	11.4417	20.90	15.5
41	Clear Creek	do	G-11953	G-14068			
				G-17622			
				G-20343			
				RI 60-422	17.7	23.5	17.7
46	Hurricane Creek	do	G-11941		15.5	15.5	15.5
69	Cameron Meadows, et al	United Gas	G-11995	G-15411	10.747	20.25	17.0
141	Thornwell	United Fuel	G-14225	G-19649			
				RI 61-113			
				RI 62-112			
				RI 64-209	18.7	20.3	[q] 18.7
164	Main Pass Blk. 46	Southern Natural	G-12362		22.0	22.0	21.25
165	Cowpen Creek	Trunkline Gas	G-16307		17.9	17.9	17.9
229	North West Oberlin	United Gas	CI 60-311	RI 63-412	20.375	22.375	20.375
258	Gibson	do	CI 61-1128	RI 61-441	20.25	23.3	20.25
16	West Gueydan	Transcontinental Gas	G-12004	G-12201			
				G-17526	10.29715	23.55	[ee]
	South Louisiana Offshore						
66	Eugene Island	United Gas	G-12005		10.0472	10.0472	9.5472
	North Louisiana						
7	Monroe	United Gas	G-11938		11.0	11.0	11.0
68	Cotton Valley	do	G-12002		13.05076	13.05076	13.05076
70	North Ruston	Arkansas Louisiana	G-12001		[b] 14.75	[b] 14.75	[b] [e] 15.25
82	Delhi	Texas Eastern	G-12098		15.4763	15.4763	15.4763
111	Lisbon	United Gas	G-12588		11.2432	11.2432	11.2432
112	Sligo	do	G-12589		11.7752	11.7752	11.7752
113	Monroe	do	G-12590		11.0	11.0	11.0
114	do	do	G-12591		11.0	11.0	11.0
115	do	do	G-12592		11.0	11.0	11.0
117	do	do	G-12594		11.0	11.0	11.0
169	North Ruston	Arkansas Louisiana	G-16522		13.27	13.27	[e] 13.72
182	East Lisbon	Texas Gas	G-17955		[jj] 18.25	[jj] 18.25	[jj] 18.25
192	Carterville	do	G-19289		[jj] 18.25	[jj] 18.25	[jj] 18.25
237	Calhoun	do	CI 60-657		18.75	18.75	18.75
238	Lisbon	United Gas	CI 60-588		12.5252	12.5252	12.5252
291	Colquitt	Arkansas Louisiana	G-13335		13.454	13.454	13.454
293	do	do	G-13889		13.479	13.479	13.479
316	Holly Ridge	American Louisiana	CI 61-254		18.5	18.5	18.5
337	do	do	CI 61-254		18.5	18.5	18.5

See footnotes at end of table.

SOCONY MOBIL OIL COMPANY, INC.—Continued

CERTIFICATED RATE SCHEDULES AND/OR 4(e) DOCKETS—continued

Mississippi

R.S.	Field	Purchaser	Certificate docket	4(e) docket	Last firm rate [a]	Rate in effect [a]	Settlement rate [a]
120	Pistol Ridge	United Gas	G-12654	G-20079	20.126	23.0	20.0
138	Gwinville	Southern Natural	G-12094	G-14277	[b] [nn] 8.1857	[kk] 20.0	[n] [kk] 15.0226

Oklahoma-Panhandle

*22	Keyes	Colorado Interstate	G-11915	G-17331	15.0	16.0	15.0
63	Camrick	Natural Gas	G-11999	G-12229 G-14615 G-17938 RI 60-167 RI 61-387 RI 62-344	16.0	17.2	16.0
88	do	do	G-12093	G-13195 G-14725 G-17938 RI 60-167 RI 61-387 RI 62-344	16.0	17.2	16.0
100	South Glenwood	Cities Service Gas	G-12102	RI 62-225	12.0	13.0	12.0
*105	Southwest Camp Creek	Northern Natural	G-12364	RI 62-238	15.0	16.0	15.0
*128	Northeast Gate Lake	do	G-12821	RI 62-499	15.0	16.0	15.0
*129	Mocane	Colorado Interstate	G-12840		15.0	15.0	15.0
*140	Keyes	do	G-14223	G-17721	15.0	16.0	15.0
170	Laverne	Michigan-Wisconsin	G-13324		17.0	17.0	[ff] 17.0
*189	Beaver	Northern Natural	G-18617	RI 62-499	15.0	16.0	15.0
219	Woodward and Northeast Woodward.	Cities Service Gas	CI 60-31		16.0	16.0	16.0
223	Unnamed	Panhandle Eastern	CI 60-217		15.0	15.0	15.0
234	Beaver	Northern Natural	CI 60-589		16.5	16.5	16.5
240	West Shattuck	Transwestern	G-16368		17.0	17.0	17.0
244	Southeast Camrick	Natural Gas	CI 61-187		16.8	16.8	16.8
267	Guymon-Hugoton	Cities Service Gas	CI 61-1705		11.0	11.0	11.0
283	Guymon-Hugoton (Shallow)	do	G-7645	G-13062 RI 61-422	10.85349	[k] 15.0	[k] 13.0
284	Guymon-Hugoton [1]	Northern Natural	G-7646	G-16896	9.8262	12.0	11.0
295	Laverne	Michigan-Wisconsin	G-17047		17.0	17.0	[ff] 17.0
301	Guymon-Hugoton (Deep)	Panhandle Eastern	CI 60-252		17.0	17.0	17.0
303	Guymon-Hugoton	do	G-7647		11.0	11.0	11.0
324	Northeast Ivanhoe	Northern Natural	CI 63-742		17.0	17.0	17.0

Oklahoma—Other SSH

8	Cruse, Doyle and Katie	Lone Star	G-11864	RI 60-139 RI 64-324	11.0	16.8	[f] 11.6
9	Graham	do	G-11863	RI 60-140 RI 64-313	9.0	14.8	[f] [b] 10.6
10	Katie	do	G-11867	RI 61-84 RI 64-609	8.0	12.35	[f] [i] 9.6
12	do	do	G-11866	RI 60-141	11.0	16.8	[f] 11.6
13	do	do	G-11869	RI 61-85 RI 64-608	8.0	12.35	[f] [s] 9.6
14	Doyle	do	G-11868	RI 60-141 RI 64-325	11.0	16.8	[f] 11.6
34	South Oklahoma City	Cities Service Gas	G-11959	G-14118	10.0	20.0	11.0
73	Katie	Lone Star	G-12090	RI 61-85 RI 64-608	8.0	12.35	[f] [s] 9.6
75	West Edmond	Cities Service Gas	G-12103		10.5	10.5	10.5
77	Katie	Lone Star	G-12087	RI 60-139	11.0	16.8	[f] 11.6
78	do	do	G-12089	RI 61-85 RI 64-608	8.0	12.35	[f] [s] 9.6
118	Panther Creek	do	G-12323	RI 60-141 RI 64-555	11.0	9.0	[f] [bb] 11.6
130	Katie and Northwest Hoover	do	G-12861	RI 60-139	11.0	16.8	[f] 11.6
143	North Healdton	do	G-14324	RI 60-139 RI 64-543	11.0	16.8	[f] [cc] 11.6
153	Healdton	All Star	G-14913		6.0	6.0	6.0
155	Velma	Skelly Oil	G-14912		8.5	8.5	8.5
*168	South Rainey	Natural Gas	G-16296		15.0	15.0	15.0
186	Caddo	Southern Gas	G-18122		6.0	6.0	6.0
188	South Erick	El Paso	G-18495		12.0	12.0	12.0
220	North Cement	Southern Gas	CI 60-107		6.0	6.0	6.0
222	North East Waynoka	Cities Service Gas	CI 60-182		[ll] 13.0	[ll] 13.0	[ll] 13.0
224	Katie	Lone Star	CI 60-244	RI 61-85 RI 64-608	8.0	12.35	[f] [s] 9.6
225	do	do	CI 60-243	RI 60-216	11.0	16.8	[f] 11.6
247	Bradley Area (Plant)	Cities Service Gas	G-16266		11.0	11.0	11.0
273	West Marlow	Arkansas Louisiana	CI 62-230		12.0	12.0	12.0
285	Katie	Lone Star	G-7649	G-20209	11.0	16.8	11.6
289	Yellowstone	Cities Service	G-9080	G-19153	12.0	13.0	12.0
305	Comanche	do	CI 61-1398		15.0	15.0	15.0
333	Red Oak	Arkansas Louisiana	CI 63-234		15.0	15.0	15.0
338	East Doyle	Lone Star	CI 64-394		15.0	15.0	15.0
339	West Crane and Putnam	Natural Gas	CI 63-1300		15.0	15.0	15.0

Oklahoma—Carter Knox

204	Carter Knox	Lone Star	G-20226		16.8	16.8	16.8
007	do	do	G-18008		16.8	16.8	16.8

See footnotes at end of table.

SOCONY MOBIL OIL COMPANY, INC.—Continued

CERTIFICATED RATE SCHEDULES AND/OR 4(e) DOCKETS—continued

Kansas

R.S.	Field	Purchaser	Certificate docket	4(e) docket	Last firm rate [a]	Rate in effect [a]	Settlement rate [a]
3	Hugoton	Cities Service Gas	G-11742	RI 61-506	11.0	[i] 14.0	[gg] 13.0
4	Medicine Lodge	do	G-11862	G-20300	12.0	13.0	12.0
5	Hardtner and Driftwood	do	G-11861	G-20301	12.0	13.0	12.0
6	North Rhodes	do	G-11860	G-20301	12.0	13.0	12.0
15	Hugoton	Kansas Nebraska	G-11894	G-18108	[m] 11.0	11.42915	11.0
32	do	Northern Natural	G-11940	RI 60-178	[m] 9.0	15.0	11.0
71	do	do	G-12099	RI 61-200	12.0	17.0	12.0
85	do	do	G-12100		11.0	11.0	11.0
89	do	Cities Service Gas	G-12101	RI 63-392	10.7195	14.5	11.0
*93	Greenwood	Colorado Interstate	G-12096	G-17331 RI 64-410	15.0	16.0	[u] 15.0
*94	do	do	G-12095	G-17331 RI 64-410	15.0	16.0	[u] 15.0
*94	Sparks	do	G-12904	G-17331 RI 64-410	15.0	16.0	[u] 15.0
122	Northwest Sharon	Cities Service Gas	G-12656	G-20300	12.0	13.0	12.0
156	McKinney	Northern Natural	G-15182	RI 62-238	14.0	15.0	14.0
158	Hugoton	do	G-14959	RI 61-258	12.0	17.0	12.0
179	do	do	G-17638	RI 61-528	12.0	13.0	12.0
180	Greenwood	Colorado Interstate	G-17777	RI 64-410	16.0	16.0	[u] 16.0
183	North Medicine Lodge	Cities Service	G-17948	G-20300	12.0	13.0	12.0
*233	Hugoton	Colorado Interstate	CI 60-587	RI 64-410	11.0	12.5	[v] 11.0
248	do	Panhandle Eastern	G-12728		11.0	11.0	11.0
261	do	Cities Service Gas	CI 61-1413		12.0	12.0	12.0
272	Aetna	do	CI 62-77		13.0	13.0	13.0
281	Hugoton	Northern Natural	G-7642	G-15451	10.0	[m] 16.75	11.0
282	do	do	G-7643	G-15451	8.0	[m] 15.0	11.0
284	Guymon-Hugoton [j]	do	G-7646	G-16896	11.0	12.0	11.0
*290	Adams Ranch	Colorado Interstate	G-13207		15.0	15.0	15.0
299	Hugoton	Panhandle Eastern	G-7644		11.0	11.0	11.0
306	Hugoton (Kismet)	do	CI 62-362		16.0	16.0	16.0
326	Hugoton	Northern Natural	CI 63-670	RI 60-198	7.8	15.0	11.0
340	Syracuse	Kansas Nebraska	CI 64-286		12.5	12.5	12.5

New Mexico—San Juan

38	Jicarilla Area	El Paso	G-11984		12.0433	12.0433	[w] 12.0433
				RI 64-109 RI 64-486	13.0	13.0469	[x] 13.0
166	Bisti	do	G-16379	RI 64-90 RI 64-496	13.0	13.2175	[y] 13.0
199	Blanco	do	G-19842	RI 64-90 RI 64-488	11.0	12.2008	12.0433
200	do	do	G-19843	RI 64-90 RI 64-496	12.0	13.2008	[y] 13.0
314	San Juan Basin	do	CI 62-1521	RI 64-90 RI 64-270 RI 64-496	13.0	13.2175	[y] 13.0

Colorado

216	Piceance Creek	do	G-10167		11.0	11.0	11.0
313	Ignacio	do	CI 62-1520	RI 64-461	13.0	14.0	13.0
311	Piceance Creek	do	CI 62-1187		10.0	11.0	11.0
329	San Juan	do	CI 63-975	RI 64-528	13.0	13.0	[aa] 13.0
307	Piceance Creek	do	G-10495		11.0	11.0	11.0

Wyoming

212	Big Horn	Montana Dakota	G-2584		[pp] 11.65	[pp] 11.65	[pp dd] 13.6154
213	Sand Creek	do	G-6030		11.65	11.65	[dd] 13.6154
214	Garland	do	G-12115		8.5	8.5	8.5
215	Tip Top	El Paso	G-10145	G-16710 RI 61-65	15.0	18.5	[mm] 15.0
217	Hogsback	do	G-10525 G-16298	G-16710 RI 61-65	15.0	18.5	[mm] 15.0
270	Big Horn	Montana Dakota	CI 62-25		[pp] 11.65	[pp] 11.65	[pp dd] 13.6154
271	do	do	CI 61-1366		[pp] 11.65	[pp] 11.65	[pp dd] 13.6154
298	Alkala Creek	Mountain Fuel	CI 61-18		13.0	[oo] 13.0	[oo oo] 13.0
335	State Line Unit	do	CI 63-669		15.0	15.0	15.0

Utah

218	Aneth	El Paso	G-14245		17.7	17.7	17.7

[a] Unless otherwise indicated, all rates are expressed in cents per Mcf at a pressure base of 14.65 psia, except in Louisiana, Colorado, New Mexico, Mississippi, Wyoming and Utah, where the rates are expressed in cents per Mcf at a pressure base of 15.025 psia. All rates include applicable tax reimbursement, and certain rates (including some of the settlement rates) are subject to BTU adjustment.

[b] Rate is at a pressure base of 16.7 psia.

[c] Socony will eliminate the favored nation, price redetermination and future periodic escalation provisions to qualify for rate not to exceed 15.0 cents per Mcf.

[d] Socony will eliminate the favored nation and price redetermination provisions in contract to qualify for contract rate not to exceed 14.6 cents per Mcf.

[e] Rate increase to 15.25 cents per Mcf at 16.7 psia (13.72 cents per Mcf at 15.025 psia) accepted by Commission on 3-6-64 to be effective 4-26-64.

[f] Socony will eliminate the favored nation and price redetermination provisions to qualify for rate not to exceed 11.6 cents per Mcf.

[g] Settlement rate subject to a contractual deduction of 1.25 cents per Mcf for dehydration and gathering.

[h] Settlement rate subject to a contractual deduction of .25 cents per Mcf for dehydration.

[i] This Docket covers sales both from the Oklahoma Panhandle and the Kansas areas.

[j] 4(e) Docket relates to suspended rate of 7.86624 cents per Mcf which was collected under undertaking from 12-12-60 through 10-31-62. Present rate of 11.0 cents per Mcf was accepted on 11-1-62. Rate increase to 12.54 cents per Mcf suspended in Docket RI 64-410.

[k] Settlement rate and rate in effect includes 2 cents per Mcf contractual service charge for gathering and delivery.

[l] Rate in effect includes 3 cents per Mcf contractual service charge for gathering and compression.

[m] Rate is at a pressure base of 16.4 psia.

[n] Socony will eliminate the future price escalation provisions in contract to qualify or rate of 15.0256 cents per Mcf.

[o] Rate increase to 15.6 cents per Mcf suspended in Docket RI 64-226.

[p] Rate increase to 15.25 cents per Mcf suspended in Docket RI 64-324.

[q] Rate increase to 21.1 cents per Mcf suspended in Docket RI 64-209.

[r] Rate increase to 17.9 cents per Mcf suspended in Docket RI 64-324.

[s] Rate increase to 15.9 cents per Mcf suspended in Docket RI 64-313.

[t] Rate increase to 13.175 cents per Mcf suspended in Docket RI 64-609.
[u] Rate increase to 17.0 cents per Mcf suspended in Docket RI 64-410.
[v] Rate increase to 13.5 cents per Mcf suspended in Docket RI 64-410.
[w] Low Pressure gas rate not subject to 4(e) proceeding.
[x] High Pressure gas rate subject to 4(e) Dockets. Rate increase to 14.0505 cents per Mcf suspended in Docket RI 64-486.
[y] Rate increase to 14.2343 cents per Mcf suspended in Docket RI 64-496.
[z] Rate increase to 13.175 cents per Mcf suspended in Docket RI 64-608.
[aa] Rate increase to 14.0 cents per Mcf suspended in Docket RI 64-528.
[bb] Rate increase to 16.8 cents per Mcf suspended in Docket RI 60-141. Contract amended effective 7-25-63 to provide lower delivery pressure and rate of 8 cents per Mcf and which was increased to 9 cents per Mfc effective 1-1-64. Rate increase to 12.35 cents per Mcf filed on 1-3-64 and suspended in Docket RI 64-555.
[cc] Rate increase to 17.9 cents per Mcf suspended in Docket RI 64-543.
[dd] Rate increase to 15.384 cents per Mcf filed on 1-27-64. Socony proposes to delete favored nation provisions to qualify for rate of 13.6154 cents per Mcf.
[ee] Socony did not propose a settlement rate for this Rate Schedule or the termination of any refund obligation under the pending Section 4(e) proceedings thereunder. Socony proposes to file for a rate of 17.0 cents per Mcf to be effective 4-1-64 and which rate will be subject to a Section 4(e) rate proceeding.
[ff] The parties agreed on a rate of 17.0 cents per Mcf plus contract BTU adjustment. However, under the arrangement between Socony and others and Buyer, a gas products plant was constructed on the main line field lateral of Michigan Wisconsin with the plant owners compensating Michigan Wisconsin for the reduction in BTU and gas volume due to processing. The arrangement here is that the net cost to Michigan Wisconsin at the discharge of the plant cannot exceed 17.0 cents per-Mcf.
[gg] The settlement rate consists of 11.0 cents per Mcf for price of gas plus service charge of 2.0 cents per Mcf for gathering and compression.
[hh] Rates are subject to 0.21931 cent deduction for dehydration.
[ii] Settlement rate includes 0.5 cent at 16.7 psia (0.4380 cent at 14.65 psia) additional compensation for gathering by Seller as provided in the contract.
[jj] Base rate is 16.5 cents plus tax reimbursement of 1.75 cents for high pressure gas and 0.875 cent for low pressure gas.
[kk] Rates are subject to 0.5 cent deduction for gas requiring compression by purchaser.
[ll] Rates are subject to 0.75 cent deduction for dehydration.
[mm] Base rate is 17.5 cents plus 1 cent for gas delivered at 860 psig.
[nn] Base rate is 8.1857 cents at 16.7 psia, low pressure gas subject to deduction of .5 cent.
[oo] Rate is 13.0 cents for sweet gas and 10.0 cents for sour gas.
[pp] Rate subject to applicable contract deduction for compression.
* Rate subject to upward BTU adjustment.

APPENDIX B

SOCONY MOBIL OIL COMPANY, INC.

DOCKET NO. G-12193, ET AL.

PENDING CERTIFICATE APPLICATIONS

Texas R.R. District No. 2

R.S.	Field	Purchaser	Certificate docket	Date of contract	Initial price [a]	Settlement rate [a]
206	North La Ward	Florida Gas	G-18386	2-18-59	17.0	15.0
264	Kentucky Mott	do	G-18385	2-18-59	17.0	15.0
327	KaWitt	Lone Star Gathering	CI 63-874	12-10-62	12.0	12.0
328	Speary, KaWitt, Yorktown	do	CI 63-875	12-10-62	18.0	16.0

Texas R.R. District No. 3

263	Citrus Grove	Florida Gas	G-18384	2-18-59	17.5	16.0

Texas R.R. District No. 4

47-14	San Salvador	Tennessee Gas	G-11950	6-14-60	15.0952	15.0
57-14	Hagist Ran. and North Government Wells	do	G-11947	7- 8-60	15.0952	15.0
236	Hargill	do	CI 60-653	3-25-60	17.24347	15.0
236-2	do	do	CI 60-653	9- 1-62	16.0	16.0
330	Seeligson	do	CI 63-465	1-15-62	17.24347	16.0

Texas R.R. District No. 6

317	Bryans Mill	Natural Gas	CI 63-172	4-15-62	15.0	15.0

Texas R.R. District No. 10

137-9	Parnell and Northrup	Northern Natural	G-13826	8-28-61	16.0	16.0
239-4	Feldman-Tonkawa	Transwestern Pipeline	G-16367	2- 3-61	17.0	17.0

North Louisiana

250	East Blackburn	Texas Gas	CI 61-735	9-26-60	*18.25	*18.25

South Louisiana—Onshore

16-25	West Gueydan	Transcontinental Gas	G-12004	1-27-60	23.55	(3)

Oklahoma Panhandle

*129-3	Mocane	Colorado Interstate	G-12840	5-26-60	15.0	15.0
*140-2	Keyes	do	G-14223	4- 8-59	16.0	16.0
170-5	Laverne	Michigan Wisconsin	G-13324	5-26-60	17.0	[t] 17.0
232	Ellis County Area	Transwestern Pipeline	G-18726	4- 1-59	17.0	17.0
246	Mocane	Panhandle Eastern	CI 61-271	7-13-60	17.0	[e] 17.0
274	Laverne	Michigan Wisconsin	CI 62-603	9-19-60	17.0	[e] 17.0
364	Guymon Hugoton (Deep)	Cities Service Gas	CI 61-1327	3- 1-61	[d] 17.0	[z] 13.0
*310	Mocane	Colorado Interstate	CI 62-998	1-15-62	17.0	[e] 17.0
*322	Cedardale	Michigan Wisconsin	CI 61-1281	1-18-61	17.0	[e] 17.0

Oklahoma—Other

*266	North Custer City	Natural Gas	CI 61-1024	10- 1-60	15.0	[e] 15.0
*322	Cedardale	Michigan Wisconsin	CI 61-1281	1-18-60	15.0	[e] 15.0
*322-3	do	do	CI 61-1281	5-11-62	15.0	[e] 15.0
*322-7	do	do	CI 61-1281	3-26-63	15.0	[e] 15.0
323	Chitwood (Deep)	Natural Gas	CI 63-615	9-14-62	15.0	[e] 15.0
*325	Seiling	Panhandle Eastern	CI 61-1244	10-25-60	15.0	15.0
333-3	Red Oak	Arkansas Louisiana	CI 63-234	12-20-63	15.0	

See footnotes at end of table.

SOCONY MOBIL OIL COMPANY, INC.—Continued

PENDING CERTIFICATE APPLICATIONS—continued

Kansas

R.S.	Field	Purchaser	Certificate docket	Date of contract	Initial price ¢	Settlement rate ¢
4-3	Medicine Lodge	Cities Service Gas	G-11862	1- 5-60	13.0	13.0
*180	Greenwood	Colorado Interstate	G-17777	1- 7-59	16.0	[e] 16.0
248-1	Hugoton	Panhandle Eastern	G-12728	8-15-60	11.0	11.0
262	Hugoton (Deep)	Cities Service Gas	CI 61-1405	2- 1-61	[f] 16.0	[h] 13.0
		Colorado				
313-2	Ignacio, San Juan Basin	El Paso	CI 62-1520	8-13-62	13.0	13.0
313-3	do	do	CI 62-1520	9-27-62	13.0	13.0
313-4	do	do	CI 62-1520	11-12-62	13.0	13.0
		Wyoming				
213-7	Sand Creek	Montana Dakota	G-6030	10- 4-60	11.65	[b] 13.6154
214-3	Garland	do	G-12115	5-25-60	7.5	8.5
215-7	Tip Top	El Paso	G-16298	3-22-58	15.0	15.0
217-11	Hogsback	do	G-10525	10- 4-61	15.0	15.0

[a] Unless otherwise indicated, all rates are expressed in cents per Mcf at a pressure base of 14.65 psia, except in Louisiana, Colorado, New Mexico, Mississippi and Wyoming, where the rates are expressed in cents per Mcf at a pressure base of 15.025 psia. All rates include applicable tax reimbursement, and certain rates (including some of the settlement rates) are subject to BTU adjustment.

[b] Rate increase to 15.384 cents per Mcf filed on 1-27-64. Socony will eliminate the favored nations provisions to qualify for rate of 13.6154 cents per Mcf.

[c] Set for hearing in Sunray DX Oil Company, et al., proceedings in Docket No. G-4231, et al.

[d] Initial rate includes contractual gathering and delivery charge of 2.0 cents per Mcf for associated gas and contractual gathering and delivery charge of 1.0 cent per Mcf for non-associated gas.

[e] Set for hearing in Pan American Petroleum Corporation, et al., proceedings in Docket No. G-19417, et al.

[f] Initial rate includes contractual service charge of 3.0 cents per Mcf for gathering and compression on casinghead gas produced from oil wells and for gas produced from gas wells connected to Socony's gathering system.

[g] Settlement rate consists of 11.0 cents per Mcf for price of gas plus service charge of 2.0 cents per Mcf for gathering and delivering associated gas and service charge of 1.0 cent per Mcf for gathering and delivering non-associated gas.

[h] Settlement rate consists of 11.0 cents per Mcf for price of gas plus service charge of 2.0 cents per Mcf for gathering and compression.

[i] The parties agreed on a rate of 17.0 cents per Mcf plus contract BTU adjustment. However, under the arrangement between Socony and others and Buyer, a gas products plant was constructed on the main line field lateral of Michigan Wisconsin with the plant owners compensating Michigan Wisconsin for the reduction in BTU and gas volume due to processing. The arrangement here is that the net cost to Michigan Wisconsin at the discharge of the plant cannot exceed 17.0 cents per Mcf.

[j] Socony did not propose a settlement rate for this Rate Schedule. Socony proposes to file for a rate of 17.0 cents per Mcf to be effective 4-1-64 and which rate will be subject to a refund condition.

[k] Base rate is 16.5 cents plus tax reimbursement of 1.75 cents for high pressure gas and 0.875 cent for low pressure gas.

*Rate subject to upward BTU adjustment.

APPENDIX C

SOCONY MOBIL OIL COMPANY, INC.

DOCKET NOS. G-12193 ET AL.

DOCKET NO. G-12401

4(e) Dockets consolidated with Docket No. AR61-2	4(e) Dockets consolidated with Docket No. AR64-1	4(e) Dockets consolidated with Docket No. AR64-2	7(c) Dockets consolidated with G-16760	7(c) Dockets consolidated with CI62-508	7(c) Dockets consolidated with G-18077	7(c) Dockets consolidated with G-19417, et al.
G-12193	G-12229	G-16857	G-18385	CI63-172	G-18384	CI61-1024
G-13437	G-13062	G-17332	G-18386			CI61-1281
G-14068	G-13195	G-17333	CI63-874			CI61-1281 amendment
G-15410	G-14615	G-17334	CI63-875			CI61-1281 amendment
G-15411	G-14725	G-19325				CI61-1244
G-16691	G-15451	G-19891				CI63-615
G-17622	G-16896	G-19892				
G-19647	G-17331	G-20211				
G-20343	G-17721	RI60-264				
RI60-422	G-17938	RI60-292				
RI60-113	G-18108	RI60-293				
RI61-441	G-19153	RI61-113				
RI62-112	RI60-167	RI62-112				
RI62-153	RI60-178	RI63-337				
RI63-412	RI60-198	RI64-226				
	RI61-200					
	RI61-258					
	RI61-274					
	RI61-387					
	RI61-422					
	RI61-506					
	RI61-528					
	RI61-559					
	RI62-189					
	RI62-225					
	RI62-238					
	RI62-344					
	RI62-499					
	RI63-392					

[F.R. Doc. 64-4720; Filed, May 14, 1964; 8:45 a.m.]

[Docket Nos. RI64–716, etc.]

PEARL G. CAMPBELL ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

MAY 6, 1964.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date suspended until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention 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 and 1.37(f)) on or before June 15, 1964.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

APPENDIX "A"

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI64–716	Pearl G. Campbell, c/o E. W. Campbell, Lakin, Kans.	1	[3]	Northern Natural Gas Co. (Hugoton Field, Kearny County, Kans.).	$4	[1] 4–6–64	[2] 5–7–64	10–7–64	[4] [6] 10.774	[3] [4] [7] 11.0	
	do	2	[3] [1]	do	14	[1] 4–6–64	[2] 5–7–64	10–7–64	[4] [6] 10.596	[3] [4] [7] 11.0	
	do	3	[3] [1]	do	3	[1] 4–6–64	[2] 5–7–64	10–7–64	[4] [6] 10.370	[3] [4] [7] 11.0	
RI64–717	Pearl G. Campbell, et al.	4	[3] [1]	do	30	[1] 4–6–64	[2] 5–7–64	10–7–64	[5] [8] [9] 10.822 [5] [8] [10] 10.893	[3] [4] [7] 11.0 [3] [4] [7] 11.0	

[1] Filing completed Apr. 20, 1964.
[2] The stated effective date is the first day after expiration of the required statutory notice.
[3] Renegotiated rate increase.
[4] Pressure base is 14.65 psia.
[5] Respondent states that rates are subject to tax reimbursement, however, there are no taxes which apply and Respondent is not receiving any tax reimbursement.
[6] Includes base rate of 11.0 cents less downward Btu adjustment from 925 Btu's (Btu content of gas sold under Rate Schedules Nos. 1, 2, 3, and 4 is 906, 891, 872, and 910 (Campbell No. 1 Unit) and 916 (Moyer No. 1 Unit), respectively.
[7] Rate not to be less than 11.0 cents per Mcf regardless of Btu content (based on Btu content of 906, 891, 872 and 910 and 916 under Rate Schedules Nos. 1, 2, 3 and 4, respectively. Rates are equivalent to 11.231 cents, 11.420 cents, 11.669 cents, and 11.181 cents and 11.108 cents per Mcf, respectively, for 925 Btu gas.
[8] Includes agreement dated Feb. 28, 1963, which eliminates downward Btu adjustment based on 925 Btu gas and establishes rate of 11.0 cents per Mcf regardless of Btu content.
[9] Campbell No. 1 Unit.
[10] Moyer No. 1 Unit.

The presently effective rate under Pearl G. Campbell and Pearl G. Campbell, et al. (both referred to herein as Campbell), rate schedules is 11.0 cents per Mcf subject to a full proportionate downward Btu adjustment for gas containing less than 925 Btu's per cubic foot. No change is proposed in the 11.0 cents base prices. The subject filings amend the contracts involved so as to eliminate any reduction in price for gas containing less than 925 Btu's.

Campbell has submitted a list of the Btu content of the gas for each of the units involved obtained from actual test data covering a four year period. In every instance the actual Btu content was below 925. The 11.0 cents minimum price for the subject gas would be equivalent to rates in excess of 11.0 cents for 925 Btu gas. Under the circumstances, we believe that the proposed 11.0 cents per Mcf rate for the instant gas should be suspended because it exceeds the area ceiling as set forth in the Commission's Statement of General Policy No. 61–1, as amended (18 CFR, Ch. I, Part 2, § 2.56) for gas of pipeline quality.

[F.R. Doc. 64–4740; Filed, May 14, 1964; 8:45 a.m.]

[1] Does not consolidate for hearing or dispose of the several matters herein.

[Docket Nos. RI64–733 etc.]

HASSIE HUNT TRUST ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

MAY 6, 1964.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date suspended until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention 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 and 1.37(f)) on or before June 22, 1964.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

APPENDIX "A"

Docket No.	Respondent	Rate Schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase (decrease)	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI64-733	Hassie Hunt Trust (Operator), et al., 700 Mercantile Bank Building, Dallas 1, Tex.	26	2	Natural Gas Pipeline Co. of America (Alta Loma Area, Galveston County, Tex.) (R.R. District No. 3).	(Decrease) [4] ($31,000) 93,000	4-6-64	[2] 5-7-64	10-7-64	[5] [7] 20.0	[3] [6] 19.0	
RU64-734	do	33	3	Natural Gas Pipeline Co. of America (Alvin City Area, Brazoria County, Tex.) (R.R. District No. 3).	(Decrease) [4] (3,500) 10,500	4-6-64	[2] 5-7-64	10-7-64	[5] [7] 20.0	[3] [6] 19.0	
RI64-735	Placid Oil Co. (Operator), et al., 600 Beck Building, Shreveport, La.	23	2	Natural Gas Pipeline Co. of America (Alta Loma Area, Galveston County, Tex.) (R.R. District No. 3).	(Decrease) [4] (26,000) 78,000	4-8-64	[2] 5-9-64	10-9-64	[5] [7] 20.0	[3] [6] 19.0	

[2] The stated effective date is the first day after expiration of the required statutory notice.
[3] Pressure base is 14.65 psia.
[4] A decrease under the amount presently being collected but an increase above the amount that would be collected under the 16.0 cents rate set by the Commission in Opinion No. 412.
[5] Rates subject to downward Btu adjustment.
[6] Result of Commission Order issued Feb. 24, 1964, providing a moratorium on any rate increase in excess of 19.0 cents until Jan. 1, 1968, or final decision in Docket No. AR64-2, whichever is earlier. Producer intends this change in rate as an increase if the initial rate is later found to be less than 19.0 cents.
[7] Contractually provided initial rate. Permanent certificate was conditioned to 16.0 cents in Opinion No. 412 but subsequently stayed pending judicial review.

On December 9, 1963, the Commission issued Opinion No. 412 granting the producers here permanent certificates conditioned to an initial rate of 16 cents per Mcf for sales in District No. 3. In Opinion No. 412-A issued January 24, 1964, and in an order issued February 24, 1964, modifying Opinion No. 412, the Commission stayed both the refund and pricing conditions in Opinion No. 412 pending judicial review but imposed a moratorium on the filing of all rate increases in excess of 19.0 cents for sales in District No. 3 until January 1, 1968, or final decision in the area rate proceeding in Docket No. AR64-2, whichever is earlier. The proposed changes in rate by the producers amount to a decrease of $60,500 annually from the contractually provided rates of 20.0 cents per Mcf presently being collected pursuant to the Commission's stay, but amount to $181,500 annually above the 16.0 cents initial rates ordered by the Commission in Opinion No. 412. In view thereof, we shall suspend the proposed changes for the five month statutory period, as hereinafter ordered.

The producers request waiver of the 30-day statutory notice period and the 5-month suspension provision and propose that the effective date be December 9, 1963. Good cause has not been shown for granting the above requests, and they are hereby denied.

All of the proposed changes exceed the applicable area price level for increased rates as set forth in the Commission's Statement of General Policy No. 16-1, as amended (18 CFR, Ch. I, Part 2, § 2.56).

[F.R. Doc. 64-4741; Filed, May 14, 1964; 8:45 a.m.]

[Docket No. G-20053 etc.]

C. F. MARTIN, INC., ET AL.

Notice of Applications [1]

MAY 6, 1964.

Take notice that each of the Applicants herein has filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas in interstate commerce as set forth in the tabulation which is appended hereto, and as more fully set forth in the respective applications and any amendments or supplements thereto, which are on file with the Commission and open to public inspection.

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 28, 1964.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and filing date	Field and location	Purchaser	Initial price per Mcf and psia pressure base	Related rate schedule: No.	Related rate schedule: Supplement
G-20053 (A-11/3/59)	C. F. Martin, Inc., Pistol Ridge Field, Forrest and Pearl River Counties, Miss.	United Gas Pipe Line Co.	20.0 cents at 15.025.	1 and 1-5	
CI61-195 (A-8/8/60) [1]	Jack W. Grigsby (Operator), et al., Maxie-Pistol Ridge Field, Forrest County, Miss.	do	do	7 and 1-3 [2]	
CI61-196 (A-8/8/60) [2]	do	do	do	6 and 1-5 [4]	
CI63-1217 (A-3/29/63) [3]	Singer-Fleischaker Oil Co. (successor to The FO Corp.), North Elton Field, Allen Parish, La.	Texas Gas Transmission Corp.	12.6714 cents at 15.025.	1 and 1-10	
CI63-1363 (A-5/6/63)	J. P. Owen (Operator), et al., Midland Field, Acadia Parish, La.	do	19.5 cents at 15.025.	9	
(B-2/24/64) (Additional acreage)		do	do	9	1
CI63-1388 (A-5/10/63)	La Gloria Oil & Gas Co., Valentine Field, Lafourche Parish, La.	United Fuel Gas Co.	do	17	
CI63-1399 (A-5/13/63)	H. L. Hawkins and H. L. Hawkins, Jr., Midland Field, Acadia Parish, La.	Texas Gas Transmission Corp.	do	16	
(B-3/20/64) (Additional acreage)		do	do	16	1
CI63-1482 (A-6/3/63)	Marion Oil Co., a Division of Stickelber & Sons, Inc., Midland Field, Acadia Parish, La.	do	do	1	
(B-3/20/64) (Additional acreage)		do	do	1	1
CI63-1526 (A-6/11/63)	Callery Properties, Inc., et al., Valentine Field, Lafourche Parish, La.	United Fuel Gas Co.	do	10	

[1] Deletes acreage from certificate authorization in Docket No. G-8679.
[2] Supplement No. 3 involved in rate proceeding Docket No. RI61-96.
[3] Deletes acreage from certificate authorization in Docket No. G-11821.
[4] Supplement No. 5 involved in rate proceeding Docket No. RI61-96.
[5] Terminates certificate authorization in Docket No. G-14968.

Filing code: A—Initial service certificate application.
B—Application to amend pending certificate application.
C—Application to amend certificate by adding acreage.
D—Application to amend certificate by deleting acreage.

[F.R. Doc. 64-4743; Filed, May 14, 1964; 8:45 a.m.]

[Docket No. G–4029 etc.]

HOUSTON ROYALTY CO. ET AL.

Notice of Applications for Certificates; Abandonment of Service, Petitions To Amend Certificates and Notice of Severance [1]

MAY 5, 1964.

Houston Royalty Company, Operator (successor to Jay Simmons, et al.), and other applicants listed herein, Docket Nos. G–4029, et al.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

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 June 1, 1964.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

The proceeding in Docket No. CI61–584 is hereby severed from the consolidated proceedings in Docket Nos. CI61–153, et al.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field and location	Price per Mcf	Pressure base
G–4029 E 4–24–64	Houston Royalty Co., Operator (successor to Jay Simmons, et al.).	United Gas Pipe Line Co., Poehler Field, Goliad County, Tex., and South Caesar Fields, Bee County, Tex.	12.1536	14.65
G–5303 C 4–23–64	Skelly Oil Co.	Kansas-Nebraska Natural Gas Co., Inc., acreage in Finney County, Kans.	11.0	14.65
G–5519 E 4–28–64	C. E. Beardmore (successor to Jackson & Pilchard Oil & Gas Co.).	Hope Natural Gas Co., Grant District, Ritchie County, W. Va.	20.0	15.325
G–10081 D 4–23–64	The Superior Oil Co.	Florida Gas Transmission Co., North Monte Christo Field, Hidalgo County, Tex.	Assigned	----
G–11210 D 4–20–64	W. H. Mossor, et al	Hope Natural Gas Co., Union District, Ritchie County, W. Va.	(*)	----
G–13263 C 4–22–69	Sinclair Oil & Gas Co.	El Paso Natural Gas Co., West Dollarhide Queen Sand Unit, Lea County, N. Mex.	[3] 5.5 [3] 9.0	14.65 14.65
G–13963 D 4–27–64	Phillips Petroleum Co.	El Paso Natural Gas Co., Aneth Field, Four Corners Area, San Juan County, Utah.	Assigned	----
G–15901 C 5–20–60	Humble Oil & Refining Co.	Lone Star Gas Co., Robberson Heirs Lease, Jefferson County, Okla.	[3] 15.0	14.65
G–17015 C 4–23–64	Texaco Inc.	Cimarron Transmission Co., Southwest Enville Field, Love County, Okla.	16.0	14.65
G–17024 D 4–27–64	Phillips Petroleum Co.	El Paso Natural Gas Co., Bisti Field, San Juan County, N. Mex.	Assigned	----
G–17378 D 4–27–64	Texaco Inc.	Transwestern Pipeline Co., Farnsworth Field, Ochiltree County, Tex.	(†)	----
G–18441 E 4–29–64	Shell Oil Co. (successor to T. F. Hodge, et al.).	El Paso Natural Gas Co., Jalmat (Yates) Field, Lea County, N. Mex.	9.0	14.65
G–19145 D 4–23–64	J. Glenn Turner (partial abandonment).	El Paso Natural Gas Co., Basin Dakota Field, San Juan and Rio Arriba Counties, N. Mex.	(4)	----
G–20018 D 4–23–64	Frank A. Schultz, et al. (partial abandonment).	El Paso Natural Gas Co., Blanco Mesaverde Field, San Juan and Rio Arriba Counties, N. Mex.	(4)	----
CI61–515 B 1–22–64 [5]	H. R. Billingsley, trustee	South Texas Natural Gas Gathering Co., Whitted Field, Hidalgo County, Tex.	Depleted	----
CI61–564 C 4–24–64	Compass Exploration, Inc. (Operator) et al.	El Paso Natural Gas Co., acreage in La Plata County, Colo.	13.0	15.025
CI61–584 [6] B 4–20 64 [7]	Forest Oil Corp.	Cimarron Transmission Co., Westheimer Gas Unit, West Enville, Love County, Okla.	Depleted	----
CI61–812 D 4–23–64	La Plata Gathering System, Inc. (partial abondonment).	El Paso Natural Gas Co., Blanco Mesaverde and Basin Dakota Gas Pools, Rio Arriba County, N. Mex.	(4)	----
CI62–1211 D 4–23–64	J. Glenn Turner and William G. Webb (partial abandonment).	El Paso Natural Gas Co., South Blanco Field, Rio Arriba County, N. Mex.	(4)	----
CI62–1504 C 4–24–64	Continental Oil Co.	Southern Natural Gas Co., Bayou Pigeon Field, Iberia Parish, La.	23.675	15.025
CI63–318 D 4–24–64	Frank A. Schultz, et al. (partial abandonment).	El Paso Natural Gas Co., Basin Dakota Field, San Juan and Rio Arriba Counties, N. Mex.	(4)	----
CI63–589 A 11–2–62	Walter F. Kuhn (Operator), et al. (successor to Pioneer Petroleum Co., et al.).	Panhandle Eastern Pipe Line Co., Hugoton Field, Stevens County, Kans.	11.0	14.65
CI63–750 A 12–13–62	Pratt County Gas Co. (successor to Sam L. Dewler and Dean B. Knight).	Panhandle Eastern Pipe Line Co., Thompson and Convey "A" Leases, Pratt County, Kans.	14.0	14.65
CI64–528 C4–24–64	Ferrell L. Prior, et al. d/b/a Prior Oil Co.	Hope Natural Gas Co., Collins Settlement District, Lewis County, W. Va.	25.0	15.325
CI64–578 4–30–64 [8]	Hunt Oil Co. (Operator), et al.	Texas Gas Transmission Corp., Cotton Valley Field, Webster Parish, La.	18.25	15.025
CI64–647 C 4–24–64	George L. Yaste, d/b/a Oil States Sales Co.	Equitable Gas Co., Union District, Ritchie County, W. Va.	25.0	15.325
CI64–1267 A 4–24–64	C. C. Cottrille, agent for Penn Wayne Gas Co.	Hope Natural Gas Co., McClellan District, Doddridge County, W. Va.	25.0	15.325
CI64–1268 B 4–24–64	Davon Drilling Co., Operator	Cities Service Gas Co., Acreage in Logan County, Okla.	(†)	----
CI64–1269 A 4–24–64	J. F. Deem, agent for Mossor Oil & Gas Co.	Hope Natural Gas Co., Murphy District, Ritchie County, W. Va.	25.0	15.325
CI64–1270 A 4–23–64	Harkins & Co (Cperator), et al.	Lone Star Gathering Co., Karen Beauchamp Field, Goliad County, Tex.	14.0	14.65
CI64–1271 A 4–23–64	Sun Oil Co. (Mid-Continent Division).	Panhandle Eastern Pipe Line Co., Northwest Avard Pool, Woods County, Okla.	17.0	14.65
CI64–1272 A 4–24–64	Hall-Jones Oil Corp. (Operator), et al.	Panhandle Eastern Pipe Line Co., Southeast Alva Field, Woods County, Okla.	15.0	14.65
CI64–1273 A 4–24–64	W. C. McBride, Inc.	Cities Service Gas Co., Agra Northwest Area, Lincoln County, Okla.	12.0	14.65
CI64–1274 A 4–27–64	Continental Oil Co.	Northern Natural Gas Co., Denison Strawn Field, Sutton County, Tex.	16.0	14.65
CI64–1275 A 4–27–64	Monsanto Co. (formerly Monsanto Chemical Co.).	Panhandle Eastern Pipe Line Co., acreage in Cimarron County, Okla.	17.0	14.65
CI64–1276 A 4–27–64	Roger C. Hanks	Northern Natural Gas Co., McKinney (Council Grove) Area, Meade County, Kans.	16.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.

See footnotes at end of table.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and date filed	Applicant	Purchaser, field and location	Price per Mcf	Pressure base
CI64-1277 A 4-27-64	H. L. Hawkins and H. L. Hawkins, Jr.	South Texas Natural Gas Gathering Co., Santo Nino Field, Duval and Webb Counties, Tex.	16.0	14.65
CI64-1278 A 4-27-64	Sohio Petroleum Co.	Northern Natural Gas Co., Follet Field, Lipscomb County, Tex.	17.0	14.65
CI64-1279 A 4-27-64	Gulf Oil Corp.	Colorado Interstate Gas Co., Patrick Draw Area, Sweetwater County, Wyo.	14.5	14.65
CI64-1280 A 4-27-64	do.	Panhandle Eastern Pipe Line Co., Northwest Avard Pool, Woods County, Okla.	17.0	14.65
CI64-1281 A 4-27-64	R. H. Holland	Northern Natural Gas Co., Acreage in Beaver County, Okla.	17.0	14.65
CI64-1282 B 4-27-64	Edwin L. Cox (Operator), et al.	Coastal States Gas Producing Co., Garaza Unit, Johns Field, Duval County, Tex.	Depleted	-------
CI64-1283 A 4-27-64	Reserve Oil and Gas Co., (Operator), et al.	United Gas Pipe Line Co., Yougeen Field, Bee County, Tex.	16.4	14.65
CI64-1284 A 4-29-64	Mid-America Minerals, Inc.	Transcontinental Gas Pipe Line Corp., South Tilden Field, McMullen County, Tex.	14.189	14.65
CI64-1312 A 4-29-64	Ashland Oil & Refining Co.	Kansas-Nebraska Natural Gas Co., Inc., Acreage in Beaver County, Okla.	17.0	14.65
CI64-1313 A 4-30-64	Al A. Brown (Operator), et al.	Valley Gas Transmission, Inc., Lissie Field, Wharton County, Tex.	14.0	14.65
CI64-1314 (CI61-121) A 4-7-64 [9]	Houston Natural Gas Production Co.	Valley Gas Transmission, Inc., Sejita Field, Duval County, Tex.	14.0	14.65

[1] Rate in effect under E. A. Culbertson and Wallace W. Irwin FPC GRS No. 1 (Docket No. G-6716).
[2] Rate in effect under Gulf Oil Corp. FPC GRS No. 64 (Docket No. G-11635).
[3] Applicant agreed by letter filed 4-22-64, to accept a permanent certificate at an initial price of 15.0 cents/Mcf plus applicable tax reimbursement.
[4] Deletes acreage transferred to Purchaser.
[5] Original application in Docket No. CI61-515 sought certificate of public convenience and necessity. Applicant now proposes to abandon the subject service previously commenced pursuant to temporary authority.
[6] Presently consolidated with Docket Nos. CI61-153, et al., which was previously consolidated with Docket Nos. G-19417, et al., by order issued December 12, 1963, and published in the FEDERAL REGISTER on Dec. 20, 1963 (28 FR 13988).
[7] Applicant proposes to abandon subject service previously commenced pursuant to temporary authority.
[8] Applicant filed amendment to correctly reflect its status as Operator and include the interest of co-owners.
[9] Application to amend filed by Texkan Oil Co. (Operator), et al., in Docket No. CI61-121 and noticed 4-29-64, in Docket Nos. G-4757, et al., is now being treated as an initial application and assigned Docket No. CI64-1314.
*Expiration of lease.
†Declined in pressure.

[F.R. Doc. 64-4718; Filed, May 14, 1964; 8:45 a.m.]

[Docket No. E-7162]

GULF STATES UTILITIES CO. AND CENTRAL LOUISIANA ELECTRIC CO., INC.

Notice of Application

MAY 7, 1964.

Take notice that on April 23, 1964, a notice of application was filed with the Federal Power Commission by Gulf States Utilities Company (Gulf States), of Beaumont, Texas, and Central Louisiana Electric Company, Inc. (Central) of Pineville, Louisiana, for authorization, pursuant to section 203 of the Federal Power Act for Central to acquire and to integrate with its existing facilities certain transmission facilities of Gulf States and for Gulf States to dispose of such facilities.

The facilities to be disposed of by Gulf States and to be acquired by Central consist of (1) a 69 kv transmission line (Gulf States' No. 264) extending from Gulf States' 69 kv transmission line No. 263 to DeQuincy, Louisiana and (2) the portion of Gulf States transmission line No. 263 extending southerly from Central's existing 69 kv metering station in the direction of Gulf States' Riverside Power Generating Station for a distance of approximately 3.68 miles.

These facilities are used for the interchange of electric power with Central and the sale of electric power at wholesale to Beauregard Electric Coop., Inc. at a delivery point near DeQuincy, Louisiana.

Central will use the facilities for the same purpose. Gulf States will continue to furnish electric energy to Central over transmission line No. 263 but at a new metering point to be located at a point 1,430 feet north of the division of property line between Section 33, Township 7 South, Range 10 West and Section 4, Township 8 South, Range 10 West, Calcasieu Parish, Louisiana.

According to the application, Central has agreed to purchase the properties listed above at their original cost less annual depreciation to date of sale. On December 31, 1963, this amounted to $57,064.84.

Gulf States is engaged principally in the business of generating, distributing and selling energy in southeastern Texas and south central Louisiana. Gulf States sells electric energy at retail in 289 communities and surrounding territories; and sells for resale electric energy to 11 municipal systems, 10 rural electric cooperatives and to other utilities. Gulf States purchases natural gas at wholesale and distributes it at retail in the city of Baton Rouge, Louisiana and vicinity. Gulf States owns 6 steam power generating plants and an extensive transmission and distribution system covering the area served.

Any person desiring to be heard or to make any protest with reference to said application should on or before the 27th day of May 1964, file with the Federal Power Commission, Washington, D.C., 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. 64-4844; Filed, May 14, 1964; 8:47 a.m.]

[Docket No. RP64-38]

MICHIGAN-WISCONSIN PIPE LINE CO.

Notice of Proposed Changes in Rates and Charges

MAY 11, 1964.

Take notice that on May 4, 1964, Michigan Wisconsin Pipe Line Company (Michigan-Wisconsin) filed a proposal (1) to reduce the rates and charges to reflect the impact of the change in the federal income tax law and (2) subject to certain contingencies to reflect the impact of the tax savings resulting from the use of liberalized depreciation.

The proposal, if approved by the Commission, will result in (1) a decrease in rates and charges in Rate Schedule Nos. ACQ-1, SGS-1 and OS-1 as of April 1, 1964, approximately $310,000 per annum reflecting the decrease in the corporate income tax from 52 percent to 50 percent, (2) a review of the impact of the further reduction in income tax law due to become effective in 1965, (3) an additional reduction of $310,000 per annum should the Commission authorize Michigan-Wisconsin's contemplated sale to Wisconsin Public Service Company's Weston Generating Plant, and (4) subject to certain contingencies detailed in the proposal, a further rate adjustment and refunds reflecting the impact of the use of liberalized depreciation and related accumulated deferred income taxes under the principles set out in Opinion No. 417, Alabama Tennessee Gas Company, 31 FPC ——, issued February 3, 1964.

Copies of the proposal have been served by Michigan-Wisconsin on its customers and on interested State Commissions. Comments may be filed with the Commission on or before May 27, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64-4845; Filed, May 14, 1964; 8:47 a.m.]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Project 2456]

Notice of Application for License

MAY 7, 1964.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Public Service Company of New Hampshire (correspondence to: A. R. Schiller, President, Public Service Company of New Hampshire, 1087 Elm Street, Manchester, New Hampshire, 03105 and Ralph H. Wood, Counsel, Public Service Company of New Hampshire, 1087 Elm Street, Manchester, New Hampshire, 03105) for license for constructed Proj-

ect No. 2456, known as the Ayers Island Hydroelectric Plant, located on the Pemigewasset River, in the Towns of Bristol, Bridgewater, Ashland, and New Hampton, in Belknap and Grafton Counties, New Hampshire.

The dam is situated across the Pemigewasset River about one mile northeast of the business section of Bristol, New Hampshire. It is of the Ambursen type, about 699 feet long including 267 feet of spillway topped by 8 feet of flashboards. The spillway section is about 72 feet in maximum section and the top of the flashboards is at elevation 453.33 U.S.G.S., backing up a pond of approximately 800 acres. Three steel penstocks 10 feet in diameter and 58 feet long convey water from the intake in the upstream face of the dam to the powerhouse on the downstream side. Three 4,400 hp S. Morgan Smith vertical shaft water wheels are connected to three Westinghouse generators rated at 2,800 kw each. Total nameplate rating is 8,400 kw. The six step-up transformers have a total rated capacity of 15,400 kva.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is July 6, 1964. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64-4846; Filed, May 14, 1964; 8:47 a.m.]

[Docket No. CP64-146]

TOWN OF UTICA, MISS.

Notice of Application

MAY 7, 1964.

Take notice that on December 24, 1963, as amended on April 6, 1964, the Town of Utica, Mississippi (applicant), P.O. Box 97, Utica, Mississippi, a municipal corporation under the laws of the State of Mississippi, filed in Docket No. CP64-146 an application pursuant to section 7(a) of the Natural Gas Act for an order directing Texas Eastern Transmission Corporation (Texas Eastern) to establish physical connection of its natural gas transmission facilities with the facilities proposed to be constructed by Applicant consisting of 12.3 miles of 4-inch pipeline extending from the point of interconnection in Copiah County, Mississippi to the corporate boundary line together with a distribution system in the Town of Utica and to sell and deliver to Applicant its daily and annual requirements of natural gas in Mcfs as follows:

Year of service	Peak day	Annual
First	535	39,296
Second	559	41,038
Third	581	42,702

The estimated cost of Applicant's proposed facilities is $315,000.

Applicant states that costs will be financed by the sale of revenue bonds and that firm bid proposals for the sale of the bonds and contract proposals for the construction of the facilities have been secured.

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.

Protest 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 28, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64-4849; Filed, May 14, 1964; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

DEL STONEBURNER LIVESTOCK AUCTION ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), on the respective dates specified below it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and were, therefore, subject to the Act, and notice was given to the owners and to the public by posting notice at the stockyards as required by said section 302.

Name and location of stockyard, and date of posting

CALIFORNIA

Del Stoneburner Livestock Auction, Petaluma, April 1, 1964.

GEORGIA

Walker Horse and Mule Co., Quitman, March 28, 1964.

ILLINOIS

Franklin County Live Stock and Commission Sales, Sesser, May 5, 1964.

INDIANA

Crawfordsville Live Stock Commission, Crawfordsville, April 7, 1964.

MISSISSIPPI

Sardis Livestock Sales Company, Cardis, March 31, 1964.

MISSOURI

Producers Livestock Market, Marshall, April 7, 1964.

NORTH DAKOTA

Beulah Livestock Auction Market Incorporated, Beulah, February 27, 1964.

Lorenz Livestock Sales, Hazen, April 6, 1964.

OHIO

The Tiffin Livestock Sales Co., Tiffin, March 20, 1964.

SOUTH CAROLINA

Oconee Stockyards, Inc., Westminister, November 15, 1963.

TENNESSEE

Plateau Livestock Exchange, Crossville, August 17, 1963.

Gamaliel Livestock Market, Inc., Macon County (Mailing Address: Gamaliel, Kentucky), March 31, 1964.

WISCONSIN

Lewiston Livestock Market, Wisconsin Dells, March 13, 1964.

Done at Washington, D.C., this 12th day of May 1964.

H. L. JONES,
Chief, Rates and Registrations Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 64-4871; Filed, May 14, 1964; 8:50 a.m.]

GENTRY SALE CO. ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name and location of stockyard, and date of posting

Gentry Sale Company, Gentry, Arkansas, December 11, 1958.

Schnapp Auction, Petersburg, Illinois, April 30, 1962.

Girard Livestock Commission Company, Girard, Kansas, December 9, 1960.

Nebraska City Sale Barn, Nebraska City, Nebraska, July 23, 1959.

Mason Dixon Livestock Market, Inc., Stewartstown, Pennsylvania, December 2, 1959.

Farmers and Ranchers Livestock Commission, Denton, Texas, September 22, 1960.

Russell County Cooperative, Inc., Lebanon, Virginia, May 26, 1960.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not deposting promptly a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 12th day of May 1964.

H. L. JONES,
Chief, Rates and Registrations Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 64-4872; Filed, May 14, 1964; 8:50 a.m.]

HORSE LAND SALE PAVILION ET AL.

Proposed Posting of Stockyards

The Chief of the Rates and Registrations Branch, Packers and Stockyards Division, Agricultural Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

Horse Land Sale Pavilion, Greeley, Colo.
Michigan Live Stock Exchange, Cass City, Mich.
Olivia Livestock Sales Ring, Olivia, Minn.
Southwest Horse Auction Company, Inc., Christiansburg, Va.
Vancouver Livestock Auction Market, Camas, Wash.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act, as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule may do so by filing them with the Chief, Rates and Registrations Branch, Packers and Stockyards Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., within 15 days after publication hereof in the FEDERAL REGISTER.

Done at Washington, D.C., this 12th day of May 1964.

H. L. JONES,
Chief, Rates and Registrations Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 64-4873; Filed, May 14, 1964; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

BLOOMFIELD STEAMSHIP CO.

Notice of Application for Operating-Differential Subsidy

Notice is hereby given that Bloomfield Steamship Company has filed an application for a 20-year operating-differential subsidy agreement under Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended (herein called the "Act"). If this application is approved, the 20-year agreement would succeed and become effective upon termination of this company's present agreement, Contract No. FMB-27, which is now scheduled to expire on December 31, 1964.

No change in service or sailing requirements is contemplated so that, until replaced as required by the United States, this company's present fleet of four subsidized vessels would continue to operate on the service described below:

Trade Route No. 21—U.S. Gulf/United Kingdom and Continent. A minimum of 23 and a maximum of 27 sailings per annum with the vessels assigned by Article I-3(a) hereof, on the berth service described as follows:

Required. Between United States Gulf ports[1] (Key West-Mexican border), and ports in the following described areas: (a) East coast and channel ports of United Kingdom and (b) Continental Europe (from the northern border of Portugal to the southern border of Denmark); provided that a minimum of six (6) sailings annually shall include calls at a port or ports in area (a) above.

Permissive. Between United States ports on the required service and ports on the South Coast of the Baltic Sea and on the Gulf of Finland from the eastern end of the Kiel Canal to and including Turku (Abo), Finland.

Privilege. 1. Between United States ports on the required service and ports in Denmark, Norway, and Sweden and in Finland north of Turku (Abo).

2. Between ports in the West Indies[1] (including Puerto Rico so long as the Operator has the requisite permission under section 805(a) of the Merchant Marine Act, 1936, as amended), East Coast of Mexico ports, and the required and permissive ports on the service.

Copies of the application (excluding, however, financial statements and other confidential data) may be examined in the Office of the Secretary of the Maritime Subsidy Board, Room 3041, New G.A.O. Building, 441 G Street NW., Washington 25, D.C.

Any person, firm or corporation having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington 25, D.C., by close of business on May 29, 1964. The Maritime Subsidy Board will consider these views and comments, and take such action with respect thereto as may be deemed appropriate.

Dated: May 11, 1964.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.
Secretary.

[F.R. Doc. 64-4855; Filed, May 14, 1964; 8:47 a.m.]

[1] As used herein:
1. The term "United States Gulf Ports" includes ports on the Mississippi River not north of Baton Rouge, Louisiana port area and United States ports on other rivers and channels connecting with the Gulf of Mexico which are accessible to subsidized vessels of the Operator; and
2. The term "West Indies" means the Greater and Lesser Antilles, including the islands of Jamaica, Trinidad, Tobago, Barbados, and excluding the Bahama Islands.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

DOW CHEMICAL CO. AND SHELL CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemical and Food Additive 1,2-Dibromo-3-Chloropropane

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 408(d)(1), 409(b)(5), 68 Stat. 512, 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348(b)(5)), notice is given that a petition (PP 417) has been filed jointly by The Dow Chemical Company, Post Office Box 512, Midland, Michigan, and Shell Chemical Company, Division of Shell Oil Company, 1700 K Street NW., Washington, D.C., proposing an increase in the tolerance for residues of inorganic bromides (calculated as Br) in or on citrus fruits from 5 parts per million to 20 parts per million. Such residues result from soil treatment with the nematocide 1,2-dibromo-3-chloropropane.

The petition (FAP 1400) also proposes the establishment of a food additive tolerance of 90 parts per million for residues of inorganic bromides (calculated as Br) in dehydrated citrus pulp for cattle feed resulting from carryover and concentration of residues in this feed item processed from citrus fruits grown in such treated soil.

The analytical method proposed in the petition for determining residues of 1,2-dibromo-3-chloropropane is a modification of the method of D. A. Mapes and S. A. Shrader published in the Journal of the Association of Official Agricultural Chemists, Volume 40, page 189 (1957).

Dated: May 11, 1964.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 64-4866; Filed, May 14, 1964; 8:49 a.m.]

MERCK CHEMICAL DIVISION, MERCK AND CO., INC.

Notice of Filing of Petition Regarding Food Additive Thiabendazole

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 1344) has been filed by Merck Chemical Division, Merck and Company, Inc., Rahway, New Jersey, proposing the

issuance of a regulation to provide for the safe use of thiabendazole (2-[4'-thiazolyl]-benzimidazole) in cattle feed, as follows:

TABLE 2—ANIMAL FEED

Principal ingredient	Dose	Combined with—	Dose	Limitations	Indications for use
1. Thiabendazole	3 gm. per 100 lb. body weight.			For cattle; one dose at a single feeding; may repeat once in 2 to 3 weeks; do not treat animals within 30 days of slaughter; milk taken from treated animals during treatment and for 96 hours (8 milkings) after the latest treatment must not be used for food.	Treatment of infestations of gastrointestinal roundworms (genera Trichostrongylus, Haemonchus and Ostertagia)
2. Thiabendazole	5 gm. per 100 lb. body weight.			do	Treatment of severe infestations of gastro intestinal roundworms (genera Trichostrongylus, Haemonchus; and Ostertagia); treatment of infestations with Cooperia species.

Dated: May 8, 1964.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 64-4867; Filed, May 14, 1964; 8:49 a.m.]

ROHM AND HAAS CO.

Notice of Filing of Petition Regarding Food Additive

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 1325) has been filed by Rohm and Haas Company, Washington Square, Philadelphia, Pennsylvania, proposing the issuance of a regulation to provide for the safe use in the processing of food of an ion-exchange resin of cross-linked polystyrene, chloromethylated, and aminated with diethylenetriamine.

Dated: May 11, 1964.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 64-4868; Filed, May 14, 1964; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 13777; Order No. E-20739]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of April 1964.

By Order E-19983, September 4, 1963, the Board initiated a re-examination of its approval of the IATA agreement relating to charter operations (Agreement CAB 16847, R-7) with a view to amending condition (c) thereto to require that passenger manifests contain the name and address of each passenger and that such manifest be retained for a period of one year. Comments submitted in response to our order have been given full consideration and our re-examination has been completed.

For the reasons set out in ER-404, adopted simultaneously herewith, amending Part 207 of the Economic Regulations of the Board and in particular because of the availability within the U.S. Immigration and Naturalization Service of the Arrival-Departure Manifest Cards (INS Form I-94) containing passenger names and addresses, the Board has decided not to impose a further requirement on either U.S. air carriers or foreign air carriers to maintain a record of passenger names and addresses for international charter flights.

Accordingly, pursuant to sections 204 (a) and 412 of the Federal Aviation Act of 1958, the Board's re-examination of its approval of Agreement CAB 16847, R-7, initiated by Order E-19983, September 4, 1963, be and it is hereby terminated.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 64-4878; Filed, May 14, 1964; 8:51 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 13931, 13933; FCC 64M-398]

BURLINGTON BROADCASTING CO. AND MOUNT HOLLY-BURLINGTON BROADCASTING

Order Scheduling Hearing

In re applications of William S. Halpern and Louis N. Seltzer, d/b as Burlington Broadcasting Company, Burlington, New Jersey, Docket No. 13931, File No. BP-12580; Mount Holly-Burlington Broadcasting, Mount Holly, New Jersey, Docket No. 13933, File No. BP-13952; for construction permits.

Pursuant to a prehearing conference as of this date: *It is ordered,* This 8th day of May 1964, that Mount Holly-Burlington Broadcasting Company, Inc. shall tender its exhibits to counsel for both Burlington Broadcasting Company and the Commission's Broadcast Bureau on or before June 12, 1964: *And, it is further ordered,* That the hearing herein shall commence July 13, 1964, 10 a.m., in the Commission's Offices, Washington, D.C.

Released: May 11, 1964.

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

[F.R. Doc. 64-4879; Filed, May 14, 1964; 8:51 a.m.]

[Docket Nos. 15260, 16261; FCC 64M-395]

COOSA VALLEY RADIO CO. AND ROME BROADCASTING CORP.

Order re Procedural Dates

In re applications of Coosa Valley Radio Company, Rome, Georgia, Docket No. 15260, File No. BPH-4108; Rome Broadcasting Corporation, Rome, Georgia, Docket No. 15261, File No. BPH-4136; for construction permits.

The Hearing Examiner having under consideration his Order released April 23, 1964, directing Rome Broadcasting Corporation (Rome) to file a petition for rule making with the Commission not later than by April 30, 1964 and establishing certain procedural dates in the event no such petition was timely filed;

It appearing, that such a petition was filed on April 30, 1964 by Rome and that favorable disposition thereof by the Commission will affect the further conduct of the hearing herein;

It is ordered, This 8th day of May, 1964, that the procedural schedule established in the Order released April 23, 1964 is set aside, and that a further prehearing conference in this proceeding will be held at 9:00 a.m. on June 24, 1964.

Released: May 11, 1964.

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

[F.R. Doc. 64-4880; Filed, May 14, 1964; 8:51 a.m.]

[Docket Nos. 15460, 15461; FCC 64-415]

SYMPHONY NETWORK ASSOCIATION, INC., AND CHAPMAN RADIO AND TELEVISION CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Symphony Network Association, Inc., Fairfield, Alabama, Docket No. 15460, File No. BPCT-3238; William A. Chapman and George K. Chapman, d/b as Chapman Radio and Television Company, Homewood, Alabama, Docket No. 15461, File No. BPCT-3282; for construction permits for a new television broadcast station.

At a session of the Federal Communications Commission held at its offices in

Washington, D.C., on the 6th day of May 1964;

The Commission, having under consideration the above-captioned applications, each requesting a construction permit for a new television broadcast station to operate on Channel 54, the former in Fairfield, Alabama, and the latter in Homewood, Alabama; and

It appearing, that the above-captioned applications are mutually exclusive in that operation by applicants as proposed would result in mutually destructive interference; and

It further appearing, that the following matters are to be considered in connection with the issues specified below:

(a) Based on the information contained in the application of Symphony Network Association, Inc., cash in an amount in excess of $50,000 will be required for the construction and initial operation of the proposed station. The applicant states that the total cost of construction will be $100,000, but the exact costs of construction and the exact amount of cash necessary initially cannot be determined because the applicant appears to have made no provision for the costs of freight, installation, legal and engineering fees, miscellaneous costs and contingencies. Additionally, the applicant relies upon loans totaling $38,000 from individuals, $75,000 from Exchange-Security Bank, and deferred credit of $75,000 from General Electric Company, to finance the construction and initial operation of the proposed station. None of the five individual lenders, however, has shown current and liquid assets in excess of liabilities in sufficient amount to fulfill their commitments. The letter from Exchange-Security Bank is not an unconditional commitment to lend funds, but is subject to conditions set forth in a letter dated June 18, 1963, from the bank to Hart-Greer, Inc. The said letter from the bank to Hart-Greer appears to be an agreement to discount a note for $75,000 to be made by the applicant to Hart-Greer and to be endorsed by Hart-Greer to the bank. No showing has been made that Hart-Greer has agreed to extend a line of credit to the applicant, as mentioned in the said letter, nor that Hart-Greer has agreed to accept and endorse such a note. Furthermore, the said letter states that the bank's agreement is subject to the condition that "—this credit will not be extended if the construction permit is issued without the full consultation between Hart-Greer, Inc., Symphony Network Association, Inc., and Exchange-Security Bank." The funds represented thereby cannot, therefore, be considered to be available to the applicant. It cannot be determined, therefore, that the applicant is financially qualified.

(b) Symphony Network Association, Inc. has not given a responsive reply to section IV, Paragraph 7, Form 301, which requires a narrative statement of the policy to be pursued with respect to making time available for the discussion of public issues. An issue will be specified, therefore, to determine the policy of the applicant with respect to making time available for the discussion of public issues.

(c) Symphony Network Association's programming proposal shows that the applicant will broadcast a total of 4 hours and 10 minutes per day, 7 days per week. During such 4 hour and 10 minute broadcast day, the applicant proposes 2½ hours of time described only as "Network". Furthermore, it appears that the applicant proposes to devote 5 minutes per day to public discussions. Question is raised as to whether the proposed programming is the result of assiduous efforts by the applicant to ascertain the needs and interests of Fairfield, Alabama, and surrounding area. An issue will be specified, therefore, to determine the efforts made by the applicant to ascertain the needs and interests of Fairfield, Alabama, and surrounding area and the manner in which it proposes to meet such needs and interests.

(d) The application of Symphony Network Association, Inc., shows that the applicant proposes to locate its main studio in Birmingham, Alabama, outside the corporate limits of the City of Fairfield, Alabama. An issue will be specified, therefore, to determine whether a grant of the application would be consistent with § 73.613 of the Commission's rules and, if not, whether circumstances exist which would warrant a waiver of said rule.

(e) Based on information contained in the application of Chapman Radio and Television Company, it appears that cash in an amount in excess of $105,000 will be required for the construction and initial operation of the proposed station. The exact costs of construction and the exact amount of cash necessary initially cannot be determined because the applicant appears to have made no provision for the costs of freight, installation, foundations, painting, legal and engineering fees, miscellaneous costs and contingencies. The applicant has submitted no equipment proposal. To meet the costs of construction and initial operation, the applicant relies upon alleged existing capital of $12,000 and a bank loan of $100,000 from Exchange-Security Bank, but the financial statements of the partnership and the individual partners fails to show that there are current and liquid assets in excess of liabilities sufficient in amount to assure the availability of any funds. Additionally, the letter from Exchange-Security Bank contains no terms of repayment, rate of interest, or security requirements, if any. It cannot be determined, therefore, that the applicant is financially qualified.

(f) The application of Chapman Radio and Television Company shows that the applicant estimates that its total cost of operation for the first year will be $50,000. The applicant, however, proposes to broadcast a total of 121 hours per week and will have a staff of 10 persons. The said estimate appears to be unreasonably low and question is raised, therefore, as to the basis for the estimate and whether, under the circumstances, it is realistic.

(g) The application of Chapman Radio and Television Company shows that the applicant proposes to broadcast 121 hours per week, of which 28.3 percent will be local live programming. Of the 70 hours per week of broadcast time between 8:00 a.m. and 6:00 p.m., the applicant proposes 35.8 percent live programming. The applicant, however, proposes a total staff of ten persons, including the two partners who will also be connected with new television broadcast stations for which the applicant has applied in other cities in Alabama. An issue will be specified, therefore, to determine whether the staff proposed by the applicant will be adequate to effectuate the type of operation proposed.

(h) With respect to the engineering proposal of Chapman Radio and Television Company, it appears that the geographic coordinates and site elevation specified do not agree with the site exhibit and site photos submitted, when plotted on the most recently available United States Coast and Geodetic Survey topographic quadrangle chart of Birmingham South, Alabama, 1959, scale 1/24,000. The correct geographic coordinates and site elevation must, accordingly, be determined.

(i) The antenna specified by Chapman Radio and Television Company (an RCA TFU–24BM) is designed for operation on Channels 31 through 50, but the applicant has not shown how this antenna can be used for Channel 54. Additionally, the specified physical length of the proposed antenna (50 feet) appears questionable for operation on Channel 54. In view of the foregoing questions, it appears that the specified values for antenna height above ground, antenna height above mean sea level, and antenna height above average terrain may be erroneous. An issue with respect to these matters will, accordingly, be specified.

(j) Chapman Radio and Television Company has not specified the make and type number of the multiplexer to be used with its transmitter. Additionally, it appears that the specified aural multiplexer loss in decibels does not agree with the value normally associated with the RCA transmitter specified. An issue will be specified to clarify these matters.

(k) Chapman Radio and Television Company has not furnished sufficient information to enable a determination to be made as to the location of its principal city (80 dbu) contour, as required by section V–C, Paragraph 16, Form 301, nor has the applicant shown that a principal city signal will be placed over the entire city of Homewood, Alabama, as required by § 73.683 of the Commission's rules. Additionally, it appears that the distances for the predicted Grade A and Grade B contours, as specified in section V–C, Paragraph 15, Form 301, may be inaccurate. An issue will be specified, therefore, to determine the location of the applicant's service contours and whether a grant of the application would be consistent with § 73.683 of the Commission's rules.

It further appearing, that it has been proposed, in Docket No. 14229, to allocate Channel 54 to Birmingham, Alabama, and to allocate Channel 77 to Bessemer in lieu thereof; and that in the event of a grant of either application in this proceeding, such grant shall be made subject to the condition that the Commission may, without further proceedings, specify operation by the permittee

on such other channel as may be allocated by the Commission to Bessemer, Alabama, in lieu of Channel 54; and

It further appearing, that, except as indicated above, Symphony Network Association, Inc., is legally, technically, and otherwise qualified to construct, own and operate the proposed television station; and, except as indicated above, William A. Chapman and George K. Chapman, d/b as Chapman Radio and Television Company, are legally and otherwise qualified to construct, own and operate the proposed television station; and

It further appearing, that, upon due consideration of the above-captioned applications, the Commission finds that, pursuant to section 309(e) of the Communications Act of 1934, as amended, a hearing is necessary and that the said applications must be designated for hearing in a consolidated proceeding on the issues set forth below:

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Symphony Network Association, Inc., and William A. Chapman and George K. Chapman, d/b as Chapman Radio and Television Company are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Symphony Network Association, Inc., is financially qualified to construct, own and operate the proposed television broadcast station.

2. To determine the policies of Symphony Network Association, Inc., with respect to making time available for the discussion of public issues.

3. To determine the efforts made by Symphony Network Association, Inc., to ascertain the needs and interests of the area proposed to be served and the manner in which the applicant will meet such needs and interests.

4. To determine whether a grant of the application of Symphony Network Association, Inc., would be consistent with the provisions of § 73.613(a) of the Commission's rules and, if not, whether circumstances exist which would warrant a waiver of such rule.

5. To determine whether Chapman Radio and Television Company is financially qualified to construct, own and operate the proposed television station.

6. To determine the basis for the estimate of Chapman Radio and Television Company of its cost of operation for the first year and whether such estimate is realistic.

7. To determine whether the staff proposed by Chapman Radio and Television Company would be adequate to effectuate the type of operation proposed.

8. To determine the correct geographic coordinates and site elevation of the transmitter of Chapman Radio and Television Company.

9. To determine whether the particular antenna specified by Chapman Radio and Television Company is suitable for operation on Channel 54 and to determine whether the specified physical length thereof is correct for the operation proposed; to determine, in the event that the specified length of the proposed antenna is found to be incorrect, the correct antenna height above ground, above mean sea level, and above average terrain.

10. To determine the make and type number of the multiplexer proposed to be used by Chapman Radio and Television Company and the correct aural multiplexer loss in decibels.

11. To determine the location of the predicted service contours of Chapman Radio and Television Company and whether a grant of the application would be consistent with the provisions of § 73.683 of the Commission's rules.

12. To determine, on a comparative basis, which of the operations proposed in the above-captioned applications would better serve the public interest, convenience and necessity in light of the significant differences between the applicants as to:

(a) The background and experience of each, bearing on its ability to own and operate the proposed television broadcast station.

(b) The proposals of each with respect to the management and operation of the proposed television broadcast station.

(c) The programming services proposed in each of the above-captioned applications.

13. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the instant applications should be granted.

It is further ordered, That, in the event of a grant of either of the applications in this proceeding, such grant shall be subject to the condition that the Commission may, without further proceedings specify operation by the permittee on such channel as may be allocated by the Commission to Bessemer, Alabama, in lieu of Channel 54; and

It is further ordered, That, to avail themselves of the opportunity to be heard, Symphony Network Association, Inc., and William A. Chapman and George K. Chapman, d/b as Chapman Radio and Television Company, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written apearance stating an intention to appear on the date set for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594(a) of the Commission's rules, give notice of the hearing either individually or, if feasible, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Released: May 12, 1964.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 64-4881; Filed, May 14, 1964; 8:51 a.m.]

[1] Commissioner Hyde dissenting to the inclusion of Issue 2.

[Docket No. 15457; FCC 64-414]

TRIANGLE PUBLICATIONS, INC. (RADIO AND TELEVISION DIVISION)

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In re application of Triangle Publications, Inc. (RADIO AND TELEVISION DIVISION), Johnstown, Pennsylvania, Docket No. 15457, File No. BPTTV-12; for construction permit for new VHF television broadcast translator station.

1. The Commission has before it for consideration: (a) The above-captioned application filed by Triangle Publications, Inc. (Triangle), licensee of Station WFBG-TV, Channel 10, Altoona, Pennsylvania; (b) "Comments and Opposition of Rivoli Realty Company" filed on January 26, 1961, by Rivoli Realty Company (Rivoli), permittee of Station WARD-TV, Channel 56, Johnstown, Pennsylvania,[1] directed against a grant of the above-captioned application; (c) a "Reply to Comments and Opposition of Rivoli Realty Company" filed on February 8, 1961, by Triangle; (d) a "Petition to Deny" filed on February 20, 1961, by Rivoli directed against a grant of the above-captioned application; (e) an "Opposition to Petition to Deny" filed on March 6, 1961, by Triangle; (f) a "Petition for Immediate Consideration and Grant" filed on March 25, 1963, by Triangle; (g) an "Opposition to Petition for Immediate Consideration and Grant" filed on April 8, 1963, by Rivoli; and (h) a "Reply to Opposition to Petition for Immediate Consideration and Grant" filed on April 22, 1963, by Triangle.

2. On November 29, 1960, Triangle filed the above-captioned application for a VHF television broadcast translator station to serve Johnstown, Pennsylvania, with a power of 1 watt on Output Channel 12 rebroadcasting its Station WFBG-TV, Channel 10, Altoona, Pennsylvania. Since UHF Station WARD-TV is licensed to serve Johnstown, Triangle proposes to operate the translator only while Station WARD-TV is off the air.

3. Rivoli alleges that the addition of the applicant's proposed VHF service to Johnstown would result in economic injury to its UHF station. Accordingly, it is clear that the petitioner has standing as a "party in interest" within the meaning of section 309(d) of the Communications Act. Federal Communications Commission v. Sanders Brothers Radio Station, 309 U.S. 470.

4. Since the above-captioned application is for a VHF translator to serve an area within the Grade A contour of Rivoli's UHF Station WARD-TV, the essential dispute is whether Triangle's application satisfies the requirements of

[1] Rivoli is operating on Channel 56 pursuant to a special temporary authorization, although it holds a construction permit for Channel 19.

§ 74.732(d) of the Commission's rules.[2] Rivoli also argues that the application should be denied because it does not satisfy the requirements of § 74.732(e)(2) of the Commission's rules,[3] since both stations carry the programs of the CBS and ABC networks.

5. Triangle seeks to justify a grant of its application on two grounds, that it would not operate while Station WARD–TV was on the air—and hence could not violate § 74.732(e)(2) of the rules—and that § 74.732(d) of the rules is not applicable since Johnstown is already an intermixed area having one locally assigned VHF channel. But however plausible Triangle's arguments may appear to be, there still remains the underlying problem that a grant of this application might adversely affect Station WARD–TV's ability to supply its UHF service to Johnstown. The Commission recently terminated the "drop-in" proceeding, in which, among other things, it had proposed the assignment of an additional short-spaced VHF channel at Johnstown, partly because of the adverse effect on UHF which such an assignment would have entailed. VHF Drop-Ins, 25 R.R. 1687. It would seem entirely unreasonable to deny Johnstown the benefit of a full VHF service in order to protect UHF and then to supply the limited service of a VHF translator in circumstances where there could be injury to the UHF station in the community. The Commission recently considered a similar situation, involving a proposed VHF translator station in Asheville, North Carolina, and determined that it would be necessary to conduct a hearing to determine whether a grant of such an application in an area with an existing UHF station could retard further development of UHF service in the area. Spartan Radiocasting Company, FCC 64–95. In view of the circumstances in Johnstown, it appears equally necessary to require a hearing in this proceeding.

6. In view of the foregoing, except as indicated by the issues specified below, the applicant is legally, technically, financially, and otherwise qualified to construct and operate as proposed. However, the Commission is unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned application of Triangle Publications, Inc., is designated for hearing at a time and place to be specified in a subsequent Order upon the following issues:

1. To determine whether, within the meaning of § 74.732(d) of our rules, the area in question is receiving satisfactory service from Station WARD–TV.

2. To determine what public interest benefits, if any, would be derived from a grant of the instant application.

3. To determine whether a grant of the above-captioned application would retard the development of UHF television in and about Johnstown, Pennsylvania.

4. To determine in view of the evidence adduced purusant to the foregoing issues whether a grant of the above-captioned application would serve the public interest, convenience and necessity.

It is further ordered, That Rivoli Realty Company is made a party to the proceeding.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicant and Rivoli Realty Company, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this Order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594 of the rules.

Adopted: May 6, 1964.

Released: May 12, 1964.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 64–4882; Filed, May 14, 1964; 8:52 a.m.]

[2] Section 74.732(d) of the rules provides: "A VHF translator will not be authorized to serve an area which is receiving satisfactory service from one or more UHF television broadcast stations or UHF translators unless, upon consideration of all applicable public interest factors, it is determined that, exceptionally, such intermixture of VHF and UHF service is justified."

[3] Section 74.732(e)(2) of the rules provides: "The licensee or permittee of a television broadcasting station * * * will not be authorized to operate a VHF translator * * *. Where the proposed VHF translator is intended to provide reception to all or a part of any community located within the Grade A contour of any other television broadcast station for which a construction permit or license has been granted and the programs rebroadcast by the proposed VHF translator will duplicate all or any part of the programs broadcast by such other television broadcast station or stations: *Provided, however,* That this will not preclude the authorization of a VHF translator intended to improve reception of the parent station's signal to any community, any part of the corporate limits of which is within the principal city service contour of such station."

[1] Commissioner Cox concurs.

SECURITIES AND EXCHANGE COMMISSION

[File No. 812–1675]

BROAD STREET INVESTING CORP.

Notice of Application for Order Exempting Sale by Open-End Company of Its Shares at Other Than Public Offering Price

MAY 11, 1964.

Notice is hereby given that Broad Street Investing Corporation ("Broad Street"), 65 Broadway, New York, New York, a registered open-end investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 22(d) of the Act the proposed issuance of its shares at net asset value in exchange for the assets of High Street Investment Fund, Inc. ("High Street"), a registered closed-end diversified management investment company. All interested persons are referred to the application as filed with the Commission for a complete statement of the representations therein, which are summarized below.

Shares of Broad Street, a Maryland corporation, are offered to the public on a continuous basis at net asset value plus a varying sales charge dependent on the amount purchased. As of March 23, 1964, the assets of Broad Street amounted to $304,784,532.

High Street, a Rhode Island corporation, presently has approximately 250 stockholders. It was incorporated in 1853 and until November 1961, when it sold all its assets, was a manufacturer and seller of equipment used in water purification plants and for other purposes. Since the latter date it has been engaged primarily in the business of investing and reinvesting its funds.

Pursuant to an agreement between Broad Street and High Street, substantially all of the cash and securities owned by High Street, with a value of approximately $3,439,824 as of March 23, 1964, will be transferred to Broad Street in exchange for shares of Broad Street stock, subject to the retention by High Street of assets estimated by it to be sufficient to pay its liabilities. The shares acquired by High Street are to be distributed to High Street stockholders on the liquidation of High Street.

The number of shares of Broad Street to be issued is to be determined by dividing the aggregate market value of the assets of High Street to be transferred to Broad Street by the net asset value per share of the Broad Street, both to be determined as of the valuation time, which time shall be 3:30 p.m. (New York City Time) on the 41st day following the day on which the vote of the stockholders of High Street is taken to approve the exchange, or if the New York Stock Ex-

change is not open for trading that 41st day, then on the next succeeding day on which the New York Stock Exchange is open for trading, or on such earlier or later date as may be mutually agreed upon, in the case of High Street by action of and in the discretion of its Board of Directors.

Of the assets to be acquired from High Street, Broad Street intends to retain in its portfolio subject to changes in investment conditions and considerations, securities having a market value, as of March 23, 1964, of $1,714,893 and the unrealized capital gain on such securities then amounted to $110,126. The market value of those securities of High Street which Broad Street intends to sell after the acquisition thereof amounted to $1,814,931 on March 23, 1964 and the unrealized capital loss on such securities on such date amounted to $115,770. The unrealized capital gains of Broad Street on March 23, 1964 amounted to $118,928,470, or approximately 39 percent of its assets and the realized but undistributed taxable long-term capital gain of Broad Street then amounted to $2,101,932, or approximately 0.69 percent of its assets. Since the exchange will be tax free for High Street and its stockholders, Broad Street's cost basis for tax purposes for the assets acquired from High Street will be the same as for High Street, rather than the price actually paid by Broad Street for the assets which is net asset value of the shares it issues.

No adjustment is deemed necessary by Broad Street for possible tax consequences to shareholders of Broad Street because the net unrealized depreciation on assets to be acquired from High Street is approximately 0.16 percent while the unrealized appreciation on the assets of Broad Street is approximately 39 percent as of March 23, 1964.

Shareholders of High Street will be asked to approve the terms of the proposed exchange at a shareholders' meeting. The proxy material soliciting this approval describes, among other things, the excess amount of unrealized appreciation related to the shares of Broad Street to be received in the exchange which may cause a future tax liability upon realization, the recent bid and asked prices of the shares of High Street which have been substantially below net asset value, the provisions of the General Laws of Rhode Island with respect to the rights of dissenting shareholders and the ability of shareholders of High Street to immediately redeem the shares of Broad Street received pursuant to the exchange and thereby receive approximately the net asset value of their High Street shares in cash. The proxy outlines, in management's opinion, the advantages of owning shares of Broad Street as contrasted with shares of High Street with respect to earnings, capital appreciation, dividends, size of company and expense of operation.

The application states that no affiliation exists between High Street or its officers, directors or stockholders and Broad Street, its officers or directors, that the agreement was negotiated at arm's length by the two companies and that the Board of Directors of Broad Street approved the agreement as being in the best interests of its shareholders, taking all relevant considerations into account, including, among others, the fact that the resulting increase in assets will tend to reduce per share expenses due to the fact that Broad Street is furnished investment research and administrative facilities and services at cost under its arrangement with three other investment companies for the joint ownership and operation of Union Service Corporation. The total operating expenses of Broad Street in 1963, including investment research and administrative services, amounted to $^{23}/_{100}$ of 1 percent of the average value of assets.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at the current offering price described in the prospectus, with certain exceptions not applicable here. Under the terms of the agreement, however, the shares of Broad Street are to be issued to High Street at a price other than the public offering price stated in the prospectus, which includes a sales charge of 1.8 percent on sales of $500,000 or over.

Section 6(c) of the Act authorizes the Commission by order upon application to exempt, conditionally or unconditionally, any transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any person may, not later than May 28, 1964, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 64–4839; Filed, May 14, 1964; 8:46 a.m.]

[File No. 1–3421]

CONTINENTAL VENDING MACHINE CORP.

Order Summarily Suspending Trading

MAY 11, 1964.

The common stock, 10 cents par value, of Continental Vending Machine Corp., being listed and registered on the American Stock Exchange and having unlisted trading privileges on the Philadelphia-Baltimore-Washington Stock Exchange, and the 6 percent convertible subordinated debentures due September 1, 1976 being listed and registered on the American Stock Exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such securities on such Exchanges and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2–2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of any such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and the Philadelphia - Baltimore - Washington Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for the period May 12, 1964 through May 21, 1964, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 64–4840; Filed, May 14, 1964; 8:46 a.m.]

[File No. 24W–2693]

MARION OIL COMPANY, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

MAY 11, 1964.

I. Marion Oil Company, Inc. (issuer), a Pennsylvania corporation, incorporated February 25, 1963, with its principal office at 2625 Poplar Street, Erie, Pennsylvania and its principal business operations in Allegany (Cattaraugus) County, New York State, filed with the Commission on March 12, 1964, a notification on Form 1–A and an offering circular relating to an offering of 100,000 shares of its Class B, nonvoting common stock ($0.20 par) at $3.00 per share for an aggregate offering price of $300,000 for the purpose of obtaining an exemption from the

registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) and Regulation A promulgated thereunder.

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that the offering, when computed in accordance with Rules 253(c) and 254(a), will exceed the $300,000 limitation provided by the exemption.

B. The offering would be made in violation of section 17 of the Securities Act of 1933 in that the offering circular contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made not misleading, particularly with respect to:

1. The failure to include an adequate history and background of the issuer's property;

2. The failure to state that the issuer's property has never operated profitably;

3. The failure to describe adequately and accurately nearby oil properties, including production history of such properties;

4. The failure to set forth adequately and accurately the risks and hazards of issuer's proposed operations;

5. The failure to disclose adequately and accurately the terms of the agreement under which the property was obtained;

6. The failure to state adequately and accurately the percentage of control retained by insiders and the dilution of prospective purchaser's equity in the issuer;

7. The failure to set forth a reasonable and reliable estimation of net recoverable crude oil reserves to issuer's interest for the developed portion of issuer's property;

8. The adequacy and accuracy of depletion charges in the income statement.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended,

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that, if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 64-4841; Filed, May 14, 1964; 8:46 a.m.]

[File No. 70-4210]

MISSISSIPPI POWER CO.

Notice of Proposed Issuance and Sale at Competitive Bidding of First Mortgage Bonds

MAY 11, 1964.

Notice is hereby given that Mississippi Power Company ("Mississippi"), 2500 14th Street, Gulfport, Mississippi, 39501, a public-utility subsidiary company of The Southern Company, a registered holding company, has filed with this Commission a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(a) and 7 of the Act and Rule 50 thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration on file at the office of the Commission for a statement of the proposed transactions which are summarized as follows:

Mississippi proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $10,000,000 principal amount of its First Mortgage Bonds, — percent Series due 1994. The interest rate on the bonds (which will be a multiple of ⅛ of 1 percent and the price, exclusive of accrued interest, to be paid to Mississippi (which will be not less than 99 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under the Indenture dated as of September 1, 1941, between Mississippi and Morgan Guaranty Trust Company of New York, as Trustee, as heretofore supplemented and as to be further supplemented by a Supplemental Indenture to be dated as of June 1, 1964.

The proceeds from the sale of the bonds will be applied toward the construction or acquisition of permanent improvements, extensions, and additions to Mississippi's utility plant estimated to aggregate $21,343,723 for 1964, and for the payment of outstanding short-term bank loans incurred for such purpose.

It is stated that no commission, other than this Commission, has jurisdiction over the proposed transactions.

The fees and expenses to be paid in connection with the proposed issuance and sale of bonds are to be supplied by amendment.

Notice is further given that any interested person may, not later than June 1, 1964, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the declaration, as filed or as amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 64-4842; Filed, May 14, 1964; 8:47 a.m.]

[File No. 1-4722]

TASTEE FREEZ INDUSTRIES, INC.

Order Summarily Suspending Trading

MAY 11, 1964.

The common stock, 67 cents par value, of Tastee Freez Industries, Inc., being listed and registered on the American Stock Exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of any such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934, that trading in such security on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for the period May 12, 1964, through May 21, 1964, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 64-4843; Filed, May 14, 1964; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 466]

NEW YORK

Declaration of Disaster Area

Whereas, it has been reported that during the month of April, 1964, because of the effects of certain disasters, damage resulted to residences and business property located in Albany and Chenango Counties, in the State of New York;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Executive Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the Offices below indicated from persons or firms whose property, situated in the aforesaid Counties and areas adjacent thereto, suffered damage or destruction resulting from flood and accompanying conditions occurring on or about March 7, 1964.

OFFICES

Small Business Administration Regional Office, 42 Broadway, New York 4, N.Y.
Small Business Administration Branch Office, 500 South Salina Street, Syracuse, N.Y.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to October 31, 1964.

Dated: April 30, 1964.

ROSS D. DAVIS,
Executive Administrator.

[F.R. Doc. 64-4829; Filed, May 14, 1964; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 12, 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. 39010: *Bituminous fine coal to Cornell, Wis.* Filed by Illinois Freight Association, agent (No. 243), for interested rail carriers. Rates on bituminous fine coal, as described in the application, subject to annual volume tonnage of 22,500 tons, from mine origins in Illinois, Indiana and western Kentucky, to Cornell, Wis.

Grounds for relief: Carrier competition.

Tariff: Illinois Freight Association, agent, tariff I.C.C. 1040.

FSA No. 39011: *T.O.F.C. rates—glassware from Houston, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-8545), for interested rail carriers. Rates on glassware, loaded in highway trailers and transported on railroad flat cars, in trailer-loads, from Houston, Tex., to points in southwestern territory also Memphis, Tenn., and Natchez, Miss.

Grounds for relief: Modified short-line distance scale and grouping.

Tariff: Supplement 165 to Southwestern Freight Bureau, agent, tariff I.C.C. 4353.

FSA No. 39012: *Substituted service—Soo Line for Collins Truck Line, Inc., et al.* Filed by A. R. Fowler, agent (No. 12), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flatcars, between Minneapolis, Minn., on the one hand, and Bismark, Devils Lake, Minot, and Valley City, N. Dak., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: A. R. Fowler, agent, tariff MF-I.C.C. A-95.

FSA No. 39013: *Cement clinker between Douro, Tex., and Bushland, Tex.* Filed by Texas-Louisiana Freight Bureau, agent (No. 502), for interested rail carriers. Rates on cement clinker, in carloads, subject to aggregate minimum of five cars per shipment, between Bushland, Tex., and Douro, Tex.

Grounds for relief: Market competition.

Tariff: Supplement 9 to Texas-Louisiana Freight Bureau, agent, tariff I.C.C. 1001.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 64-4858; Filed, May 14, 1964; 8:47 a.m.]

[Notice 984]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 12, 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 66573. By order of May 8, 1964, the Transfer Board approved the transfer to United Petroleum Carriers, Inc., Lyndhurst, N.J., of the certificate in No. MC 119725, issued September 6, 1962, to Hillman Bulk Service, Inc., Lyndhurst, N.J., authorizing the transportation of: Castor beans, from Edgewater, N.J., to Philadelphia, Pa.; salt, fuller's earth, pumice, castor beans, linseed cake, and bags, from New York, N.Y., to Edgewater, N.J., vegetable oils, in tank vehicles, from Edgewater, N.J., to points in New York, Connecticut, Rhode Island, Massachusetts, Pennsylvania, Delaware, and Maryland within 175 miles of Edgewater; vegetable oils, between Edgewater, N.J., on the one hand, and, on the other, points in New York and Pennsylvania as specified; vegetable oils, in bulk, in tank vehicles, from Edgewater, N.J., to Washington, D.C. LeRoy Danziger, 334 King Road, North Brunswick, N.J., attorney for applicants.

No. MC-FC 66622. (Republication.) By order of May 8, 1964 the Transfer Board approved the transfer to Many's Express, Inc., Ossining, N.Y., of the operating rights in Certificates in Nos. MC 91725 and MC 91725 (Sub-No. 1) issued March 4, 1941, and November 29, 1946, respectively, 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, Rhode Island, Massachusetts, and Pennsylvania, and Airplane and hospital instruments and electrical equipment, from Ossining, N.Y., to specified cities in New Jersey.

NOTE: The purpose of this republication is to reflect that the order entered in No. MC-FC 66622, has been amended and reissued to include the transfer to transferee of the operating rights in Certificate in No. MC 91725 (Sub-No. 1) issued November 29, 1946, authorizing the transportation of household goods, between Ossining, N.Y., and points in Massachusetts and Pennsylvania, in a radial movement. Emanuel Lauterbach, First Westchester Bank Building, Ossining, N.Y., attorney for applicants.

No. MC-FC 66723. By order of May 8, 1964, the Transfer Board approved the transfer to Rodi Auto Towing Co., Inc., Chicago, Ill., of the operating rights in Certificates in Nos. MC 117039 and MC 117039 (Sub-No. 1), issued by the Commission August 20, 1958 and June 13, 1961, respectively, to Harold R. Rodi, doing business as Rodi Auto Towing Co., Chicago, Ill., authorizing the transportation, over irregular routes, of wrecked or disabled motor vehicles, by use of wrecker equipment only, between Chicago, Ill., on the one hand, and, on the other, points in Illinois, Indiana, and Wisconsin (except Milwaukee), and of wrecked or disabled motor vehicles, between Chicago, Ill., on the one hand, and, on the other, points in Iowa and Michigan. Joseph M. Scanlan, 111 West Washington Street, Chicago 2, Ill., attorney for applicants.

No. MC-FC 66756. By order of May 8, 1964, the Transfer Board approved the transfer to John P. O'Reilly, Arlington, Mass., of the Permit in No. MC 20869, issued September 15, 1949, to John P. O'Reilly, Inc., Arlington, Mass., au-

thorizing the transportation of: Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, equipment, materials, and supplies used in the conduct of such business, between points within a specified Massachusetts territory and points on Cape Cod; and between points in the said specified territory on the one hand, and, on the other, Springfield, Mass., Providence, R.I., and Portland, Maine. Francis E. Barrett, Jr., 182 Forbes Building, Forbes Road, Braintree, 84, Mass., attorney for applicants.

No. MC–FC 66830. By order of May 8, 1964, the Transfer Board approved the transfer to Pennland Tankers, Inc., Oil City, Pa., of Certificates in Nos. MC 112846, MC 112846 (Sub-No. 2), MC 112846 (Sub-No. 7), MC 112846 (Sub-No. 9), MC 112846 (Sub-No. 12), MC 112846 (Sub-No. 15), MC 112846 (Sub-No. 16), MC 112846 (Sub-No. 18), MC 112846 (Sub-No. 20), MC 112846 (Sub-No. 22), MC 112846 (Sub-No. 24), MC 112846 (Sub-No. 28), MC 112846 (Sub-No. 29), MC 112846 (Sub-No. 31), MC 112846 (Sub-No. 33), and MC 112846 (Sub-No. 35), issued December 26, 1951, October 15, 1956, January 4, 1957, October 30, 1956, February 24, 1958, December 26, 1957, June 11, 1958, October 9, 1958, April 21, 1959, February 2, 1960, May 23, 1960, May 16, 1961, July 27, 1961, September 11, 1962, August 8, 1963, and April 27, 1964, respectively, to Clare M. Marshall, Inc., Oil City, Pa., authorizing the transportation, over irregular routes, of petroleum and petroleum products (except liquefied gases, liquefied petroleum gases, and petroleum, chemicals) the exceptions varying as to territory served, in bulk, in tank and/or insulated tank vehicles, between, to and from points and areas in Delaware, Illinois, Indiana, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia, and West Virginia; and petroleum white mineral oil, petroleum dairy wax, and white mineral oil, in bulk, in tank and/or insulated tank vehicles, from points in Pennsylvania to points in Indiana, Michigan and New York. William L. Brown, P.O. Box 611, Oil City, Pa., representative for applicants.

No. MC–FC 66832. By order of May 8, 1964, the Transfer Board approved the transfer to Ralph M. Bartholomew, doing business as Ireland Transfer & Storage Co., 102 Front Street, Ketchikan, Alaska, of Certificate in No. MC 123327, issued April 22, 1963, to Ralph A. Bartholomew, Laura S. Bartholomew and Ralph M. Bartholomew, a partnership, doing business as Ireland Transfer & Storage Co., 102 Front Street, Ketchikan, Alaska, authorizing the transportation of general commodities, including household goods, excluding commodities in bulk, over irregular routes, between points on Revillagigedo and Annette Island, Alaska.

No. MC–FC 66881. By order of May 8, 1964, the Transfer Board approved the transfer to Charles Tuzzolino, doing business as C. Tuzzi, Brooklyn, N.Y., of Certificate in No. MC 89377, issued February 19, 1963, to Joseph Eletto Transfer, Inc., Valley Stream, New York, authorizing the transportation of new furniture, over irregular routes, from New York, N.Y., to points in that part of New Jersey and New York within 35 miles of New York, N.Y., with no transportation for compensation on return except as otherwise authorized. Morris Honig, 150 Broadway, New York 38, N.Y., attorney for applicants.

No. MC–FC 66884. By order of May 8, 1964, the Transfer Board approved the transfer to Herrin Transportation Co., A Delaware Corporation, Houston, Tex., the operating rights in Certificate in No. MC 1124, and those set forth in Certificates issued under that docket series in subsequently-issued proceedings beginning with MC 1124 (Sub-No. 5) and with certain docket numbers omitted extending to and including MC 1124 (Sub-No. 191), issued during the period 1943 up to, and including the year 1963, authorizing the transportation, over regular and irregular routes, of: General commodities, with no exceptions, between points in Louisiana; General commodities, with certain exceptions, between points in Louisiana, Texas, Tennessee, Arkansas, Florida, Mississippi, and Alabama; Dangerous explosives, between points in Louisiana, Texas, Florida, Arkansas, and Oklahoma; Compressed gases, between points in Arkansas, Oklahoma, Texas, Louisiana, and Florida; Miscellaneous specified commodities, between points in Texas, Missouri, Illinois, Louisiana, Arkansas, Kansas, Tennessee, and Ohio. Leroy Hallman, First National Bank Building, Dallas 2, Tex., attorney for applicants.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 64–4859; Filed, May 14, 1964; 8:48 a.m.]

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