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Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3595

FIRE PREVENTION WEEK, 1964

By the President of the United States of America

A Proclamation

WHEREAS fires, most of which could have been prevented, caused the loss of approximately 12,000 human lives and destroyed over a billion dollars worth of property in 1963; and

WHEREAS this shameful waste of human and material resources demands immediate community action to reduce this scourge to an irreducible minimum; and

WHEREAS far too many fires are caused solely by the carelessness and apathy of individual citizens:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby designate the week beginning October 4, 1964, as Fire Prevention Week.

I urge State and local governments, the American National Red Cross, the Chamber of Commerce of the United States, and business, labor, and farm organizations, as well as schools, civic groups, and public-information agencies to observe Fire Prevention Week, to develop and employ effective means for disseminating fire safety information and recommendations to all citizens throughout the year, and promptly to undertake other effective community actions designed to eliminate the causes of preventable fires. I also call upon all citizens to understand and personally support the fire prevention and control efforts of their respective community fire departments.

Appropriate Federal agencies will assist in this effort to reduce the intolerable waste caused by preventable fires.

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 sixth day of July 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-ninth.

LYNDON B. JOHNSON

By the President:

George W. Ball,
Acting Secretary of State.

[F.R. Doc. 64-6905; Filed, July 8, 1964; 2:30 p.m.]

Proclamation 3596

PROCLAMATION OF AGREEMENTS WITH PARAGUAY AND THE UNITED ARAB REPUBLIC RELATING TO TRADE AGREEMENTS AND OF THE TERMINATION IN PART OF A TRADE AGREEMENT PROCLAMATION RELATING TO PARAGUAY

By the President of the United States of America

A Proclamation

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PART I—PURPOSES

The purposes of this proclamation are:

(a) *Paraguay*—To proclaim portions of two agreements with Paraguay, amending the bilateral trade agreement with Paraguay, which contain no new tariff concessions by the United States but under which Paraguay may participate in the Latin American Free Trade Association without violating the bilateral trade agreement.

(b) *Paraguay*—To proclaim the termination of those portions of the trade agreement proclamation relating to the bilateral trade agreement with Paraguay which concern the schedules of tariff concessions contained in that agreement.

(c) *United Arab Republic*—To proclaim an agreement for the provisional accession of the United Arab Republic to the General Agreement on Tariffs and Trade involving the application of the general provisions of the General Agreement on Tariffs and Trade but no tariff concessions.

PART II—IDENTIFICATION AND JUSTIFICATION

A. Paraguay—Agreements Supplementary to Bilateral Agreement

1. *Identification*—Numbered paragraphs 2 and 3 of the agreement of April 2, 1962 (TIAS 5000), and unnumbered paragraph 3 of the agreement of June 26, 1963 (TIAS 5390), between the United States and Paraguay, relate to and modify the application of the general provisions of the trade agreement of September 12, 1946, between the two countries (61 Stat. (pt. 3) 2689).¹

2. *Determination*—I have determined that it is required or appropriate (A) on and after April 2, 1962, that the trade agreement with Paraguay of September 12, 1946, shall be applied as supplemented by numbered paragraphs 2 and 3 of the agreement of April 2, 1962, and (B) on and after June 26, 1963, that that trade agreement shall be applied as further supplemented by unnumbered paragraph 3 of the agreement of June 26, 1963.

B. Paraguay—Partial Termination of Proclamation

1. *Identification*—The proclamation of March 10, 1947, proclaimed the trade agreement of September 12, 1946, between the United States and Paraguay, as supplemented by an exchange of notes of September 12, 1946, relating to duties and surcharges on certain products in Schedule I of the trade agreement. Unnumbered paragraph 1 of the agreement of June 26, 1963, between the United States and Paraguay, terminated, effective June 30, 1963, Articles VII through XII, the

¹ The trade agreement was proclaimed by the proclamation of March 10, 1947 (61 Stat. (pt. 3) 2688).

references in Article XVII to Articles XI and XII, and Schedules I and II of that trade agreement of September 12, 1946. Unnumbered paragraph 2 of the same agreement of June 26, 1963, terminated the supplementary exchange of notes of September 12, 1946.

C. United Arab Republic—Agreement Supplementary to General Agreement on Tariffs and Trade

1. *Identification*—The Declaration of November 13, 1962, on the Provisional Accession of the United Arab Republic to the General Agreement on Tariffs and Trade² became effective for the United States on May 3, 1963 (TIAS 5309).

2. *Determination*—I have determined that it is required or appropriate, on and after May 3, 1963, that those provisions of the General Agreement on Tariffs and Trade and agreements supplementary thereto which have heretofore been proclaimed shall be applied as supplemented by the Declaration of November 13, 1962, regarding the United Arab Republic.

PART III—PROCLAIMING PART

NOW, THEREFORE, I LYNDON B. JOHNSON, President of the United States of America, acting under the authority vested in me by the Constitution and statutes of the United States of America, including Section 350(a)(6) of the Tariff Act of 1930, as amended (19 U.S.C. 1351(a)(6)), do hereby proclaim that:

A. Paraguay—Agreements Supplementary to Bilateral Agreement

On and after April 2, 1962, the trade agreement between the United States and Paraguay, described in Part II(A)(1) of this proclamation, shall be applied as supplemented by paragraphs 2 and 3 of the agreement of April 2, 1963, and on and after June 26, 1963, that trade agreement shall be applied as further supplemented by unnumbered paragraph 3 of the agreement of June 26, 1963.

B. Paraguay—Partial Termination of Proclamation

On and after June 30, 1963, the Proclamation of March 10, 1947, proclaiming the trade agreement between the United States and Paraguay, as supplemented, shall be terminated insofar as it relates to those provisions, described in Part II(B)(1) of this proclamation, which were terminated by the provisions of the agreement of June 26, 1963, described in Part II(B)(1).

C. United Arab Republic—Agreement Supplementary to General Agreement on Tariffs and Trade

On and after May 3, 1963, those provisions of the General Agreement on Tariffs and Trade, as supplemented, described in Part II(C)(1) of this proclamation, shall be applied as supplemented by the Declaration on the Provisional Accession of the United Arab Republic, described in Part II(C)(1).

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 sixth day of July in the year of our Lord nineteen hundred and sixty-four, and of [SEAL] the Independence of the United States of America the one hundred and eighty-ninth.

LYNDON B. JOHNSON

By the President:

GEORGE W. BALL,
Acting Secretary of State.

[F.R. Doc. 64-6906; Filed, July 8, 1964; 2:30 p.m.]

² That agreement of October 30, 1947, was proclaimed by Proclamation 2761A of December 16, 1947 (61 Stat. (pt. 2) 1103), which proclamation has been supplemented by subsequent proclamations.

Proclamation 3597

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

By the President of the United States of America

A Proclamation

WHEREAS headnote 1 to part 3 of the Appendix to the Tariff Schedules of the United States (77A Stat.), as published at the direction of the President pursuant to section 101(d) of the Tariff Classification Act of 1962, states that part 3 covers "the provisions proclaimed by the President pursuant to section 22 of the Agricultural Adjustment Act, as amended * * * imposing * * * quantitative limitations on articles imported into the United States * * *"; and

WHEREAS the references to seed rye in headnote 2(d) in part 3 of the Appendix to the Tariff Schedules of the United States are obsolete because there are no current import restrictions imposed on seed rye under section 22 of the Agricultural Adjustment Act, as amended; and

WHEREAS, by Proclamation No. 3019 of June 8, 1953 (3 CFR, 1949-1953 Comp., p. 189) which was issued pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), the President imposed import quotas on certain dairy products, subject to allocation and license requirements administered by the Secretary of Agriculture, including an annual aggregate quota of 496,000 pounds upon imports of dried buttermilk, which was also applicable to dried whey; and

WHEREAS item 950.01 in part 3 of the Appendix to the Tariff Schedules of the United States includes dried buttermilk but does not include dried whey as being subject to the aforementioned annual quota of 496,000 pounds; and

WHEREAS, pursuant to section 102(3) of the Tariff Classification Act of 1962, the President proclaimed the additional import restrictions set forth in part 3 of the Appendix to the Tariff Schedules of the United States (Proclamation No. 3548 of August 21, 1963, paragraph numbered 3; 3 CFR, 1963 Supp., p. 73) in the erroneous belief that the quota specified in item 950.01 for dried buttermilk was the effective restriction "proclaimed pursuant to section 22 of the Agricultural Adjustment Act" as provided in section 102(3) of the Tariff Classification Act of 1962; and

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

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

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

(a) headnote 2(d) of part 3 of the Appendix to the Tariff Schedules of the United States (77A Stat. 441) is hereby amended by deleting "seed rye or" from the first line thereof and "of 56 pounds each for rye and" from the seventh line thereof; and

(b) the superior heading immediately preceding item 950.01 of part 3 of the Appendix to the Tariff Schedules of the United States (77A Stat. 442) is hereby amended to read as follows: "Dried milk, dried cream, and dried whey provided for in part 4 of schedule 1:";

THE PRESIDENT

and the article description for item 950.01 is hereby amended by deleting "item 115.45" and inserting in lieu thereof "items 115.45 and 118.05".

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

LYNDON B. JOHNSON

By the President:

GEORGE W. BALL,
Acting Secretary of State

[F.R. Doc. 64-6907; Filed, July 8, 1964; 2:30 p.m.]

Proclamation 3598

MONOCACY BATTLE CENTENNIAL

By the President of the United States of America

A Proclamation

WHEREAS July 9, 1964, marks the one hundredth anniversary of the Battle of the Monocacy of the Civil War; and

WHEREAS the gallant stand of the Union troops in this battle near Frederick, Maryland, caused a sufficient delay in the Confederate march on Washington to permit adequate reinforcement of the city's defenses; and

WHEREAS the Congress, by an act approved July 7, 1964, has requested the President to issue a proclamation designating July 9, 1964, as Monocacy Battle Centennial:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby designate July 9, 1964, as Monocacy Battle Centennial. In commemoration of the anniversary of this battle and the men who lost their lives in the struggle for control of the Nation's Capital, I request appropriate officials of the Government to display the flag of the United States on all Government buildings in the District of Columbia on that day at half staff until noon and at full staff after noon. I also call upon the people of the District of Columbia to fly the flag in like manner on that date at their homes, churches, and other suitable places.

I urge those who can do so to attend the dedication ceremonies to be held on that date at the site of the battle. Let others, in their home communities, hold ceremonies honoring the brave men of both sides who fought there—men who represented no fewer than twelve States, from Vermont to Louisiana.

Let us honor them, men of North and South, as Americans.

And let us, with the same courage they displayed, seize the opportunity that our generation has to meet the challenges of our own day, always striving "to form a more perfect Union, establish Justice * * * and secure the Blessings of Liberty to ourselves and our Posterity * * *."

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 seventh day of July in the year of our Lord nineteen hundred and sixty-four, and of the Independence of the United States of America the one hundred and eighty-ninth.

LYNDON B. JOHNSON

By the President:

GEORGE W. BALL,
Acting Secretary of State.

[F.R. Doc. 64-6937; Filed, July 9, 1964; 10:27 a.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of State

Section 213.3304 is amended to show that the position of Regional Planning Adviser in the Bureau of Far Eastern Affairs no longer is excepted under Schedule C. Effective upon publication in the FEDERAL REGISTER, subparagraph (4) of paragraph (j) of § 213.3304 is revoked.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,
Executive Assistant to
the Commissioners.

[F.R. Doc. 64-6932; Filed, July 9, 1964;
8:52 a.m.]

PART 213—EXCEPTED SERVICE

Securities and Exchange Commission

Section 213.3330 is amended to show that the position of Associate General Counsel no longer is excepted under Schedule C. Effective upon publication in the FEDERAL REGISTER, paragraph (c) of section 213.3330 is revoked.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,
Executive Assistant to
the Commissioners.

[F.R. Doc. 64-6931; Filed, July 9, 1964;
8:52 a.m.]

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

PART 13—SETOFFS AND WITHHOLDINGS

The regulations governing setoffs (23 F.R. 3757) are revised as follows:

- Sec.
- 13.1 Purpose.
- 13.2 Definitions.
- 13.3 Cases in which withholdings shall be made.
- 13.4 Cases in which setoffs shall be made.
- 13.5 Conditions under which setoff or withholding shall not be made.
- 13.6 Requests for setoff.
- 13.7 Order of priority of setoffs.
- 13.8 Assignments.
- 13.9 Rights of debtors.
- 13.10 Procedures and instructions.

AUTHORITY: The provisions of this part issued under R.S. 161, 5 U.S.C. 22.

§ 13.1 Purpose.

This part states the conditions under which any amounts approved by Agricultural Stabilization and Conservation county committees for disbursement to persons under programs administered by the Department of Agriculture, or any agency thereof, will be withheld or set off against debts of such persons owing to any department or agency of the United States.

§ 13.2 Definitions.

(a) The term "department" means one of the executive departments enumerated in section 1 of title 5, United States Code.

(b) The term "agency" includes any department, establishment, commission, administration, authority, board, bureau, or service of the United States, or any corporation all of the capital stock of which is owned by the United States.

(c) The term "CCC" means Commodity Credit Corporation, U.S. Department of Agriculture.

(d) The term "ASCS" means the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(e) The term "withholding" means the taking of action temporarily to prevent the payment of a specified amount from amounts payable to a debtor.

(f) The term "setoff" means the application of a specified amount from amounts payable to a debtor as liquidation, in whole or in part, of an amount owed by the debtor.

§ 13.3 Cases in which withholdings shall be made.

Withholding shall be made and appropriate notification thereof forwarded to the debtor in all of the following cases involving programs of CCC or ASCS (withholdings shall not be made in cases involving programs of other agencies):

(a) Where there has been a serious breach of contract or violation of program requirements and the withholding action is considered necessary to protect the financial interest of the Government.

(b) Where there is substantial evidence of violations of criminal or civil frauds statutes and criminal prosecution or civil frauds action is of primary importance to program operations.

(c) Where prior experience with the debtor indicates that collection will be difficult if amounts payable to the debtor are not withheld.

(d) Where there is doubt that the debtor will be financially able to pay a judgment on the debt.

(e) When requested by the Department of Justice.

The amount to be withheld in such cases shall not exceed the actual or estimated amount of the debt, including interest and out-of-pocket expenses paid by or accruing to the Government where ap-

plicable, unless the Department of Justice requests that a larger specified amount be withheld.

§ 13.4 Cases in which setoffs shall be made.

Setoff shall be made and appropriate notification thereof forwarded to the debtor in all cases (but in none other) where:

(a) A person has been administratively determined to be indebted to any agency of the Department of Agriculture, except that indebtedness in any matter falling within the Civil Frauds Statute, section 231 of title 31, United States Code, and indebtedness in any other matter referred to the Department of Justice but not reduced to judgment, shall be governed by paragraph (b) of this section. In case of indebtedness subject to setoff under this paragraph, the head of any creditor agency of the Department of Agriculture, or his designee, may, if such action is not prohibited by law, defer or subordinate in whole or in part, the right of the creditor agency to recover through setoff all or part of any indebtedness to such agency, or may withdraw a request for setoff, if he determines that such action is in the best interest of the program administered by such creditor agency and that the financial rights of the Government are protected.

(b) The Department of Justice has approved setoff of an indebtedness in a matter falling within the Civil Frauds Statute, section 231 of title 31, United States Code, or in any other matter referred to that Department, arising in connection with a program administered by any agency of the Department of Agriculture.

(c) A person is indebted under a judgment in favor of the United States or any agency thereof.

(d) A person is indebted to the Internal Revenue Service for taxes due the United States and such Service has filed a notice of lien in accordance with the Internal Revenue Code and has submitted a written request for setoff, or has served a Notice of Levy in accordance with section 6331 of the Internal Revenue Code, title 26 of the United States Code, against amounts payable to such person.

(e) A person is indebted to the Department of Labor under an agreement entered into with the United States pursuant to section 1462 of title 7, United States Code, in connection with the employment of Mexican agricultural workers.

(f) A person is otherwise indebted to any agency of the United States and the Administrator, ASCS, or his designee, has specifically authorized setoff.

§ 13.5 Conditions under which setoff or withholding shall not be made.

Setoff or withholding shall not be made:

(a) If the amount available for setoff or withholding represents loan or purchase proceeds with respect to a commodity which is subject to the rights of the holder of a valid enforceable prior lien on such commodity. However, any amount that exceeds the amount of the prior lien shall be available for withholding or setoff.

(b) Where suit has not been filed and the applicable period of limitation for enforcing payment of the debt in the courts expired prior to the date the amount became payable to the debtor.

(c) Where collection of a debt has been barred by a discharge in bankruptcy and the debtor has not expressed a desire to make payment.

(d) If the debt is in an amount of \$3.00 or less.

§ 13.6 Requests for setoff.

(a) Indebtedness to CCC and ASCS shall be set off in accordance with instructions issued by ASCS, without a request for setoff having been made to the appropriate ASCS State office.

(b) Setoffs to recover indebtedness to agencies other than those described in paragraph (a) of this section shall be made only upon filing of a request or serving of a Notice of Levy in accordance with this section. No request shall be filed until the creditor agency has made reasonable efforts through other administrative means available to it to collect the indebtedness.

(c) The following requests for setoff and Notices of Levy shall be mailed or delivered to the appropriate ASCS State office:

(1) Requests for setoff made by other agencies within the Department of Agriculture.

(2) Requests for setoff submitted or Notices of Levy served by the Internal Revenue Service.

(3) Requests submitted by the Department of Labor for setoff of a debt which arose in connection with the employment of Mexican agricultural workers.

(d) All other requests for setoff made by other agencies of the United States shall be mailed or delivered to the Administrator, ASCS, or his designee.

(e) Any creditor agency may inquire from the ASCS county office as to whether the debtor has evidenced an intention to participate in one or more programs for a particular crop year under which funds might become available for setoff under this part, but any request for setoff must be made in accordance with this section.

(f) All requests for setoff shall be submitted in writing signed by an authorized representative of the creditor agency, and shall comply with the following:

(1) Each request shall state the amount of the indebtedness separately as to principal and interest, and interest (if any) shall be computed to a date shown in the request. If the creditor agency desires that additional interest be computed on the principal, a daily or monthly interest factor per dollar of principal shall be shown in the request. The amount to be set off shall not exceed the principal sum owed by the debtor

plus interest computed in accordance with the request.

(2) Each request shall also state the name and address of the debtor and a brief description of the indebtedness, including identification of the court judgment, if any.

(3) If a notice of lien has been filed in accordance with the provisions of the Internal Revenue Code, section 6323 of title 26, United States Code, the request or Notice of Levy shall also state the date of filing such notice of lien.

(4) If the request is submitted by a corporate agency in connection with a debt which has not been reduced to judgment, the request shall include an agreement to save CCC harmless from liability in the event that the setoff is made against an amount payable by CCC.

§ 13.7 Order of priority of setoffs.

(a) Debts shall be collected by setoff in the following order of priority:

(1) Debts to CCC and ASCS.

(2) Debts to other agencies of the Department of Agriculture.

(3) Debts to the Internal Revenue Service.

(4) Debts to other agencies.

(b) Within each priority grouping in paragraph (a) of this section, the order of setoff shall be the chronological order of the dates of entry of the debts on the debt record in the ASCS county office.

§ 13.8 Assignments.

In case of an assignment the following shall apply:

(a) No amount payable to a debtor shall be paid to his assignee until there have been collected any amounts owed by the debtor as follows:

(1) Setoff shall be made of any debts of the assignor which were entered on the debt record of the ASCS county office prior to the date the notice of assignment was accepted by such county office.

(2) Setoff shall be made, if the Internal Revenue Service so requests or has served a Notice of Levy, of any amounts for which the assignor is indebted to the United States for taxes, with respect to which a notice of lien was filed in accordance with the provisions of the Internal Revenue Code prior to the date the notice of assignment was accepted by the ASCS county office. The burden of determining whether a notice of lien has been filed shall be upon the assignee.

(b) No withholdings shall be made of amounts payable under assignments accepted by the ASCS county office; however, setoffs shall be made in appropriate cases in accordance with the provisions of this section.

(c) Any amount due and payable to the assignor which remains after deduction of amounts (including interest and other charges) owing to the assignee shall be available for setoff or withholding.

§ 13.9 Rights of debtors.

Setoffs made pursuant to this part shall not deprive a debtor of any right he might otherwise have to contest the justness of the debt involved in the setoff action either by administrative appeal or by legal action.

§ 13.10 Procedures and instructions.

The Administrator, ASCS, or his designee, is authorized to issue such procedures and instructions as may be required from time to time for the proper administration of this part.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 6, 1964.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 64-6877; Filed, July 9, 1964; 8:49 a.m.]

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

SUBCHAPTER D—REGULATIONS UNDER THE POULTRY PRODUCTS INSPECTION ACT

PART 81—INSPECTION OF POULTRY AND POULTRY PRODUCTS

Minimum Poultry Meat Content Standards and Exemptions

Correction

In F.R. Doc. 64-6728, appearing at page 8456 of the issue for Tuesday, July 7, 1964, the following change should be made in Table II of § 81.134:

The entry in the 1st column for Item 4 should read "4. Boned (Kind) with---- percent Broth ²----".

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar) Department of Agriculture

SUBCHAPTER K—GENERAL CONDITIONAL PAYMENTS PROVISIONS

[Sugar Determination 892.1]

PART 892—MAINLAND CANE SUGAR AREA, 1963 AND SUBSEQUENT CROPS

Pursuant to the provisions of the Sugar Act of 1948, as amended, and effective upon publication in the FEDERAL REGISTER, Subchapter K, Chapter VIII, of Title 7 of the Code of Federal Regulations is amended by adding to Subchapter K a new Part 892, as above entitled, and by adding in Part 892 a new § 892.1 containing general provisions pertaining to conditional payments, as follows:

§ 892.1 General conditional payments provisions.

(a) *Definitions.* For the purpose of this section, the terms:

(1) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the United States Department of Agriculture to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(2) "Deputy Administrator" means the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, United States Department of Agriculture.

(3) "State Committee" means the persons in a State designated by the Sec-

retary as the Agricultural Stabilization and Conservation State Committee, under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(4) "State Executive Director" means the person responsible for the day-to-day operations of the Agricultural Stabilization and Conservation Service State office, or any employee of such office authorized to act on his behalf.

(5) "County Committee" means the persons elected within a county as the County Committee pursuant to regulations governing the selection and function of Agricultural Stabilization and Conservation County and Community Committees, under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(6) "County Office Manager" means the person responsible for the day-to-day operations of the Agricultural Stabilization and Conservation County Office.

(7) "Producer" means a person who is the legal owner, at the time of harvest or abandonment, of a portion or all of a crop of sugarcane grown on a farm for the extraction of sugar or liquid sugar.

(8) "Operator" means the person who controls and directs the sugarcane operations on the farm, who bears all or the major portion of the risk of financial loss or the opportunity for financial gain resulting from such operations and who has the authority to make the final decisions with respect to growing, harvesting and marketing the sugarcane crop.

(9) "Act" means the Sugar Act of 1948, as amended.

(10) "Farm" shall have the meaning set forth in Part 822 of this chapter.

(11) "Accredited acreage" or "accredited acres" means the area on the farm (within the proportionate share for such farm and as otherwise modified in proportionate share determinations if proportionate shares are in effect), for any crop year on which sugarcane was grown and marketed (or processed) for the extraction of sugar or liquid sugar, except for use as livestock feed or for the production of livestock feed, or which was harvested for seed or was determined by the County Committee to have been bona fide abandoned acreage (hereinafter referred to as "abandoned acreage") to the extent of fulfilling at least the requirements of abandonment payments set forth in paragraphs (c) (1) (i) and (ii) of § 845.2 of this chapter, as shown by the office records of the County Committee.

(b) *Compliance with child labor provisions of the act.* Except for a member of the immediate family of a person who was the legal owner of not less than 40 percent of the crop at the time work was performed, no child under the age of fourteen shall have been employed or permitted to work on the farm, whether for gain to such child or any other person, in the production, cultivation or harvesting of a crop of sugarcane with respect to which application for payment is made nor be so employed or permitted to work for a longer period than eight hours in any one day if between the ages of fourteen and sixteen. Payment authorized under the Sugar Act may be made notwithstand-

ing a failure to comply with these conditions but the payments made with respect to any crop shall be subject to a deduction of \$10.00 for each child for each day, or a portion of a day, during which such child was employed or permitted to work contrary to the provisions of this paragraph. The operator of a farm upon which a child is found, by a representative of the County ASCS Office, to have worked or to be working in the production, cultivation or harvesting of a crop of sugarcane, shall be required upon request of the representative to furnish proof of age of the child if such child is not a member of the immediate family of a person owning at least 40 percent of the crop of sugarcane at the time such work was performed. If it is alleged that the child is a member of the immediate family of a person who owns such 40 percent of a crop, such person or the operator of the farm must establish such relationship to the satisfaction of the representative of the county office. Proof of age may be established by (1) an age certificate issued pursuant to any child labor program carried out under State or Federal supervision, (2) a birth certificate or transcript thereof, (3) a baptismal certificate showing the date of birth, (4) a passport, (5) an insurance policy or (6) a Bible record. "Member of immediate family" is deemed to include children who constitute the household of a person when such person is responsible for and provides the support of such children either as parent or in place of the parent.

(c) *Compliance with other conditions of payments.* All requirements of the act, and the determinations issued pursuant thereto, with respect to wage rates, farm proportionate shares, and in the case of a processor-producer, prices paid for sugarcane, shall be met.

(d) *Credit for sugarcane acreage.* For the purpose of establishing proportionate shares, when required, the subdivisions of any farm which is subdivided shall be credited with the accredited sugarcane acreage record of such farm for the three crop years immediately preceding the crop year when such farm is subdivided by apportioning such record among the subdivisions on the basis of the cropland suitable for the production of sugarcane in such subdivisions. However, if the County Committee determines that the use of the cropland relationship is materially inconsistent with the accredited acreage of sugarcane grown on any subdivision during such three year period or is not representative of the sugarcane acreage growing or grown on any subdivision in the crop year such farm is subdivided or if all persons concerned in the subdivision file a written request with the County Committee which is approved by the Committee, such subdivisions shall be credited with a pro rata share of the accredited acreage record of the farm for such three year period determined either on the basis of the total accredited acreage of sugarcane on each subdivision during such three year period or on the basis of the acreage of sugarcane growing or grown

and harvested on each subdivision for the year such farm is subdivided. A reconstituted farm consisting of any combination of farms, subdivisions of farms, or combination of farms and subdivision of farms shall be credited with the total of the accredited acreage records determined for such three year period for the constituent parts of the farm.

(e) *Instructions and forms.* The Deputy Administrator shall cause to be prepared for issuance to the State Committee such forms and internal management instructions as are necessary for carrying out the regulations which have been or might be issued.

(f) *Filing application for payment.* Application for payment authorized under Title III of the act with respect to sugarcane planted on a farm for harvest during a crop season shall be made on Form SU-120 by a producer on the farm, or his legal representative, who must sign and file the form in the county office for the county where the farm or major portion thereof is located or with a representative of such office no later than December 31 of the second calendar year following the year in which the harvest of the crop began. However, applications may be accepted after such dates if the State Committee determines that the persons were prevented from filing by such dates because of illness or other reason beyond their control. The producers shall be notified by the county office of the place and time the forms are available for signing.

(g) *Determination of eligibility and basis for payment, review and changes in determinations; appeals for review thereof; and appeals for review of proportionate shares when such shares are in effect.* Compliance with the conditions prescribed by the act and regulations for any payment authorized under Title III of the act, the facts constituting the basis for any such payments, and the amount thereof, shall be determined by the County Committee, such determination to be subject to review initiated by the State Committee within one year of the determination and to approval or redetermination by the State Committee. Any determination by the State Committee shall be subject to review initiated by the Deputy Administrator or the Secretary within one year of the determination and to approval or redetermination by the Deputy Administrator or the Secretary. Determinations and corrections by the County Committee and determinations by the State Committee, the Deputy Administrator or the Secretary shall be made and decided in accordance with the applicable provisions of the act and regulations issued by the Secretary thereunder and on the facts in the individual case. The producers on the farm with respect to which a determination is being reviewed at the request of the State Committee, shall be given notice of the proposed review, afforded an opportunity of appearing at a hearing before the State Committee to be conducted in the same manner as hereafter provided in the case of an appeal to such Committee, and shall have the right of appeal from

the decision of the State Committee in all respects as hereafter provided. The producers on the farm with respect to which a determination of the State Committee is being reviewed at the request of the Deputy Administrator or the Secretary shall be given notice thereof and an opportunity to submit briefs and arguments, written or oral, as hereafter provided in the case of an appeal.

Within 15 days after a notice of a farm proportionate share, or a notice of excess acreage, or a notice of a determination by the County Committee is mailed to or otherwise made available in writing to a producer he may file a request for reconsideration with respect thereto with the committee. The County Committee shall make such adjustments as are required to correct errors and to give effect to the substitution of correct data for incorrect data. If such adjustments do not dispose of all issues raised by the request, the producer or his representative or both shall be afforded the opportunity of appearing in person at a hearing before the County Committee in regard to his request, and shall, at the hearing, be advised of the issues and given the opportunity of cross examination. A written record shall be compiled of the material and information submitted to or considered by the Committee in reaching a decision and of any testimony adduced at the hearing. The County Committee may affirm, modify or redetermine the determination for which reconsideration was requested and the producer shall be notified in writing of the decision of the County Committee. If the producer is dissatisfied with the decision of the County Committee, he may, within 15 days after the notice of the decision is mailed to him, appeal in writing the decision of the County Committee to the State Committee. The appellant or his representative or both shall be afforded the opportunity of appearing in person at a hearing before the State Committee in regard to his appeal, and shall, at the hearing, be advised of the issues and given the opportunity of cross-examination. A written record shall be compiled of the material and information submitted to or considered by the Committee in reaching a decision and of any testimony adduced at the hearing. The State Committee may affirm, modify or redetermine the determination that is appealed, and the appellant shall be notified in writing of the decision of the State Committee. If the producer is dissatisfied with the decision of the State Committee, he may, within 15 days after the notice of the decision is mailed to him, appeal in writing the decision of the State Committee to the Deputy Administrator. The Deputy Administrator shall render a decision upon each appeal to him, except any appeal which the Secretary directs shall be referred to himself, in which case the Secretary shall render the decision. The decision of the Deputy Administrator or of the Secretary shall be made after due consideration of all written material or briefs accompanying the appeal includ-

ing the written record compiled of any hearing conducted in the course of the appeal, and of any oral argument. The Deputy Administrator or the Secretary may affirm or modify the decision of the State Committee, or remand the case to such committee for purposes of developing additional information or compiling an adequate record on which to reach a decision. The decision of the Deputy Administrator or the Secretary shall be final. The appellant may submit written briefs or arguments or may request a hearing for presentation of oral argument or views at Washington, D.C., and such submission or request may be made concurrently with an appeal to the Deputy Administrator or not later than 15 days after the date acknowledgment of the receipt of an appeal to the Deputy Administrator is mailed to the appellant. A hearing at Washington, D.C., shall be limited to the submission of arguments or views based on the information in the record of the appeal compiled by the State Committee. If the appellant appealing to the Deputy Administrator timely requests a hearing, the Deputy Administrator, or the Secretary in the case of an appeal referred to him for decision, shall fix the date, time and place of the hearing at Washington, D.C., shall notify the appellant thereof, and shall conduct the hearing. The procedures applicable to claims for unpaid wages are provided for under regulations pertaining thereto as issued by the Secretary.

(h) *Obtaining information regarding eligibility for payment.* Where it is necessary to obtain information to assist the County Committee in determining compliance with the conditions prescribed by the act and regulations for any payment authorized under Title III of the act, the facts constituting the basis for any such payment or the amount thereof, or to assist the State Committee or the Deputy Administrator or the Secretary in reviewing and acting upon any such determination by the County Committee, any such information with respect to acreage or compliance shall be obtained to the extent possible as provided in the applicable provisions of Part 718 of Chapter VII of this title (24 F.R. 4223), as amended. In the absence of a provision in such Part 718 for obtaining any such information, any employee of the County Committee or the State Committee designated respectively by the County Office Manager or by the State Executive Director to be qualified to perform such a duty may obtain such information. If the operator, or his representative, of any farm with respect to which application is made for any payment authorized under Title III of the act prevents the obtaining of the information necessary to determine compliance with the conditions for any such payment, the facts constituting the basis of any such payment or the amount thereof, as provided in this paragraph, the conditions prescribed by the act and regulations for any such payment shall be deemed not to have been met until such farm operator or his representative permits such information to be obtained.

(i) *Notification of proportionate shares when such shares are in effect.* Each operator of a farm for which a proportionate share is established and each applicant filing a request for a new-producer share shall be notified in writing on behalf of the County Committee of the proportionate share established for his farm (even if "none" in case of a new-producer request) and of his right to appeal under paragraph (g) of this section and each such person shall be notified in writing of any adjustment or change made in the proportionate share.

(j) *Notification of excess sugarcane acreage when proportionate shares are in effect.* If the County Committee determines for any crop year that the measured acreage of sugarcane on any farm is in excess of the acreage established as the proportionate share for such farm, written notice of such excess acreage and of the eligibility requirements for payment set forth in the proportionate share determination for such crop year shall be mailed to the person who is listed on the county office records as the operator of the farm.

(k) *Erroneous notice of proportionate share or of excess sugarcane acreage when proportionate shares are in effect.* If through error, an operator is officially notified of a proportionate share for his farm greater than the proportionate share properly established, or is furnished an incorrect notice of excess sugarcane acreage, or if the measured acreage of sugarcane is in excess of the proportionate share for the farm and notice thereof is not mailed to the operator, and it is found by the County Committee that such operator, acting solely on the information contained in the erroneous notice or without a notice of excess sugarcane acreage being mailed to him, marketed sugarcane from an acreage in excess of the proportionate share properly established, the operator will be deemed to be in compliance with the farm proportionate share unless he harvested sugarcane for seed or marketed sugarcane for sugar from an acreage in excess of the proportionate share stated in the erroneous notice or unless it is determined by the County Committee that the error in the proportionate share or notice was so gross, or that the excess acreage was so gross as to place the operator on notice regarding the error in the proportionate share or of the existence of the excess acreage. However, the Sugar Act payment with respect to the farm shall be limited to the amount of sugar commercially recoverable from the sugarcane marketed (or processed) from the acreage within the properly established proportionate share.

STATEMENT OF BASES AND CONSIDERATIONS

In order to qualify for Sugar Act payments, sugarcane producers must comply with various specific provisions and requirements of the act, relating to wages, child labor, fair prices, and farm proportionate shares (when such shares are determined by the Secretary to be in effect), and which are set forth in applicable determinations and the Sugar Act. In addition, certain general re-

requirements must be met. Producers, to receive Sugar Act payments to which they are entitled, must file applications for payment, use approved forms, adhere to instructions, and furnish information regarding eligibility for payment and the basis for payment. Heretofore, except for the child labor provisions, these provisions were incorporated in the annual determinations of proportionate shares. Inasmuch as annual determinations of proportionate shares may not be required every year, the general requirements with respect to Sugar Act payments are included herein. This action spells out the authority of the Deputy Administrator or the Secretary to review, approve or redetermine decisions made by the County Committee or the State Committee. Also, this action incorporates into the regulations the child labor provisions of the act.

The definitions and other provisions set forth in this determination are similar to provisions which were contained in proportionate share determinations for the 1962 and earlier crops.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the applicable provisions of the act.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 301, 302, 61 Stat. 929, 930, as amended; 7 U.S.C. 1131, 1132)

Effective date: Date of publication.

Signed at Washington, D.C., on July 6, 1964.

ORVILLE L. FREEMAN,
Secretary of Agriculture.

[F.R. Doc. 64-6878; Filed, July 9, 1964;
8:49 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1427—COTTON

Subpart—Spinnable Cotton Waste Equalization Program—Payment-in-Kind Regulations

Sec.	
1427.1850	General statement.
1427.1851	Administration.
1427.1852	Definitions.
1427.1853	Eligibility of owner for payment.
1427.1854	Payment rate.
1427.1855	Amount due eligible applicants.
1427.1856	Form of payment.
1427.1857	Application for payment.
1427.1858	Issuance of Cotton Equalization Payment Certificates.
1427.1859	Cash advance to payee.
1427.1860	Marketing of certificates.
1427.1861	Redemption of certificates.
1427.1862	Issuance of balance certificates.
1427.1863	Assignments.
1427.1864	Satisfactory evidence of ownership and use of eligible spinnable cotton waste.
1427.1865	Records and reports.
1427.1866	Right to amend.
1427.1867	Persons not eligible.

Authority: The provisions of this subpart issued under secs. 4 and 5, 62 Stat. 1070, as amended, sec. 101, Public Law 88-297; 15 U.S.C. 714(b) and (c).

§ 1427.1850 General statement.

Commodity Credit Corporation (referred to in this subpart as "CCC") will carry out a program under which payments will be made by the actual or constructive delivery of payment-in-kind certificates to persons who had title to eligible spinnable cotton waste at 12:01 a.m., April 11, 1964, upon proof of use by March 31, 1965, of such spinnable cotton waste in the manufacture of cotton products in the United States. Cash advances will be made to applicants who request CCC's assistance in marketing the certificates earned by them under the program.

§ 1427.1851 Administration.

(a) The Farmer Programs Division, Agricultural Stabilization and Conservation Service, will administer the provisions of this subpart under the general supervision and direction of the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, in accordance with program provisions and policy determined by the CCC Board and the Executive Vice President, CCC. In the field the program will be administered through the Agricultural Stabilization and Conservation State committees. Additional information concerning the operation of this program may be obtained from the State committee. The New Orleans Agricultural Stabilization and Conservation Service Commodity Office will maintain accounts and records for the program and issue sales announcements relating to certificate pools established under this subpart.

(b) Forms will be available in offices of the State committees.

(c) State committees, the New Orleans office, and employees thereof do not have authority to modify or waive any of the provisions of this subpart or any amendment or supplement thereto, except as specifically authorized in this subpart.

(d) No delegation herein to a State committee or the New Orleans office shall preclude the Executive Vice President, CCC, or his designee, from determining any question arising under the program or from reversing or modifying any determination made by a State committee or by the New Orleans office.

§ 1427.1852 Definitions.

(a) *Eligible spinnable cotton waste.* "Eligible spinnable cotton waste" means card strips, comber noll, spinners laps and roving waste, consisting of not less than 85 percent by weight of upland cotton grown in the United States, which was baled and in inventory at 12:01 a.m., April 11, 1964.

(b) *Cotton product.* "Cotton product" means any product containing cotton fibers that results from the use of bales of spinnable cotton waste in manufacturing.

(c) *United States.* "United States" means the fifty States, the District of Columbia, and the territory of Puerto Rico.

(d) *State committee.* "State committee" means the Agricultural Stabilization and Conservation Committee for

the State in which the bales of eligible spinnable cotton waste were stored in 12:01 a.m., April 11, 1964, except that in the case of eligible spinnable cotton waste stored in the District of Columbia and Puerto Rico, "State committee" means the State committee for Maryland and the Caribbean Agricultural Stabilization and Conservation Service Area Office in San Juan, Puerto Rico, respectively.

(e) *Public notice.* "Public notice" means the filing of a notice with the FEDERAL REGISTER for publication.

(f) *Gross weight.* "Gross weight" means the gross weight at which the bale of eligible spinnable cotton waste was purchased by the person or firm which was the owner of such waste at 12:01 a.m., April 11, 1964: *Provided, however,* That if such weight cannot be furnished, a gross weight determined in some other manner and approved by the State committee will be accepted by CCC.

§ 1427.1853 Eligibility of owner for payment.

Upon proof of the use by March 31, 1965, of eligible spinnable cotton waste in the manufacture of cotton products in the United States, the owner of such waste at 12:01 a.m., April 11, 1964 (herein referred to as "eligible applicant") will be eligible to receive a payment on such bales in the form of a payment-in-kind certificate, subject to the terms and conditions set forth in this subpart. Each eligible applicant shall submit with his first application a report of the quantity of eligible spinnable cotton waste which he owned at 12:01 a.m., April 11, 1964.

§ 1427.1854 Payment rate.

The payment rate will be 5.85 cents per pound, gross weight, for bales of eligible spinnable cotton waste which consist entirely of upland cotton grown in the United States and 5.33 cents per pound gross weight, for bales of eligible spinnable cotton waste which contain 85 percent or more by weight but less than 100 percent upland cotton grown in the United States.

§ 1427.1855 Amount due eligible applicants.

The amount due an eligible applicant under an application will be determined by multiplying the applicable payment rate by the total gross weight, as defined in § 1427.1852(f), of the bales covered by the application on which the applicant is entitled to payment.

§ 1427.1856 Form of payment.

An applicant who is entitled to payment under this subpart shall receive payment in the form of a Cotton Equalization Payment Certificate (Form CCC-843), issued by the State committee on behalf of CCC, except that if, at the time of applying for payment, he requests CCC's assistance in the marketing of his certificate, the State committee shall make a cash advance on behalf of CCC to such applicant as provided in this subpart and a certificate pool will be credited with the value of the certificate earned by him.

§ 1427.1857 Application for payment.

(a) In order to obtain a payment under this subpart, an eligible applicant must submit to the State committee an original and one copy of an Application for Spinnable Cotton Waste Equalization Payment, Form CCC 848 (referred to in this subpart as "Form 848"). Separate Forms 848 shall be used for applying for payment with respect to eligible spinnable cotton waste consisting entirely of upland cotton grown in the United States and such waste consisting of 85 percent or more but less than 100 percent upland cotton grown in the United States. An eligible applicant shall not submit (1) more than five applications under this subpart for eligible spinnable cotton waste which consists entirely of upland cotton grown in the United States and which is stored in a particular State or (2) more than five applications under this subpart for eligible spinnable cotton waste which consists of 85 percent or more but less than 100 percent upland cotton grown in the United States and which is stored in a particular State.

(b) No Form 848 may be submitted later than April 30, 1965, except that an extension of such date will be granted by the State committee if it determines that the eligible applicant has been or will be delayed in submitting such form by a cause occurring without his fault or negligence. Where an application is mailed, the date of the postmark on the envelope shall be considered the date of submission.

§ 1427.1858 Issuance of Cotton Equalization Payment Certificates.

Upon receipt of a properly executed and acceptable Form 848 and other required documents, the State committee will, unless the eligible applicant requests a cash advance under § 1427.1856, issue to the applicant a Cotton Equalization Payment Certificate (Form CCC 843) for the amount due, subject to the following terms and conditions:

(a) *Payee.* Except as provided in § 1427.1863, the certificate will be issued only to the eligible applicant who submitted the Form 848.

(b) *Face value.* The face value of the certificate, which will be shown in the space provided, will be the amount due the applicant under an application for payment, determined in accordance with § 1427.1855, except that more than one certificate in face values totaling the amount due will be issued if requested. A certificate shall be accepted by CCC at face value, if within 30 days after the date of issuance, it is tendered to CCC for redemption in cotton or for marketing. If after such 30-day period, but not later than the expiration date of the certificate, the certificate is tendered to CCC for redemption in cotton or for marketing, the value at which the certificate is accepted shall be the face value minus one-hundredth of 1 percent of the face value for each day beginning on the 31st day after issuance thereof to but not including the day it is tendered to CCC for redemption or for marketing. Such reduction in value shall cover storage and carrying charges.

(c) *Date of issuance.* The date of issuance shown on the certificate shall be the date the certificate is issued. Substitute certificates issued to replace original certificates never received by the payee shall bear a current date of issuance. Substitute certificates issued to replace other original certificates shall bear the same date of issuance as the certificate being replaced.

(d) *Signature and countersignature.* To be valid, the certificates must be signed and countersigned by authorized representatives of CCC.

(e) *Transfer.* The certificate may be transferred to any person or firm, in which case the certificate must be endorsed by the named payee and by the holder who presents it to CCC.

(f) *Expiration date.* The certificate shall expire three years after date of issuance and thereafter will not be redeemable by CCC.

§ 1427.1859 Cash advance to payee.

A cash advance shall be made by the State committee on behalf of CCC to any payee or any subsequent holder who requests CCC's assistance in marketing a certificate earned under this subpart. If such request is made at the time the eligible applicant applies for payment, constructive delivery of the certificate will be made by making the cash advance to the payee and crediting a certificate pool with the value of the certificate earned by him. A payee who does not request CCC's assistance in marketing his certificate at such time or a subsequent holder of the certificate may subsequently request CCC's assistance in marketing the certificate by delivering it to the State committee for marketing. Such certificate shall also be credited to a certificate pool. A cash advance to a payee or to subsequent holder of a certificate shall be made in the form of a CCC sight draft for the face value of the certificate less any applicable reduction in value for storage and carrying charges.

§ 1427.1860 Marketing of certificates.

All certificates for which payees or subsequent holders of certificates have requested CCC's assistance in marketing shall be pooled by CCC and shall lose their identity as individual certificates. The amount of the certificate pool shall be the total of the value of certificates of which CCC has made constructive delivery to the payees and the value of the certificates presented to the State offices by the payees or subsequent holders for marketing by CCC. Such amount shall be equal to the amount of cash advances. CCC shall market the rights represented by pooled certificates upon terms and conditions established by the Executive Vice President, CCC, at such times and in such manner as it determines will best effectuate the purposes of the program.

§ 1427.1861 Redemption of certificates.

Certificates shall be redeemable in cotton upon terms and conditions established by the Executive Vice President, CCC, by submitting an application to the New Orleans Agricultural Stabilization and Conservation Service Commod-

ity Office, 120 Marais Street, New Orleans, Louisiana.

§ 1427.1862 Issuance of balance certificates.

If the face value of a certificate tendered by the payee or a subsequent holder for redemption in cotton is not fully redeemed in cotton, a balance certificate shall be issued to the certificate holder for the unused amount. If the amount is \$3.00 or less, no balance certificate will be issued unless requested. The date of the balance certificate shall be the date of issuance of the original certificate. Balance certificates may be tendered to CCC for redemption in cotton in the same manner as the original certificates. Balance certificates issued to the payee shown on the original certificate or to a subsequent holder may be surrendered to CCC for marketing.

§ 1427.1863 Assignments.

No eligible applicant shall, without the written consent of CCC, assign any right to an equalization payment under this subpart, except that certificates received by him may be transferred by endorsement as provided in § 1427.1858 (e).

§ 1427.1864 Satisfactory evidence of ownership and use of eligible spinnable cotton waste.

Evidence of ownership of eligible spinnable cotton waste by the applicant at 12:01 a.m., April 11, 1964, and the use of such waste in the manufacture of cotton products in the United States, to be satisfactory hereunder, must meet the following requirements unless otherwise approved by CCC:

(a) The applicant shall maintain (1) a record of the accumulation or acquisition of all eligible spinnable cotton waste owned by him at 12:01 a.m., April 11, 1964, and covered by an application for payment which is adequate to establish the production and baling of such waste (if accumulated) or firm from which he acquired such waste (if purchased) (2) a record of the gross weight of such waste, and (3) proof of use of such waste in the manufacture of cotton products in the United States.

(b) Form CCC 849, Tag List of Cotton Waste (referred to in this subpart as "Form 849"), shall be submitted with Form 848. The bale tag numbers used by the applicant in his records shall be shown on such Form 849 or on an attached list. Such Form 849 shall contain a certification by the applicant that the bale tag numbers and weights shown thereon or on the attached list are true and correct and that to the best of his knowledge and belief, the cotton waste was eligible spinnable cotton waste as defined in § 1427.1852(a). Separate Forms 849 shall be used for eligible spinnable cotton waste consisting entirely of upland cotton grown in the United States and such waste consisting of 85 percent or more by weight but less than 100 percent upland cotton grown in the United States, and such forms shall be identified accordingly.

(c) If the waste was acquired by the eligible applicant, there shall be sub-

mitted a Tag List of the Cotton waste showing the bale tag numbers and gross weight of the waste and containing a certification from the person or firm that manufactured the cotton waste setting forth that the bale tag numbers and weight shown thereon or on the attached list are true and correct, that to the best of his knowledge and belief, the waste was produced in the United States and consists entirely of (or contains 85 percent or more by weight of) upland cotton grown in the United States, and that the waste was sold to the applicant or other specified person on a specified date.

(d) There must be attached to the application a certification by each person or firm which used any part of the eligible spinnable cotton waste covered by the application in the manufacture of cotton products in the United States that he did manufacture such cotton waste into cotton products in the United States. Such certification must identify such waste by bale tag numbers, weights of the bales, and plants where consumed.

(e) The applicant shall certify on the application that to the best of his knowledge and belief the spinnable cotton waste covered thereby is eligible for payment at the rate specified in the application. If it is determined by CCC that payment has been made on any bales which were ineligible for payment, the applicant shall be obligated to repay to CCC the amount of any such payment with interest at 6 percent per annum from the date of such payment to the date of repayment, aside from any possible liability under criminal and civil false claims acts.

(f) The applicant shall also furnish promptly any additional evidence of ownership and use which may be requested by the State committee.

§ 1427.1865 Records and reports.

The applicant shall make available to CCC at all reasonable times, upon CCC's request such information and reports, and such of his affiliates' and subsidiaries' books, records, and accounts and other documents and papers as CCC may deem pertinent to any transaction hereunder. Such records shall be maintained for a period of five years after the date of last payment under any Form 848 submitted pursuant to this subpart.

§ 1427.1866 Right to amend.

CCC reserves the right to amend any and all of the provisions of this subpart at any time by giving public notice thereof.

§ 1427.1867 Persons not eligible.

No Member of, or Delegate to, Congress, or Resident Commissioner, shall be admitted to any benefit under this subpart, but this provision shall not be construed to extend to a payment made to a corporation for its general benefit.

Note: The record keeping and reporting requirements of this announcement have been approved by, and subsequent reporting requirements will be subject to the approval of, the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Signed at Washington, D.C., on July 7, 1964.

E. A. JÄENKE,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 64-6879; Filed, July 9, 1964;
8:49 a.m.]

SUBCHAPTER C—EXPORT PROGRAMS

PART 1483—WHEAT AND FLOUR

Subpart—Wheat Export Program— Payment in Kind (GR-345) Terms and Conditions

General statement. The following amendment changes GR-345 to assist in the implementation of the Export Wheat Marketing Certificate Regulations which provide generally for persons exporting wheat to acquire export marketing certificates equivalent to the number of bushels exported. The General Statement issued in connection with the preceding Amendment 3 to GR-345 (29 F.R. 4077) stated that separate regulations would be issued which would provide for the licensing of all exportations of wheat. In view of issuance of the Export Wheat Marketing Certificate Regulations it is not planned to issue such licensing regulations at this time.

Revision III—Amendment IV. The Terms and Conditions of the Wheat Export Program—Payment in Kind (GR-345) (27 F.R. 6415), as amended (27 F.R. 10741, 28 F.R. 7120 and 29 F.R. 4077), are further amended as follows:

Section 1483.107 *Delay in exportation* is amended to read as follows:

§ 1483.107 Delay in exportation.

If the wheat is exported at a different time than in the export rate period which covers the period of export specified in the Notice of Sale, the export payment rate applicable to the wheat so exported shall be the rate in effect at the time of sale or time of filing Notice of Sale, whichever is the lower, for exportations which occur in the rate period applicable to the time of actual exportation, but not more than the rate which would have applied had exportation been made in the period specified in the Notice of Sale. Notwithstanding the foregoing, an extension of time to export without any decrease in the export payment rate will be granted to the extent the exporter establishes to the satisfaction of CCC that the delay in exportation was due to causes without his fault or negligence. Such causes shall include, but are not restricted to, acts of God, or of the public enemy, acts of the Government, fire, flood, explosion, quarantine restrictions, strikes, and unusually severe weather. If exportation is delayed for any reason until a period for which there was no export payment rate established at the time of sale or time of filing Notice of Sale, the export payment rate shall be as prescribed by CCC.

Section 1483.109 *Wheat exported prior to sale*, paragraph (b) is amended to read as follows:

§ 1483.109 Wheat exported prior to sale.

(b) In order to receive export payment on wheat exported prior to sale the exporter must report his intention to export such wheat to the Director so that it is received by him on or before the time of exportation unless an extension of such time is approved in writing by the Director for good cause shown by the exporter. The report may be by letter, telegraph or telephone. Any report submitted by telephone shall be confirmed in writing immediately thereafter. This report must include the following information:

- (1) Date of intended exportation.
- (2) Port of exportation.
- (3) Country and port of original destination of wheat.
- (4) Name of vessel upon which wheat is to be loaded.
- (5) Quantity in bushels.
- (6) Class and grade.
- (7) The report shall also contain a statement that the vessel will contain other wheat sold by the exporter filing the report, as provided in paragraph (c) of this section.

(8) The code word "CERTAG" if the exporter wishes to make the undertaking provided in the Export Wheat Marketing Certificate Regulations in consideration of the right to export wheat without first having acquired and surrendered export wheat marketing certificates.

The Contracting Officer, CCC, will thereupon issue an Export Unsold Number.

A new § 1483.110 is added to read as follows:

§ 1483.110 Wheat exported to Canadian bonded storage.

(a) *Report of shipment.* Wheat to be exported to Canadian bonded storage for re-exportation from a Canadian port, excluding West Coast Canadian ports, shall also be reported to the Director so that it is received by him on or before the time of exportation unless an extension of such time is approved in writing by the Director for good cause shown by the exporter. The report may be by letter, telegraph or telephone. Any report submitted by telephone shall be confirmed in writing immediately thereafter. The report shall include the information required by § 1483.109(b) except for the statement specified in § 1483.109(b)(7). The Contracting Officer, CCC will thereupon issue an Export Unsold Number.

(b) *Subsequent notice and declaration of sale.* When the wheat is sold, the exporter shall submit a Notice and Declaration of Sale to the Office indicated in § 1483.178 as provided in § 1483.125 and § 1483.127 and shall submit all other reports and documents as required by this subpart. In the Notice of Sale and Declaration of Sale the exporter must state that the wheat sold was reported as provided in paragraph (a) of this section. This may be done by the use of the code word "Abroad." The Notice of Registration issued by CCC shall be subject to

the requirement that the exporter furnish the Export Unsold Number in addition to the Registration Number on his Application for Wheat Export Payment, Form CCC-357.

Section 1483.112(b)(1) is amended to add a new subdivision (vii) as follows:

§ 1483.112 Submission of offers.

(b) * * *

(1) * * *

(vii) The code word "CERTAG" if the exporter wishes to make the undertaking as provided in the Export Wheat Marketing Certificate Regulations in consideration of the right to export wheat without first having acquired and surrendered export wheat marketing certificates.

Section 1483.115 is amended to change paragraph (d) to read as follows:

§ 1483.115 Exportation requirements.

(d) If any quantity of Durum wheat exported pursuant to the exporter's contract with CCC is re-entered into the United States, including Alaska, Hawaii, or Puerto Rico, whether or not such re-entry is caused by the exporter, or if any quantity of Durum wheat exported is transshipped or caused to be transshipped by the exporter to any country excluded by § 1483.187, the exporter shall be in default, shall refund any payment made by CCC with respect to such quantity of wheat (exclusive in the case of a re-entry of the amount of refund or credit received by the exporter against the cost of export marketing certificates), and shall also pay to CCC with respect to any Durum wheat re-entered into the United States, liquidated damages of 25 cents per bushel of such wheat. To the extent the exporter establishes that the re-entry was not due to his fault or negligence, he shall not be in default and shall not be liable for such liquidated damages but shall return to CCC any payment received on the re-entered wheat (exclusive of the amount of refund or credit received by him against the cost of export marketing certificates). If the re-entered wheat is subsequently re-exported, it shall be eligible for export payment in accordance with the other provisions of these regulations. To the extent the exporter establishes that the wheat re-entered was lost, damaged or destroyed, the physical condition is such that its re-entry into the United States will not impair CCC's price support program, and no person received any export payment with respect to any re-exportation which may occur to the wheat, the exporter shall not be in default, shall not be liable for such liquidated damages and shall not be required to return to CCC any payment received on the re-entered wheat.

Section 1483.121 *Determination of rates*, is amended by changing the first sentence to read as follows:

§ 1483.121 Determination of rates.

The rate in effect at the time of sale to the foreign buyer or the time of filing Notice of Sale as required by § 1483.125

(a), whichever rate is the lower, for the export rate period which covers the period of export specified in the Notice of Sale, shall be the rate applicable to the sale.

Section 1483.125(b) is amended to add a new subparagraph (13) as follows:

§ 1483.125 Notice of sale.

(b) * * *

(13) The code word "CERTAG" if the exporter wishes to make the undertaking provided in the Export Wheat Marketing Certificate Regulations in consideration of the right to export wheat without first having acquired and surrendered export wheat marketing certificates.

Section 1483.141 is amended to change paragraph (c) to read as follows:

§ 1483.141 Cancellation of sale or failure to export.

(c) If any quantity of wheat exported pursuant to the exporter's contract with CCC is re-entered into Canada or the United States, Alaska, Hawaii, or Puerto Rico, whether or not such re-entry is caused by the exporter, or if any wheat is transshipped or caused to be transshipped by the exporter to any country that is not a designated country, the exporter shall be in default, shall refund any payment received (exclusive, in the case of a re-entry, of the amount of refund or credit received by the exporter against the cost of export marketing certificates) and shall comply with the requirements of paragraph (b) of this section. To the extent the exporter establishes that the re-entry was not due to his fault or negligence, he shall not be in default but shall return to CCC any payment received on the re-entered wheat (exclusive of the amount of refund or credit received by him against the cost of export marketing certificates). If the re-entered wheat is subsequently re-exported, it shall be eligible for export payment in accordance with the other provisions of these regulations. To the extent the exporter establishes that the wheat re-entered was lost, damaged or destroyed, the physical condition is such that its re-entry into the United States will not impair CCC's price support program, and no person received any export payment with respect to any re-exportation which may occur to the wheat, the exporter shall not be in default and shall not be required to return to CCC any payment received on the re-entered wheat.

Section 1483.145 is amended to read as follows:

§ 1483.145 Application for wheat export payment.

For exportations of wheat (including durum wheat) an original and two (2) copies of Application for Wheat Export Payment, Form CCC-357, must be prepared and submitted together with the evidence of export as provided in § 1483.147 to the Kansas City ASCS Commodity Office. The exporter should submit the

application as soon as possible after exportation as the face value of the certificate is subject to discount as provided in § 1483.146(b). Except in cases of wheat exporter prior to sales, Form CCC-357 should be submitted to the Kansas City ASCS Commodity Office at the same time the exporter submits the related Report of Wheat Exported, Form CCC-518 which is required by the Export Wheat Marketing Certificate Regulations. The exporter should indicate on the Form CCC-357 or attachment thereto if he wishes the refund or credit against the amount payable by him for export marketing certificates to be made by CCC in kind. On any Form CCC-357 covering wheat exported prior to sale the exporter shall show both the Registration Number and the Export Unsold Number. Supplies of Form CCC-357 and detailed instructions regarding the preparation and submission of the form may be obtained from the ASCS Commodity Offices in Evanston and Kansas City.

Section 1483.146 is amended by deleting the initial paragraph and changing the title and paragraphs (a) and (b) to read as follows:

§ 1483.146 Issuance of certificate.

(a) *Amount for which issued.* Upon receipt of an Application for Wheat Export Payment (CCC Form 357) and satisfactory evidence of export, the ASCS commodity office will determine the amount of payment due by multiplying the number of net bushels of wheat exported in accordance with the export contract with CCC by the applicable export payment rate. If the amount of the export payment exceeds the cost of export wheat marketing certificates due under the Export Wheat Marketing Certificate Regulations, a part of the export payment equal to the cost of such certificates shall constitute a refund or credit against the cost of such certificates. If the amount of the export payment does not exceed the cost of export marketing certificates, the entire amount of the payment shall constitute the refund or credit. The amount of the refund or credit shall be applied in the manner specified in the Export Wheat Marketing Certificate Regulations. A Wheat Export Payment Certificate (CCC Form 358), hereinafter referred to as "Certificate", will be issued to the exporter for the portion of the payment due the exporter which does not constitute a refund or credit against the cost of Export Wheat Marketing Certificates or for such amount plus the amount of the refund or credit against the cost of export wheat marketing certificates which the exporter elects to receive in the form of Certificates if the exporter has acquired and surrendered to CCC Export Wheat Marketing Certificates for the amount of the refund or credit. The total of such amount shall be shown as the face value on Certificates issued by CCC. Except as provided in § 1483.176, the Certificate will be issued only to the exporter who has filed a Declaration of Sale and has obtained the Registration Number which shall be shown in the space provided in the Certificate.

(b) *Discount in face value.* Certificates will be accepted by CCC at face value if applied to the purchase of wheat under contracts with CCC entered into pursuant to this subpart which specify a date of sale not more than 60 days after the date of export shown on the certificate. If a certificate is applied to the purchase of wheat under a contract with CCC, as provided in this subpart, which specifies a date of sale more than 60 days after the date of export shown on the certificate, the value at which the certificate will be accepted will be the face value reduced by $\frac{1}{100}$ of one percent for each day beginning on the 61st day after such date of export and ending on the date of sale specified in the CCC contract to which it is applied unless for good cause shown on request by the holder, the Director specifies a later beginning date for the reduction in value.

Section 1483.176(b) is amended to read as follows:

§ 1483.176 Assignments and setoffs.

(b) If the exporter is indebted to CCC or any other agency of the United States, the amount of such indebtedness may be set off against the amount of any refund or credit against the cost of export wheat marketing certificates to which the exporter is entitled and the amount of any indebtedness to CCC may be set off against the balance of the payment due the exporter under an Application for Wheat Export Payment Form CCC-357. In the case of an assignment and notwithstanding such assignment, CCC may set off (1) any amount due CCC under the regulations governing the Wheat Export Program—Payment in Kind and any amount due CCC for export wheat marketing certificates under the Export Wheat Marketing Certificate Regulations, (2) any amounts for which the exporter is indebted to the United States for taxes, with respect to which a notice of lien was filed in accordance with the provisions of the Internal Revenue Code of 1954 (26 U.S.C. 6323) or any amendments or modifications thereof, prior to acknowledgment by CCC of receipt of the notice of assignment, and (3) any amounts, other than the amounts specified in subparagraphs (1) and (2) of this paragraph, due CCC or any other agency of the United States, if the assignee was advised of such amounts at the time of acknowledgment by CCC of receipt of the notice of assignment.

In the case of an assignment pursuant to paragraph (a) of this section, any indebtedness of the exporter to any agency of the United States which may not be set off pursuant to this paragraph, may be set off against any amount due and payable under these regulations which remains after the deduction of amounts (including interest and other charges) due the assignee under the assignment. Setoff as provided in this section shall not deprive the exporter of the right to contest the justness of the indebtedness involved, either by administrative appeal or by legal action.

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

Signed at Washington, D.C., on July 6, 1964.

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

[F.R. Doc. 64-6858; Filed, July 9, 1964;
8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Doc. No. 6087; Amdt. 765]

PART 507—AIRWORTHINESS DIRECTIVES

Lycoming Engines Equipped With AC Fuel Pumps

There have been several instances of oil seal failures in the lightweight aluminum AC diaphragm fuel pumps used on certain Lycoming engines resulting in engine oil being drained overboard. This loss of engine oil can cause engine stoppage. To correct this condition, an airworthiness directive is being issued to require modification of the AC fuel pumps.

As a situation exists which demands immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

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:

LYCOMING. Applies to 0-320, 0-340, 0-360 and 0-540 Series engines equipped with AC fuel pumps, AC 5623467 (Lycoming P/N 74082), AC 5656880 (Lycoming P/N 74082), and AC 6440152 (Lycoming P/N 74798), and to IO-320-B1A, IO-360-A1A, -B1B, HIO-360-B1A, -B1B and IO-540-C1B5 engines equipped with AC fuel pumps, AC 5623466 (Lycoming P/N 73973) and AC 5656696 (Lycoming P/N 73870), except for recent production engines and remanufactured engines listed in Lycoming Service Bulletin No. 298, which have already incorporated the modification.

Compliance required within 25 hours' time in service after the effective date of this AD unless already accomplished.

To preclude the possibility of engine oil being drained overboard as a result of oil seal failure in AC lightweight fuel pumps, modify AC pumps with part numbers listed herein in accordance with the instructions contained in Lycoming Service Bulletin No. 298.

This amendment shall become effective July 10, 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 July 6, 1964.

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

[F.R. Doc. 64-6847; Filed, July 9, 1964;
8:45 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 40-4007]

PART 270—GENERAL RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Exemptions From Certain Contracts

On April 13, 1964, in Investment Company Act Release No. 3957, and in the FEDERAL REGISTER of April 21, 1964, 29 F.R. 5351, the Securities and Exchange Commission published notice that it had under consideration the adoption of an amendment to 17 CFR 270.3c-3 (Rule 3c-3) under the Investment Company Act of 1940 ("Act") which would have the effect described below.

Existing § 270.3c-3 which was adopted on January 7, 1963 (Investment Company Act Release No. 3605) exempts from the provisions of the Act transactions of insurance companies with respect to certain group annuity contracts which provide for the administration of funds held by an insurance company in a separate account established and maintained pursuant to legislation which permits the income, gains and losses whether or not realized, from assets allocated to such account to be credited to or charged against such account without regard to other income, gains or losses of the insurance company. Transactions so exempt from the Act by § 270.3c-3 were also brought within the phrase "transactions by an issuer not involving any public offering" in section 4(1) of the Securities Act of 1933, subject to certain conditions, by the adoption by the Commission on August 1, 1963 of § 230.156 (Rule 156 under the Securities Act of 1933), Securities Act Release No. 4627.

In order to qualify for the exemption under § 270.3c-3 the group contract, among other things, must provide that the retirement benefits for covered employees be payable in fixed dollar amounts. The group contract may not permit retirement benefits payable to employees which are measured by the investment results of the assets allocated to the separate account. The effect of the amendment would be to modify § 270.3c-3 in order to permit group contracts otherwise meeting the conditions thereof to provide for retirement benefits payable to employees to vary to the extent, and only to the extent, of the employer's contributions thereto. No variable benefits would be permitted in respect to employee contributions, and all other restrictions and conditions of § 270.3c-3 would remain intact.

All interested persons were invited to comment upon the proposal. Comments were received from various persons, some of whom favored and some of whom opposed the proposal. To the extent that those who opposed the proposal raised policy questions, the Commission believes that they were previously resolved in connection with its consideration of the adoption of present §§ 270.3c-3 and 230.156. As to group variable plans generally, the Commission has previously announced its intention of dealing with the problems involved in its administrative capacity. See In the Matter of the Prudential Insurance Company of America (Investment Company Act Release No. 3620, January 22, 1963, at p. 5), and The Prudential Insurance Company of America v. S.E.C., 326 F. 2d 383 at 384 (C.A. 3, 1964). In accordance with its announced intention, after thorough consideration, the Commission has decided to adopt the amendment as originally proposed with the single change noted below.

The language of subparagraph (1) of paragraph (a) of the amendment as proposed has been revised to eliminate any implication that the only variations in retirement benefits permissible are variations measured by investment results of assets allocated to an insurance company segregated account. While variations measured by investment results would be the most common variable retirement benefit program, the Commission does not intend the amended rule to foreclose a group retirement plan which meets all of the conditions of the amended rule from providing variable benefits attributable to, and only to, employer contributions and which are measured by something other than investment results such as a cost of living index.

Section 6(c) of the Act provides that the Commission by rule, regulation or order may conditionally or unconditionally exempt any person, security, or transaction, or any class of persons, securities, or transactions, from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 38(a) of the Act authorizes the Commission to issue and amend rules necessary or appropriate to the exercise of the powers conferred upon the Commission in the Act.

The Commission has adopted amended § 270.3c-3 in the form set forth below pursuant to the authority conferred by sections 6(c) and 38(a) of the Act.

The action of the Commission follows: Section 270.3c-3 is amended to read as follows:

§ 270.3c-3 Exemption for certain group annuity contracts which provide for administration of funds held by an insurance company in a segregated account.

(a) Any transaction by an insurance company, as defined in section 2(a) (17) of the Act, involving a group annuity contract or contracts with an employer,

employers or persons acting on their behalf (herein called the "employer") providing for the allocation of part or all of the employer's contributions thereunder to one or more separate accounts shall be exempt from the provisions of the Act, and no company, as defined in section 2(a) (8) of the Act, shall be deemed to have become subject to the Act by virtue of having engaged or participated in any such transaction: *Provided*, That the contract

(1) Contains an undertaking by the insurance company to provide, to the extent of the interest in such separate account of the employer and of the covered employees, for the future issue of annuities payable to covered employees on or after their retirement, whether such annuities are payable in fixed or variable dollar amounts, or both;

(2) Is made in connection with a plan which meets the requirements for qualification under section 401 of the Internal Revenue Code, or the requirements for deduction of the employer's contributions under section 404(a) (2) of said Code whether or not the employer deducts the amounts paid for the contract under such section, except that plans covering employees, some or all of whom are employees within the meaning of section 401(c) (1) of the Internal Revenue Code, shall be excluded from the effect of this rule;

(3) Prohibits the allocation to the separate account of any payment or contribution made by any employee; and

(4) Covers at least 25 employees at the time of its execution.

(b) "Separate account" as used in this rule shall mean an account established and maintained pursuant to the law of any state or territory of the United States or the District of Columbia, under which income, gains and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains or losses of the insurance company and which does not include the reserves maintained for annuities in guaranteed fixed dollar amounts in the course of payment.

(c) All references herein to sections of the Internal Revenue Code mean said sections as now or hereafter amended, or any corresponding provisions of prior or subsequent United States Revenue laws.

(d) The exemption provided in this rule shall apply notwithstanding that there is no guarantee by the insurance company of or with respect to the investment results of assets allocated to a separate account.

(Secs. 6(c) and 38(a), 54 Stat. 800, 841, 15 U.S.C. 80a-6(c), 80(a)-38(a))

Effective forthwith.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

JULY 2, 1964.

[F.R. Doc. 64-6848; Filed, July 9, 1964; 8:45 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 F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

RESINOUS AND POLYMERIC COATINGS

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition (FAP 1357) filed by Minnesota Mining and Manufacturing Company, 2501 Hudson Road, St. Paul 19, Minnesota, and other relevant material, has concluded that § 121.2514 of the food additive regulations should be amended to provide for the use of additional substances as components of side seam cements. 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), § 121.2514(b) (3) is amended by inserting alphabetically in subdivision (xxxii) the following new item:

§ 121.2514 Resinous and polymeric coatings.

- (b) * * *
- (3) * * *
- (xxxii) * * *

Dicumyl peroxide for use only as polymerization catalyst.

Disodecyl phthalate for use only as plasticizer in side seam cements for containers intended for use in contact with food only of the types identified in paragraph (d) of this section, table 1, under categories I, II, and VI.

Triethylene glycol methacrylate for use only as polymerization cross-linking agent in side seam cements for containers intended for use in contact with food only of the types identified in paragraph (d) of this section, table 1, under categories I, II, and VI.

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: July 6, 1964.

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

[F.R. Doc. 64-6867; Filed, July 9, 1964;
8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

SLIMICIDES

The Commissioner of Food and Drugs, having evaluated the data submitted in petitions (FAP 1368, FAP 1364), filed by Buckman Laboratories, Inc., 1256 North McLean, Memphis, Tennessee, 38108, and E. F. Houghton and Company, 303 West Lehigh Avenue, Philadelphia 33, Pennsylvania, and other relevant material, has concluded that the food additive regulations should be amended to provide for the use of additional substances as components of slimicides. 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), § 121.2505 *Slimicides* is amended as follows:

1. By inserting alphabetically in paragraph (c) the following new items:

List of substances	Limitations
2-Bromo - 4' - hydroxyacetophenone	
Potassium 2-mercaptobenzo-thiazole	

2. By inserting alphabetically in the list in paragraph (d) the following new items:

Butylene oxide.	
Monomethyl ethers of mono-, di-, and tri-propylene glycol.	

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, 530 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: July 7, 1964.

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

[F.R. Doc. 64-6868; Filed, July 9, 1964;
8:47 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS Hackensack River, N.J.

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.225 is hereby amended with respect to paragraph (f) by adding a new subparagraph (1-b) to govern the operation of the New Jersey State Highway Department bridge across the Hackensack River at Little Ferry, New Jersey, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 203.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.

(f) The bridges to which this section applies, and the regulations applicable in each case, are as follows:

(1) * * *

(1-b) Hackensack River, New Jersey State Highway Department bridge at Little Ferry. At least six hours' advance notice required.

(Regs., June 24, 1964, 1507-32; Hackensack River, N.J.—ENGW-ON) (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

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

[F.R. Doc. 64-6857; Filed, July 9, 1964;
8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 15424; FCC 64-616]

PART 73—RADIO BROADCAST SERVICES

Miscellaneous Amendments

In the matter of amendment of § 73.202 Table of Assignments, FM Broadcast

Stations (Elgin and Glen Ellyn, Ill.; Paintsville, Ky.; London, Ohio; Clarksburg and Morgantown, W. Va.; Marshfield, Merrill, Middleton, Port Washington, Waupaca and Wisconsin Rapids, Wisconsin); Docket No. 15424, RM-567, RM-569, RM-570, RM-575, RM-556.

Report and order. 1. The Commission has before it for consideration its notice of proposed rule making issued on April 17, 1964 (FCC 64-331) proposing a number of changes in the FM Table of Assignments, and the various comments and reply comments filed by interested parties.

2. *RM-569, Paintsville, Kentucky.* On February 17, 1964, Big Sandy Broadcasting Company, Inc., prospective applicant for a new FM station in Paintsville, filed a petition requesting rule making so as to assign Channel 249A to Paintsville. Petitioner states that the Commission, in response to comments filed by it, assigned Class C channel 255 to Paintsville, but at the same time raised the minimum power for Class C stations to 25 kilowatts. Petitioner urges that economic conditions in the market do not justify the required expenditure for a Class C station; that a Class A assignment would adequately serve the area and would be within the economic potential of the market; and that Channel 249A may be assigned to Paintsville in conformance with all the rules and without adversely affecting other assignments in the Table. Paintsville has a population of 4,025 and has a local radio station in operation.

3. No oppositions were filed to the proposed assignment of Channel 249A to Paintsville in lieu of Channel 255. Petitioner, however, overlooked the assignment of Channel 249A at Grundy, Virginia, less than 65 miles distant. Channel 261A may be assigned to Paintsville in conformance with the separation rules and without adversely affecting any other assignment. In view of the showing made by petitioner, the needs of the community, and the availability of Channel 261A, we are of the view that the public interest would be served by a grant of the petition insofar as it requests a Class A assignment instead of the Class C presently assigned and are assigning Channel 261A to Paintsville, and deleting Channel 255.

4. *RM-570, Port Washington, Wisconsin.* On February 18, 1964, Great Lakes Broadcasting Corp., licensee of radio Station WGLB, Port Washington, filed a petition for rule making so as to assign Channel 261A to Port Washington. Petitioner submits that there are no FM channels assigned to or available to Port Washington; that it has no nighttime radio facility; and that the Port Washington population is 5,984 persons and that of the county in which it is located is 38,441. Petitioner urges that Channel 261A can be assigned to Port Washington in full conformance with the rules; that sites are available from which all present spacings can be met to other assignments and stations; and that it will file an application for this assignment in the event it is finalized by the Commission.

5. No oppositions were filed to the proposed assignment. In view of the avail-

ability of Channel 261A and the needs of the community of Port Washington for a nighttime facility we believe this assignment would serve the public interest and should be finalized.

6. *RM-567, Waupaca and Wisconsin Rapids, Wisconsin.* On February 5, 1964, Laird Broadcasting, Inc., licensee of radio station WDX, Waupaca, filed a petition requesting rule making so as to assign Channel 293 to Waupaca by deleting it from Wisconsin Rapids and making one other change in the Table. Laird states that Waupaca is a community of 3,984 and is located in a county with a population of 35,340 persons, that it has no FM assignment whereas Wisconsin Rapids has two FM assignments; and that no applications are pending for Channel 293 at Wisconsin Rapids. Laird urges that the proposed changes are technically feasible; that they would further the purposes of section 307(b) of the Communications Act; and that an application will be filed for this assignment in the event it is adopted by the Commission. In order to accomplish the proposed assignment petitioner requests other changes as follows:

City	Channel No.	
	Present	Proposed
Menominee, Mich.	292A	296A
Waupaca, Wis.		293
Wisconsin Rapids, Wis.	277, 293	277

7. Robert A. Jones, prospective applicant for a new FM station in Middleton, Wisconsin, opposes the assignment of Channel 293 to Waupaca on the grounds that it would preclude the assignment of Channel 292A to Middleton. In a separate petition for rule making, RM-556, filed on January 14, 1964, Mr. Jones requested the assignment of Channel 292A to Middleton by making changes in two other communities. Since this request conflicts with the request to assign Channel 293 to Waupaca, it is incorporated herein and will be considered in this proceeding. Jones concedes that Waupaca needs and should be assigned an FM channel but urges that a Class A assignment should serve the needs of that community, with a population of only about 4,000 persons. He proposes that Channel 221A be assigned to Waupaca and Channel 292A to Middleton. The resulting assignments would be as follows (including our proposal to substitute Channel 224A for Channel 300 at Marshfield, Wisconsin):

City	Channel No.	
	Present	Proposed
Waupaca, Wis.		221A
Wisconsin Rapids, Wis.	277, 293	277
Marshfield, Wis.	224A	293
Middleton, Wis.		292A

8. The assignment of 221A to Waupaca as proposed by Jones is not technically feasible. Channel 220 is assigned to Wausau and educational station WHRM is operating on this channel with facilities equivalent to a Class C station.

The spacing required for such an adjacent channel assignment is 105 miles, while the actual separation between Wausau and Waupaca is only about 50 miles. If Channel 224A is not used at Marshfield, it can be assigned to Waupaca in conformance with the separation rules.

9. After careful consideration of all the comments filed with respect to this matter we are of the view that the proposal of Mr. Jones as modified above has the most merit. This proposal would permit the assignment of a Class A channel to two communities, Waupaca and Middleton, and would provide a Class C assignment to Marshfield, a community of over 14,000 persons as a replacement for Class C Channel 300, which is to be removed because of a short spacing. Waupaca is a community of less than 4000 persons and should be adequately served by such an assignment. Middleton, a community of 4,410 persons, while adjacent to Madison, is a separate city with its own local government, industry, business, school system, etc. For these reasons we are adopting the Jones proposal with the exception that Channel 224A will be assigned to Waupaca instead of Channel 221A as proposed by Jones.¹ See also paragraph 12 below.

10. *RM-575, London, Ohio.* On February 27, 1964, Paul Dean Ford and J. T. Winchester, applicants for a new FM station on Channel 269A at London, filed a petition requesting rule making so as to assign Channel 292A to London by making other changes in the Table of Assignments. Petitioner has filed an application under the "25 mile rule" for Channel 269A, assigned to Urbana, Ohio. This application has been designated for a competitive hearing with three other applications for Urbana. Petitioner urges that the assignment of Channel 292A to London, together with the other required changes, will conform to all the rules; that London is of sufficient size and importance to warrant its own FM assignment; and that a site could be used near London from which all the required spacings would be met and from which the signal required for the principal community may be placed over all of London. Since the filing of the subject petition, one of the applications for Urbana has been dismissed and negotiations are going forward on a possible merger request involving the other two. Adoption of the instant allocation request might obviate the necessity of a comparative hearing for the parties concerned and the Commission.

¹ On June 8, 1964, seven days after the last day for filing reply comments, Clarkwood Broadcasting Corporation, licensee of station WDLB (AM), Marshfield, Wisconsin, filed reply comments in which it opposes the Jones proposal and supports the Jones counterproposal. In view of the lateness of this pleading and the lack of a showing as to why it should be accepted late and considered in this proceeding we are not accepting it. However, since the views expressed and the comments stated therein are similar to those advanced by Mr. Jones, the Commission is not deprived of any material in making its decision.

11. No oppositions were filed to the proposed changes in the Table. The assignment of Channel 292A to London would require the deletion of Channel 285A from Columbus, Ohio, the substitution of Channel 285A for 292A at Circleville, Ohio and the substitution of Channel 221A for 285A at Middleport, Ohio. There is an application on file for the use of Channel 292A at Circleville, and this would have to be amended to specify Channel 285A. No applications are on file for the assignments in Columbus and Middleport. In view of the need for an assignment in London (about 28 miles from Columbus) as against the need for a seventh assignment in Columbus, and the possibility of obviating the need for a comparative hearing, we are of the view that the proposal would serve the public interest and are adopting it herein.

12. In addition to those proposals made by interested parties, the Commission in its notice invited comments on several assignment changes on its own motion. Three of these were assignments made in error at spacings below the minimums. It was proposed to delete Channel 293 from Morgantown, W. Va. and to assign it to Clarksburg, W. Va. with the requirement that a site be used about 5 miles out of the city in order to conform to the spacing requirements. No oppositions were filed to this change and it will be adopted. It was proposed to delete Channel 300 from Marshfield, Wis. and to substitute Channel 224A to this city by substituting Channel 228A for 224A at Merrill, Wisconsin. Harry A. Newby, an applicant for the use of Channel 300 at Cambridge, Minn. supports the changes since it would eliminate the short spacing between Marshfield and Cambridge and permit the acceptance of the application tendered for filing. As stated above, we are deleting Channel 300 from Marshfield but are substituting Channel 293 instead of 224A.

13. In order to eliminate a short spacing between Channel 252A at Cleveland, Mississippi and 250 at Greenville, Mississippi, it was proposed to substitute Channel 268 for 250 at Greenville and 224A for 269A at Canton, Mississippi. Madison County Broadcasting Co., Inc. (licensee of AM station WMGO, Canton, Mississippi) states that it has under consideration certain assignment changes which would be precluded by these shifts. It suggests that a better and more simple plan to remove the shortage problem would be the substitution of Channel 224A for 252A at Cleveland. Madison urges that due to the wider spacings on Channel 224A the resulting coverage would be much greater than that on Channel 252A. An application was previously on file for Channel 252A at Cleveland but this has since been amended to request Channel 280A. In view of this and in view of the showing made by Madison we are adopting its proposal.

14. The final proposal made on the Commission's own motion was the deletion of Channels 280A from Elgin, Illinois and 296A from Glen Ellyn, Illinois. It was pointed out that in an order adopted March 11, 1964 the Commission deleted the outstanding authorizations for the

assignments on these channels (because the stations were off the air and the operations had in effect been abandoned), and that these assignments were short spaced to two stations or proposed assignments in the Chicago area. It was further pointed out that we were withholding action on several petitions for reconsideration in Docket 14185 concerning allocations in the Chicago area pending resolution of other relevant proceedings such as the instant ones.

15. James C. French supports the deletion of Channel 280A from Elgin but urges that this channel be assigned to Carpentersville, Illinois. He submits that he formerly filed an application for this assignment at Elgin with the same facilities as those utilized by the former licensee, WELG, together with a request for a waiver of the spacing rules. Mr. French has since filed for a "modification of his application to specify Carpentersville, Illinois as a studio location, with a transmitter site beyond the 40-mile separation limit". He states further that sites are available which meet all the current rules. He contends that there is a need for a local station in the communities in the general area such as Carpentersville, Dundee, Algonquin etc., which are separate communities and not suburbs of Chicago, and that this area, which is known as the Cardinal area, is a fast growing one with a need and desire for a local station. Letters from various civic and other leaders are attached as proof of interest in the area. Our proposal to delete this assignment from Elgin was prompted by the fact that it was short spaced to the Chicago stations on Channels 282 and 278. Unfortunately, while the 40 mile requirement for Channel 280A at Carpentersville could be met, there would be a shortage of about 5 miles from adjacent channel station WTOS(FM) on Channel 279 at Wauwatosa, Wisconsin. In the event Mr. French or any other interested party wishes to petition for rule making to assign Channel 280A to a community in this area from which all the spacings, including that to WTOS, can be met, the Commission will entertain such a petition when it is filed. In the meantime we are deleting the assignment from Elgin.

16. With respect to the proposed deletion of Channel 296A from Glen Ellyn, Illinois, American Broadcasting Company, WFMQ, Inc., News-Sun Broadcasting Co., Radio Skokie Valley, Inc., and Edward W. Piszczek and Jerome K. Westerfield support the Commission's proposal. These parties point out that not only is Channel 296A short spaced to Station WFMQ(FM) on Channel 298 at Chicago but it would be short spaced to an assignment on Channel 294 in the Chicago area or would preclude its use elsewhere in the general area. News-Sun urges the deletion because it would preclude the use of Channel 294 as a Class B assignment in Waukegan while Piszczek and Westerfield urge its deletion because it would preclude the use of Channel 294 at Des Plaines. Radio Skokie urges that the proposed deletion may make it possible to remove the serious short spacing between WRSV on

Channel 252A at Skokie and WFMQ on Channel 254 in Chicago.

17. In addition to several individuals, Robert A. Jones and William H. Wardle, d/b as West Suburban Broadcasting Co., applicant for Channel 296A at Glen Ellyn, oppose the deletion of this assignment. They concede that the assignment is short spaced to WFMQ in Chicago but urge that the proposal would leave Glen Ellyn and DuPage County without any local aural broadcast facility; that the interference which results is detrimental; that the Commission is in error to use hypothetical future assignments as a basis for denying the application; and that the proposed action would be in violation of "our rights as applicants". West Suburban encloses letters from civic leaders and other individuals to show that there is a need and interest in a station in Glen Ellyn. Finally, West Suburban suggests, as a possible substitution, the use of Channel 290 as a Class A facility. In a reply comment Radio Skokie states that Glen Ellyn is well served by the numerous stations in the Chicago area; that it cannot support a local radio operation since WELG failed due to financial difficulties; and that the Commission has wide discretion in the allocation of channels and to effect this deletion especially since there are no incumbent authorizations. WEFA, Inc., licensee of WEFA(FM), Waukegan, Illinois filed a reply comment but takes no position with respect to the proposed deletion.

18. We have carefully considered the comments of West Suburban and the others opposing the deletion of Channel 296A from Glen Ellyn but are not convinced that this assignment should be retained. West Suburban is incorrect when it argues that the Commission cannot consider the hypothetical use of other assignments in deciding the issue at hand. The effect of a particular assignment on others is relevant to such a rule making proceeding. Actually, the possible use of Channel 294 in the Waukegan and Chicago area has been under consideration for a number of years, both in licensing proceedings and in rule making. We do not believe that the perpetuation of a short spacing to one station and the preclusion of the use of an efficient and wide-area assignment on Channel 294 are warranted in this case. There are a number of communities as large and as important in the general Chicago area which do not have an FM assignment. Des Plaines, for example, for which one party seeks the assignment of Channel 294, is a much larger community. It is not possible to assign a channel to each and every community near a large metropolitan area such as Chicago, especially where a great number of assignments have been previously made. As for the proposal to assign a Class B channel (Channel 290) to be used with Class A facilities, this request amounts to the assignment of a Class B channel at very short spacings. We have considered similar proposals before and have rejected them in our Third Report in Docket No. 14185. We see no reason to deviate from this decision in this case. We are therefore adopting the

proposal to delete Channel 296A from Glen Ellyn.

19. Authority for the amendments adopted herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

20. In view of the foregoing: It is ordered, That effective August 10, 1964, the FM Table of Assignments contained in § 73.202 of the Commission's rules and regulations is amended insofar as the communities named as follows:

1. Amend the following entries to read:

City	Channel No.
Paintsville, Ky.....	261A
Elgin, Ill.....	232A
Cleveland, Miss.....	224A, 280A
Circleville, Ohio.....	285A
Columbus, Ohio.....	222, 234, 242, 246, 250, 259
Middleport, Ohio.....	221A
Clarksburg, W. Va.....	224A, 249A, 293
Morgantown, W. Va.....	257A, 270
Marshfield, Wis.....	293
Merrill, Wis.....	228A
Wisconsin Rapids, Wis.....	277

2. Add the following entries:

City	Channel No.
London, Ohio.....	292A
Middleton, Wis.....	292A
Port Washington, Wis.....	261A
Waupaca, Wis.....	224A

3. Delete the following entry:

City	Channel No.
Glen Ellyn, Ill.....	296A

(Secs. 4, 303, 307, 48 Stat. 1066, 1082, as amended, 1083; 47 U.S.C. 154, 303, 307)

Adopted: July 1, 1964.

Released: July 7, 1964.

FEDERAL COMMUNICATIONS

COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-6881; Filed, July 9, 1964; 8:49 a.m.]

[Docket No. 14990; FCC 64-594]

PART 91—INDUSTRIAL RADIO SERVICES

Frequencies Available

In the matter of amendment of § 91.504¹ of the Commission's rules governing the Special Industrial Radio Service, to make available, for assignment in Alaska, Hawaii, Puerto Rico, and the Virgin Islands, certain Land Mobile Service frequencies above 152 Mc/s; Docket No. 14990, RM-395.

Report and order. 1. Our order in this proceeding provides as follows: "That certain Land Mobile Service frequencies above 152 Mc/s be made available to the Special Industrial Radio Service for use in Hawaii, Puerto Rico, and the Virgin Islands."

2. The genesis of this proceeding was articulated in our notice of proposed rule making which was published in the Fed-

¹Subsequent to the institution of this proceeding, Part 11 of the Commission's rules was re-designated Part 91. All references to rules sections in this document will reflect the re-designated prefix, § 91....

ERAL REGISTER of March 13, 1963 (28 F.R. 2457). The time within which Comments and Reply Comments might be filed has expired.

3. The Petitioner in this proceeding—Alexander & Baldwin, Inc., as well as the following parties filed original Comments: The Special Industrial Radio Service Association, Inc. (SIRSA), Forest Industries Radio Communications (FIRC), the Central Committee on Communications Facilities of the American Petroleum Institute (API), Radiotelephone Communicators of Puerto Rico, Inc., and Crumley Radio Corporation. No Reply Comments were filed. All parties participating in this proceeding voiced their approval of our proposal. Two parties however, FIRC and API, suggested certain modifications which are discussed below.

4. In substance, our proposal in this proceeding was to allow the Special Industrial Radio Service to use, in Alaska, Hawaii, Puerto Rico, and the Virgin Islands, mobile frequencies above 152 Mc/s, that are normally assignable on a three way co-equal priority sharing basis in the Petroleum, Forest Products, and Manufacturers Radio Services. Our premise in so proposing, was the fact that the subject frequencies are not extensively used in the areas concerned by the three last-mentioned Radio Services.

5. FIRC objects to the inclusion of the State of Alaska in the Amendment that was proposed. FIRC's opposition is premised on the rapid growth of forest activities in Alaska; and the increasing demand for, and employment of, high band frequencies by Forest Products Radio Service eligibles in that state. Because this objection appears reasonable; and because no opposition to it was registered, the frequencies involved in this proceeding will not be available for assignment to Special Industrial Radio Service licensees in Alaska.

6. The API would have us require that applicants for any of the frequencies under consideration in this proceeding, demonstrate that all Special Industrial Radio service frequencies in their proposed areas of operation are in use. Since our Order herein excludes the State of Alaska, such a requirement in the remaining areas would, in our judgment, impose an unnecessary or pointless burden on applicants. Owing to their relatively small size, the Hawaiian Islands, Puerto Rico, and the Virgin Islands, are, in fact, the areas of operation of most of the Special Industrial Radio Service licensees who operate in Hawaii, Puerto Rico, etc. Moreover, reference to our current frequency assignment and licensee lists will indicate that most, if not all, assignable Special Industrial Radio Service frequencies in the areas of concern are in fact assigned and in use. The API's suggestion is therefore rejected.

7. In concluding this proceeding, we point out, as we did in our notice, that the Petroleum, Forest Products, and Manufacturers Radio Services have paramount "claim," so to speak, on the frequencies that constitute the subject matter of this proceeding; and that should petroleum, forest products, or manu-

facturing activities increase to an appreciable degree in any of the areas involved in this proceeding, Special Industrial Radio Service licensees operating on these "out-of-service" frequencies will be deposed. In the same context, it should be noted that the Special Industrial Radio Service's use of the subject frequencies will be governed by the same class of station(s) limitations as are presently applicable in the Petroleum, Forest Products, and Manufacturers Radio Services. Although it was not proposed in our Notice in this Proceeding, we are eliminating the frequency 154.57 Mc/s from the band of frequencies that will be made available to the Special Industrial Radio Service. This exception results from the fact that this frequency is shared between the Forest Products and Business Radio Services and is used for certain specialized purposes with low or 3 watt input power restrictions.

8. In view of the foregoing, the Commission finds that the public interest, convenience, and necessity will be served by the rules amendments ordered herein. Therefore, pursuant to authority contained in sections 4(i), 303 (b), (f), and (r) of the Communications Act of 1934, as amended: *It is ordered*, That effective August 10, 1964, Part 91 of the Commission's rules is amended in the manner set forth below and the proceedings in this Docket No. 14990 are hereby terminated.

(Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303)

Adopted: July 1, 1964.

Released: July 7, 1964.

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

In Part 91, Industrial Radio Services, § 91.504 of the Special Industrial Radio Service rules is amended by revising the introductory text of paragraph (a), and adding a new paragraph (c) as follows:

§ 91.504 Frequencies available.

(a) The frequencies or bands of frequencies available for assignment to stations in this Service are enumerated in the following table, together with the class of station(s) to which they are normally assigned, a general reference terminology, and the specific assignment limitations which are developed in paragraph (b) of this section. Special provisions relating to the availability and the assignment of certain frequencies above 152 Mc/s in Hawaii, Puerto Rico and the Virgin Islands are contained in paragraph (c) of this section.

(c) Land Mobile Service frequencies above 152 Mc/s which are listed elsewhere in this Part as available to the Petroleum, Forest Products, and Manufacturers Radio Services, are also available, with the exception of the frequency 154.57 Mc/s, for assignment in this Service for use in Hawaii, Puerto Rico, and the Virgin Islands, subject to the same class of station(s) limitations as govern the assignment of stations on these fre-

quencies in the Petroleum, Forest Products, and Manufacturers Radio Services: *Provided, however*, That operation on such frequencies is subject to the condition that harmful interference shall not be caused to licensees operating in any of the Petroleum, Forest Products, or Manufacturers Radio Services: *Provided further*, That use of the subject frequencies will be terminated if they are needed in the areas concerned by any of the Petroleum, Forest Products, or Manufacturers Radio Services.

[F.R. Doc. 64-6882; Filed, July 9, 1964; 8:49 a.m.]

PART 97—AMATEUR RADIO SERVICE

Transmission of Call Signs

In the matter of amendment of § 97.87(a) (2) of the rules governing the Amateur Radio Service to delete a "dual identification" requirement for teleprinter stations; Docket No. 15267, RM-358, RM-435.

Report and order. 1. On January 10, 1964, the Commission released a notice of proposed rule making to amend § 97.87(a) (2) of its rules governing the Amateur Radio Service to delete the requirement that a teleprinter station transmit by telegraphy or telephony the call sign of the station to which it is transmitting. This notice was duly published in the FEDERAL REGISTER, January 15, 1964 (29 F.R. 354), and all comments filed in response thereto have been considered by the Commission.

2. All comments received, including those of the original petitioners, the American Radio Relay League and Mr. Edwin B. Bruening, supported the proposal. Qualified support was received from a few licensees who felt that greater relaxation of the teleprinter station identification requirements should be accomplished. In this regard, the Commission notes, as was expressed in its notice of proposed rule making, that any further relaxation of these requirements at this time would be detrimental to its monitoring and enforcement activities.

3. In addition to comments as to the proposed rule change, the Commission solicited comments and suggestions as to methods of superimposing telegraphic identification of the transmitting station upon the carrier without interrupting the teleprinter transmission. One suggestion in this respect was submitted by Mr. Merrill L. Swan (W6AEE), President of the RTTY Inc., as follows:

"Using an audio frequency shift generator, and a keyed audio generator, feeding a SSB type of transmitter, I have demonstrated the compatibility of this method. The audio tones employed were: Mark, 2125 cycles, Space, 2975 cycles and CW, 2550 cycles. A sharp cut-off 'low-pass filter' was used between the AFSK/cw generator and the * * * transmitter, utilizing LSB Mode. The transmitted signal was examined, using a panadapter and a * * * receiver, to search for spurious signals—none were found."

Mr. Swan's method appears to have limited application but apparently can

be accomplished without change of the rules. However, amateur licensees contemplating the use of audio tones via single side band suppressed carrier transmitters for the generation of A1 and/or F1 emissions are cautioned that any radiation of the carrier or suppressed side band frequencies at an intensity sufficient to cause interference in receiving equipment of good engineering design constitutes spurious radiation in violation of § 97.73.

The Commission will continue to consider these suggestions and our monitoring stations would be pleased to cooperate by observing tests of methods under development.

4. As indicated, there is no apparent objection to the proposed rule amendment. Therefore, for the reasons set forth herein and in its notice, the Commission concludes that the proposed rule making should be adopted. In adopting this rule making one important factor requires comment. This rule change will enable licensees to employ automatic devices for telegraphic station identification by International Morse code. However, the transmission of the amateur call sign automatically at more than twenty or twenty-five words per minute and/or with a frequency shift of less than about 100 cycles would make identification difficult, especially when monitoring from a mobile unit. Licensees are advised, therefore, that for telegraphic identification they will be expected to observe reasonable standards for code speed and keying methods. In the event that there are abuses in this area, the Commission will be obliged to set forth standards in the rules.

5. Authority for the amendment set forth below is contained in sections 4(i)

and 303 of the Communications Act of 1934, as amended.

Therefore, it is ordered, This 1st day of July 1964, that § 97.87(a)(2) of the Commission's rules is amended as set forth below, effective August 10, 1964.

(Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303)

Released: July 7, 1964.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Secretary.

Part 97 of the Commission's rules is amended as follows:

Section 97.87(a)(2) is amended to read as follows:

§ 97.87 Transmission of call signs.

(a) * * *

(2) The required identification shall be transmitted on the frequency or frequencies being employed at the time and, in accordance with the type of emission authorized thereon, shall be by either telegraphy using the International Morse Code, or telephony, except that, when a method of communication other than telegraphy using the International Morse Code or telephony is being used or attempted, the required identification shall be transmitted by that method and only the call sign of the transmitting station need be transmitted either by telegraphy using the International Morse Code or by telephony.

* * * * *

[F.R. Doc. 64-6883; Filed, July 9, 1964;
8:49 a.m.]

¹ Commissioner Cox dissenting.

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service
[26 CFR Part 1]

INCOME TAX; CONTROLLED FOREIGN CORPORATIONS

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR, Washington, D.C., 20224, within the period of 45 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 45-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to conform the Income Tax Regulations (26 CFR Part 1) to sections 951, 952, 957(b), and 959 of the Internal Revenue Code of 1954, as added by section 12(a) of the Revenue Act of 1962 (76 Stat. 1006), and to section 12(b)(1) of such Act, such regulations are amended as follows 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 foreign corporations end:

PARAGRAPH 1. Section 1.542-2 is amended by adding at the end thereof the following new sentence: "For determining the character of the amount includible in gross income under section 951(a), see paragraph (a) of § 1.951-1."

PAR. 2. Section 1.555-1 is amended by adding at the end thereof the following new sentence: "However, the gross income of a foreign corporation which is a foreign personal holding company shall not include, with respect to a United States shareholder described in section 951(b), dividends received by such cor-

poration which are excluded under section 959(b) from the income of such corporation with respect to such shareholder."

PAR. 3. Paragraph (a) of § 1.562-1 is amended by adding a new sentence immediately after the second sentence of such paragraph. The amended provision reads as follows:

§ 1.562-1 Dividends for which dividends paid deduction is allowable.

(a) General rule. Except as otherwise provided in section 562 (b) and (d), the term "dividend", for purposes of determining dividends eligible for the dividends paid deduction, refers only to a dividend described in section 316 (relating to definition of dividends for purposes of corporate distributions). No distribution, however, which is preferential within the meaning of section 562(c) and § 1.562-2 shall be eligible for the dividends paid deduction. Moreover, when computing the dividends paid deduction with respect to a United States person (as defined in section 957(d)), no distribution which is excluded from the gross income of a foreign corporation under section 959(b) with respect to such person or from the gross income of such person under section 959(a) shall be eligible for such deduction. Further, for purposes of the dividends paid deduction, the term "dividend" does not include a distribution in liquidation unless the distribution qualifies under section 562(b) and paragraph (b) of this section. If a dividend is paid in property (other than money) the amount of the dividends paid deduction with respect to such property shall be the adjusted basis of the property in the hands of the distributing corporation at the time of the distribution. See paragraph (c) of this section for a special rule for personal holding companies. Also see section 563 for special rules with respect to dividends paid after the close of the taxable year.

PAR. 4. Section 1.901 is amended by revising section 901(a) and by adding a historical note. These amended and added provisions read as follows:

§ 1.901 Statutory provisions; taxes of foreign countries and of possessions of the United States.

SEC. 901. Taxes of foreign countries and of possessions of the United States—(a) Allowance of credit. If the taxpayer chooses to have the benefits of this subpart, the tax imposed by this chapter shall, subject to the applicable limitation of section 904, be credited with the amounts provided in the applicable paragraph of subsection (b) plus, in the case of a corporation, the taxes deemed to have been paid under sections 902 and 960. Such choice for any taxable year may be made or changed at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this chapter for such taxable year. The credit shall not be allowed against the tax imposed by section 531 (relating to the tax on accumulated earnings),

against the additional tax imposed for the taxable year under section 1333 (relating to war loss recoveries), or against the personal holding company tax imposed by section 541.

[Sec. 901 as amended by sec. 12(b)(1), Rev. Act 1962 (76 Stat. 1031)]

PAR. 5. Paragraph (a)(2) of § 1.901-1 is amended to read as follows:

§ 1.901-1 Allowance of credit for taxes.

(a) In general. * * *
(2) Domestic corporation. A domestic corporation may claim a credit for (i) the amount of any income, war profits, and excess profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States; and (ii) the taxes deemed to have been paid or accrued under section 902, 905(b), or 960.

PAR. 6. There is inserted immediately after § 1.943-1 the following:

CONTROLLED FOREIGN CORPORATIONS

§ 1.951 Statutory provisions; amounts included in gross income of United States shareholders.

SEC. 951. Amounts included in gross income of United States shareholders—(a) Amounts included—(1) In general. If a foreign corporation is a controlled foreign corporation for an uninterrupted period of 30 days or more during any taxable year beginning after December 31, 1962, every person who is a United States shareholder (as defined in subsection (b)) of such corporation and who owns (within the meaning of section 958(a)) stock in such corporation on the last day, in such year, on which such corporation is a controlled foreign corporation shall include in his gross income, for his taxable year in which or with which such taxable year of the corporation ends—

(A) The sum of—
(i) Except as provided in section 963, his pro rata share (determined under paragraph (2)) of the corporation's subpart F income for such year; and

(ii) His pro rata share (determined under section 955(a)(3)) of the corporation's previously excluded subpart F income withdrawn from investment in less developed countries for such year; and

(B) His pro rata share (determined under section 956(a)(2)) of the corporation's increase in earnings invested in United States property for such year (but only to the extent not excluded from gross income under section 959(a)(2)).

(2) Pro rata share of subpart F income. The pro rata share referred to in paragraph (1)(A)(i) in the case of any United States shareholder is the amount—

(A) Which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 958(a)) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to its subpart F income for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

(B) The amount of distributions received by any other person during such year as a dividend with respect to such stock, but only to the extent of the dividend which would have been received if the distribution by the corporation had been the amount (1) which bears the same ratio to the subpart F income of such corporation for the taxable year, as (ii) the part of such year during which such shareholder did not own (within the meaning of section 958(a)) such stock bears to the entire year.

(3) *Limitation on pro rata share of previously excluded subpart F income withdrawn from investment.* For purposes of paragraph (1) (A) (ii), the pro rata share of any United States shareholder of the previously excluded subpart F income of a controlled foreign corporation withdrawn from investment in less developed countries shall not exceed an amount (A) which bears the same ratio to his pro rata share of such income withdrawn (as determined under section 955(a) (3)) for the taxable year, as (B) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year.

(4) *Limitation on pro rata share of investment in United States property.* For purposes of paragraph (1) (B), the pro rata share of any United States shareholder in the increase of the earnings of a controlled foreign corporation invested in United States property shall not exceed an amount (A) which bears the same ratio to his pro rata share of such increase (as determined under section 958(a) (2)) for the taxable year, as (B) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year.

(b) *United States shareholder defined.* For purposes of this subpart, the term "United States shareholder" means, with respect to any foreign corporation, a United States person (as defined in section 957(d)), who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of ownership of section 958(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

(c) *Coordination with election of a foreign investment company to distribute income.* A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247(c)) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

(d) *Coordination with foreign personal holding company provisions.* A United States shareholder who, for his taxable year, is subject to tax under section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholders) on income of a controlled foreign corporation shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

[Sec. 951 as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006)]

§ 1.951-1 Amounts included in gross income of United States shareholders.

(a) *In general.* If a foreign corporation is a controlled foreign corporation (within the meaning of section 957) for an uninterrupted period of 30 days or more (determined under paragraph (f) of this section) during any taxable year of such corporation beginning after December 31, 1962, every person who is a United States shareholder (as defined in section 951(b) and paragraph (g) of this section) of such corporation and

who owns (within the meaning of section 958(a)) stock in such corporation on the last day, in such year, on which such corporation is a controlled foreign corporation shall include in his gross income for his taxable year in which or with which such taxable year of the corporation ends, the sum of—

(1) Except as provided in section 963, such shareholder's pro rata share (determined under paragraph (b) of this section) of the corporation's subpart F income (as defined in section 952) for such taxable year of the corporation,

(2) Such shareholder's pro rata share (determined under paragraph (c) of this section) of the corporation's previously excluded subpart F income withdrawn from investment in less developed countries for such taxable year of the corporation, and

(3) Such shareholder's pro rata share (determined under paragraph (d) of this section) of the corporation's increase in earnings invested in United States property for such taxable year of the corporation (but only to the extent such pro rata share is not excluded from such shareholder's gross income for his taxable year under section 959(a) (2)).

For purposes of determining whether a United States shareholder which is a domestic corporation is a personal holding company under section 542 and § 1.542-1, the character of the amount includible in gross income of such domestic corporation under this paragraph shall be determined as if such amount were realized directly by such corporation from the source from which it is realized by the controlled foreign corporation. See paragraph (a) of § 1.957-2 for special limitation on the amount of subpart F income in the case of a controlled foreign corporation described in section 957(b). See section 970(a) and § 1.970-1 which provides for the reduction of subpart F income of export trade corporations.

(b) *Limitation on a United States shareholder's pro rata share of subpart F income—(1) In general.* For purposes of paragraph (a) (1) of this section, a United States shareholder's pro rata share (determined in accordance with the rules of paragraph (e) of this section) of the foreign corporation's subpart F income for the taxable year of such corporation is—

(i) The amount which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 958(a)) in such corporation if on the last day, in such corporation's taxable year, on which such corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount which bears the same ratio to its subpart F income for such taxable year as the part of such year during which such corporation is a controlled foreign corporation bears to the entire taxable year, reduced by—

(ii) The amount of distributions received by any other person during such taxable year as a dividend with respect to such stock, but only to the extent that such distributions do not exceed the dividend which would have been received

by such other person if the distributions by such corporation to all its shareholders had been the amount which bears the same ratio to the subpart F income of such corporation for the taxable year as the part of such year during which such shareholder did not own (within the meaning of section 958(a)) such stock bears to the entire taxable year.

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

Example (1). A, a United States shareholder, owns 100 percent of the only class of stock of M, a controlled foreign corporation throughout 1963. Both A and M Corporation use the calendar year as a taxable year. For 1963, M Corporation derives \$100 of subpart F income, has \$100 of earnings and profits, and makes no distributions. A must include \$100 in his gross income for 1963 under section 951(a) (1) (A) (i).

Example (2). The facts are the same as in example (1), except that instead of holding 100 percent of the stock of M Corporation for the entire year, A sells 60 percent of such stock to B, a nonresident alien, on May 26, 1963. Thus, M Corporation is a controlled foreign corporation for the period January 1, 1963, through May 26, 1963. A must include \$40 ($\$100 \times 146/365$) in his gross income for 1963 under section 951(a) (1) (A) (i).

Example (3). The facts are the same as in example (1), except that instead of holding 100 percent of the stock of M Corporation for the entire year, A holds 60 percent of such stock on December 31, 1963, having acquired such interest on May 26, 1963, from B, a nonresident alien, who owned such interest from January 1, 1963. Before A's acquisition of such stock, M Corporation had distributed a dividend of \$15 to B in 1963 with respect to such stock. A must include \$27 in his gross income for 1963 under section 951(a) (1) (A) (i), such amount being determined as follows:

Corporation M's subpart F income for 1963	\$100
Less: Reduction under sec. 951(a) (2) (A) for period 1-1-63 through 5-26-63 during which M Corporation is not a controlled foreign corporation ($\$100 \times 146/365$)	40
Subpart F income for 1963 as limited by sec. 951(a) (2) (A)	60
Less: Reduction under sec. 951(a) (2) (B) for dividends received by B during 1963 with respect to the stock acquired by A in M Corporation:	
(i) Dividend received by B	\$15
(ii) B's pro rata share of the amount which bears the same ratio to M Corporation's subpart F income for 1963 (\$100) as the period during which A did not own (within the meaning of sec. 958(a)) his stock (146 days) bears to the entire taxable year (365 days) (60 percent of $(\$100 \times 146/365)$)	24
(iii) Amount of reduction (lesser of (i) or (ii))	15
Subpart F income as reduced under sec. 951(a) (2) (B)	45
A's pro rata share of subpart F income as determined under sec. 951(a) (2) (60 percent of \$45)	27

Example (4). A, a United States shareholder, owns 100 percent of the only class of stock of P, a controlled foreign corporation throughout 1963, and P owns 100 percent of

the only class of stock of R, a controlled foreign corporation throughout 1963. A and Corporations P and R each use the calendar year as a taxable year. For 1963, R Corporation derives \$100 of subpart F income, has \$100 of earnings and profits, and distributes a dividend of \$20 to P Corporation. Corporation P has no income for 1963 other than the dividend received from R Corporation. A must include \$100 in his gross income for 1963 under section 951(a)(1)(A)(i) as subpart F income of R Corporation for such year. Such subpart F income is not reduced under sec. 951(a)(2)(B) for the dividend of \$20 paid to P Corporation because there was no part of the year 1963 during which A did not own (within the meaning of section 958(a)) the stock of R Corporation. By reason of the application of section 959(b), the \$20 distribution from R Corporation to P Corporation is not again includible in the gross income of A under section 951(a).

Example (5). The facts are the same as in example (4), except that instead of holding the stock of R Corporation for the entire year, P Corporation acquires 60 percent of the only class of stock of R Corporation on March 14, 1963, from C, a nonresident alien, after R Corporation distributes in 1963 a dividend of \$35 to C with respect to the stock so acquired by P Corporation. The stock interest so acquired by P Corporation was owned by C from January 1, 1963, until acquired by P Corporation. A must include \$40.80 in his gross income for 1963 under section 951(a)(1)(A)(i), such amount being determined as follows:

Corporation R's subpart F income for 1963.....	\$100
Less: Reduction under sec. 951(a)(2)(A) for period (1-1-63 through 3-14-63) during which R Corporation is not a controlled foreign corporation ($\$100 \times 73/365$).....	20
Subpart F income for 1963 as limited by sec. 951(a)(2)(A).....	80
Less: Reduction under sec. 951(a)(2)(B) for dividends received by C during 1963 with respect to the stock indirectly acquired by A in R Corporation.....	
(i) Dividend received by C.....	\$35
(ii) C's pro rata share of the amount which bears the same ratio to R Corporation's subpart F income for 1963 (\$100) as the period during which A did not indirectly own (within the meaning of section 958(a)(2)) his stock (73 days) bears to the entire taxable year (365 days) (60 percent of $(\$100 \times 73/365)$).....	12
(iii) Amount of reduction (lesser of (i) or (ii)).....	12
Subpart F income as reduced under section 951(a)(2)(B).....	68
A's pro rata share of subpart F income as determined under sec. 951(a)(2) (60 percent of \$68).....	40.80

(c) Limitation on a United States shareholder's pro rata share of previously excluded subpart F income withdrawn from investment. For purposes of paragraph (a)(2) of this section, a United States shareholder's pro rata share (determined in accordance with the rules of paragraph (e) of this section) of the foreign corporation's previously excluded subpart F income withdrawn from investment in less developed countries for the taxable year of such corporation shall

not exceed an amount which bears the same ratio to such shareholder's pro rata share of such income withdrawn (as determined under section 955(a)(3) and paragraph (c) of § 1.955-1) for such taxable year as the part of such year during which such corporation is a controlled foreign corporation bears to the entire taxable year. See paragraph (c)(2) of § 1.955-1 for a special rule applicable to exclusions and withdrawals occurring before the date on which the United States shareholder acquires his stock.

(d) Limitation on a United States shareholder's pro rata share of increase in investment in United States property. For purposes of paragraph (a)(3) of this section, a United States shareholder's pro rata share (determined in accordance with the rules of paragraph (e) of this section) of the foreign corporation's increase in earnings invested in United States property for the taxable year of such corporation shall not exceed an amount which bears the same ratio to such shareholder's pro rata share of such increase (as determined under section 956(a)(2) and paragraph (c) of § 1.956-1) for such taxable year as the part of such year during which such corporation is a controlled foreign corporation bears to the entire taxable year. The amount determined under the preceding sentence, however, shall be taken into account under paragraph (a)(3) of this section only to the extent such amount is not excluded from such shareholder's gross income for his taxable year under section 959(a)(2) and the regulations thereunder.

(e) "Pro rata share" defined. For purposes of paragraphs (b), (c), and (d) of this section, a United States shareholder's pro rata share of a controlled foreign corporation's subpart F income, previously excluded subpart F income withdrawn from investment in less developed countries, or increase in earnings invested in United States property, respectively, for any taxable year is his pro rata share determined under paragraph (a) of § 1.952-1, paragraph (c) of § 1.955-1, or paragraph (c) of § 1.956-1, respectively. If such controlled foreign corporation for such taxable year has more than one class of stock outstanding, the amount of such corporation's subpart F income, withdrawal, or increase in investment, for the taxable year which shall be taken into account with respect to any one class of such stock for purposes of the preceding sentence shall be that amount which bears the same ratio to the total of such subpart F income, withdrawal, or increase in investment for such year as the earnings and profits which would be distributed with respect to such class of stock if all earnings and profits of such corporation for such year were distributed on the last day of such corporation's taxable year on which such corporation is a controlled foreign corporation bear to the total earnings and profits of such corporation for such taxable year. For purposes of the preceding sentence, no part of the earnings and profits for the taxable year shall be treated as payable with respect to stock as a dividend in arrears. If the allo-

cation of a foreign corporation's earnings and profits for the taxable year between two or more classes of stock depends upon the exercise of discretion by that body of persons which exercises with respect to such corporation the powers ordinarily exercised by the board of directors of a domestic corporation, the allocation of earnings and profits to such classes shall be made for purposes of this paragraph as if such classes constituted one class of stock in which each share has the same rights to dividends as any other share, unless a different method of allocation of earnings and profits is established as proper by the United States shareholder. The application of this paragraph may be illustrated by the following examples:

Example (1). Throughout its taxable year 1963, controlled foreign corporation A has outstanding 40 shares of common stock and 60 shares of 6-percent, nonparticipating, nonvoting, preferred stock with a par value of \$100 per share. D, a United States citizen who uses the calendar year as a taxable year, owns 30 shares of the common, and 15 shares of the preferred, stock during 1963. Corporation A for 1963 has earnings and profits of \$1,000, and income of \$500 with respect to which amounts are required to be included in gross income of United States shareholders under section 951(a). In such case, if the total \$1,000 of earnings and profits were distributed on December 31, 1963, \$360 ($0.06 \times \$100 \times 60$) would be distributed with respect to A Corporation's preferred stock and \$640 ($\$1,000$ minus \$360) would be distributed with respect to its common stock. Accordingly, of the \$500 with respect to which amounts are required to be included in gross income of United States shareholders under section 951(a), \$180 ($\$360/\$1,000 \times \$500$) is allocated to the outstanding preferred stock and \$320 ($\$640/\$1,000 \times \$500$) is allocated to the outstanding common stock. D's pro rata share of such amounts for 1963 is \$285 [$(\$180 \times 15/60) + (\$320 \times 30/40)$].

Example (2). The facts are the same as in example (1), except that the preferred stock is cumulative and no dividends were paid for the year 1962. The result is the same as in example (1).

(f) Determination of holding period. For purposes of sections 951 through 964, the holding period of an asset (including stock of a controlled foreign corporation) shall be determined by excluding the day on which such asset is acquired and including the day on which such asset is disposed of. The application of this paragraph may be illustrated by the following example:

Example. On June 30, 1963, United States person E acquires 70 of the 100 shares of the only class of stock of foreign corporation A from nonresident alien B, who until such time owns all such 100 shares. E sells 10 shares of stock of such corporation on November 30, 1963, and 60 shares on December 31, 1963, to nonresident alien F. Corporation A is a controlled foreign corporation for the period beginning with July 1, 1963, and extending through December 31, 1963. As to the 10 shares of stock sold on November 30, 1963, E is treated as not owning such shares at any time after November 30, 1963, nor before July 1, 1963. As to the remaining 60 shares of stock, E is treated as not owning them before July 1, 1963, or after December 31, 1963.

(g) United States shareholder defined.—(1) In general. For purposes of sections 951 through 964, the term

"United States shareholder" means, with respect to a foreign corporation, a United States person (as defined in section 957(d)) who owns within the meaning of section 958(a), or is considered as owning by applying the rules of ownership of section 958(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

(2) *Percentage of total combined voting power owned by United States person*—(i) *Meaning of combined voting power.* In determining for purposes of subparagraph (1) of this paragraph whether a United States person owns the requisite percentage of voting power of all classes of stock entitled to vote, consideration will be given to all the facts and circumstances in each case. In all cases, however, a United States person will be deemed to own the requisite percentage of total combined voting power with respect to a foreign corporation—

(a) If such person owns (within the meaning of section 958(a)) 10 percent or more of the total number of shares of such corporation entitled to vote, or

(b) If such person owns (within the meaning of section 958(a)) 20 percent or more of the total number of shares of a class of stock of such corporation possessing one or more powers enumerated in paragraph (b)(1) of § 1.957-1.

Whether a foreign corporation is a controlled foreign corporation for purposes of sections 951 through 964 shall be determined by applying the rules of section 957 and §§ 1.957-1 through 1.957-4. The application of this paragraph may be illustrated by the following examples:

Example (1). Foreign corporation S has two classes of capital stock outstanding, consisting of 60 shares of class A stock and 40 shares of class B stock. Each class of the outstanding stock is entitled to participate on a share for share basis in any dividend distributions by S Corporation. The owners of a majority of the class A stock are entitled to elect 6 of the 10 corporate directors, and the owners of a majority of the class B stock are entitled to elect the other 4 of the 10 directors. D, a United States person owns 31 shares of the class A stock and as such an owner can elect 6 members of the board of directors. D is a United States shareholder of S Corporation under section 951(b) since he owns 31 percent of the total combined voting power of all classes of stock entitled to vote of S Corporation. For purposes of section 957, S Corporation is a controlled foreign corporation by reason of D's ownership of a majority of the class A stock, as illustrated in example (2) of paragraph (c) of § 1.957-1. E, a United States person, owns 9 shares of the class A stock and F, a United States person, owns 10 shares of the class B stock. F is a United States shareholder of S Corporation under section 951(b) since he owns 10 percent of the total combined voting power of all classes of stock entitled to vote of S Corporation, even though he owns 15 percent (9 divided by 60) of the class A stock of S Corporation.

Example (2). Foreign corporation R has three classes of stock outstanding, consisting of 10 shares of class A stock, 20 shares of

class B stock, and 300 shares of class C stock. Each class of the outstanding stock is entitled to participate on a share for share basis in any distribution by R Corporation. The owners of a majority of the class A stock are entitled to elect 6 of the 10 corporate directors, and the owners of a majority of the class B stock are entitled to elect the other 4 of the 10 directors. The class C stock is not entitled to vote. D, E, and F, United States persons, each own 2 shares of the class A stock and 100 shares of the class C stock. As owners of a majority of the class A stock, D, E, and F elect 6 members of the board of directors. D, E, and F are United States shareholders of R Corporation under section 951(b) since each owns 20 percent of the total number of shares of the class A stock which possesses the power to elect a majority of the board of directors of R Corporation. For purposes of section 957, R Corporation is a controlled foreign corporation by reason of the ownership by D, E, and F of a majority of the class A stock, as illustrated in example (2) of paragraph (c) of § 1.957-1.

§ 1.951-2 Coordination of subpart F with election of a foreign investment company to distribute income.

A United States shareholder who for his taxable year is a qualified shareholder (within the meaning of section 1247(c)) of a foreign investment company with respect to which an election under section 1247(a) and the regulations thereunder is in effect for the taxable year of such company which ends with or within such taxable year of such shareholder shall not be required to include any amount in his gross income for his taxable year under paragraph (a) of § 1.951-1 with respect to such company for that taxable year of such company.

§ 1.951-3 Coordination of subpart F with foreign personal holding company provisions.

A United States shareholder (as defined in section 951(b)) who is required under section 551(b) to include in his gross income for his taxable year his share of the undistributed foreign personal holding company income for the taxable year of a foreign personal holding company (as defined in section 552) which for that taxable year is a controlled foreign corporation (as defined in section 957) shall not be required to include in his gross income for his taxable year under section 951(a) and paragraph (a) of § 1.951-1 any amount attributable to the earnings and profits of such corporation for that taxable year of such corporation. If a foreign corporation is both a foreign personal holding company and a controlled foreign corporation for the same period which is only a part of its taxable year, then, for purposes of applying the immediately preceding sentence, such corporation shall be deemed to be, for such part of such year, a foreign personal holding company and not a controlled foreign corporation and the earnings and profits of such corporation for the taxable year shall be deemed to be that amount which bears the same ratio to its earnings and profits for the taxable year as such part of the taxable year bears to the entire taxable year. The application of this section may be illustrated by the following examples:

Example (1). A, a United States shareholder, owns 100 percent of the only class of stock of controlled foreign corporation M which, in turn, owns 100 percent of the only class of stock of controlled foreign corporation N. A and Corporations M and N use the calendar year as a taxable year. During 1963, N Corporation derives \$40,000 of gross income all of which is foreign personal holding company income within the meaning of section 553; thus, N Corporation is a foreign personal holding company for such year within the meaning of section 552(a). For 1963, N Corporation has undistributed foreign personal holding company income (as defined in section 556(a)) of \$30,000, derives \$25,000 of subpart F income, and has earnings and profits of \$32,000. During 1963, M Corporation derives \$100,000 of gross income (including as a dividend under section 555(c) (2) the \$30,000 of N Corporation's undistributed foreign personal holding company income), 65 percent of which is foreign personal holding company income within the meaning of section 553. Therefore, M Corporation is a foreign personal holding company for such year. For 1963, M Corporation has undistributed foreign personal holding company income (as defined in section 556(a)) of \$90,000, determined by taking into account under section 552(c)(1) N Corporation's \$30,000 of undistributed foreign personal holding company income for such year; in addition, M Corporation derives \$50,000 of subpart F income and has earnings and profits of \$92,000. Neither M Corporation nor N Corporation makes any actual distributions during 1963. A is required under section 551(b) to include in his gross income for 1963 as a dividend the \$90,000 of M Corporation's undistributed foreign personal holding company income for such year. For 1963, A is not required to include in his gross income under section 951(a) any of the \$50,000 subpart F income of M Corporation or of the \$25,000 subpart F income of N Corporation.

Example (2). The facts are the same as in example (1), except that only 45 percent of M Corporation's gross income (determined by including under section 555(c) (2) the \$30,000 of N Corporation's undistributed foreign personal holding company income) is foreign personal holding company income within the meaning of section 553; accordingly, M Corporation is not a foreign personal holding company for 1963. Since for such year M Corporation is not a foreign personal holding company, the undistributed foreign personal holding company income (\$30,000) of N Corporation is not required under section 555(b) to be included in the gross income of M Corporation for 1963; as a result, such income is not required under section 551(b) to be included in the gross income of A for such year even though N Corporation is a foreign personal holding company for that year. For 1963, A is required to include \$75,000 in his gross income under section 951(a) (1) (A) (i) and paragraph (a) of § 1.951-1, consisting of the \$50,000 subpart F income of M Corporation and the \$25,000 subpart F income of N Corporation.

Example (3). The facts are the same as in example (1), except that in 1963 N Corporation actually distributes \$30,000 to M Corporation and M Corporation, in turn, actually distributes \$90,000 to A. Under section 556 the undistributed foreign personal holding company income of both M Corporation and N Corporation is thus reduced to zero; accordingly, no amount is included in the gross income of A under section 551(b) by reason of his interest in corporations M and N. A must include \$75,000 in his gross income for 1963 under section 951(a) (1) (A) (i) and paragraph (a) of § 1.951-1, consisting of the \$50,000 subpart F income of M Corporation and the \$25,000 subpart F income of N Corporation. Of the \$90,000 distribution re-

ceived by A from M Corporation, \$75,000 is excludable from his gross income under section 959(a)(1) as previously taxed earnings and profits; the remaining \$15,000 is includible in his gross income for 1963 as a dividend.

Example (4). (a) A, a United States shareholder, owns 100 percent of the only class of stock of controlled foreign corporation P, organized on January 1, 1963. Both A and P Corporation use the calendar year as a taxable year. During 1963, 1964, and 1965, P Corporation is not a foreign personal holding company as defined in section 552(a); in each of such years, P Corporation derives dividend income of \$10,000 which constitutes foreign personal holding company income (within the meaning of § 1.954-2) but under paragraph (b)(1) of § 1.954-1 excludes such amounts from foreign base company income as dividends received from, and reinvested in, qualified investments in less developed countries. Corporation P's earnings and profits accumulated for 1963, 1964, and 1965 and determined under paragraph (b)(2) of § 1.955-1 are \$40,000. For 1966, P Corporation is a foreign personal holding company, has predistribution earnings and profits of \$10,000, derives \$10,000 of income which is both foreign personal holding company income within the meaning of section 553 and subpart F income within the meaning of section 952, distributes \$8,000 to A, and has undistributed foreign personal holding company income of \$2,000 within the meaning of section 556. In addition, for 1966 P Corporation has a withdrawal (determined under section 955(a) but without regard to its earnings and profits for such year) of \$25,000 of previously excluded subpart F income from investment in less developed countries. A is required under section 551(b) to include in his gross income for 1966 as a dividend the \$2,000 undistributed foreign personal holding company income. The \$8,000 distribution is includible in A's gross income for 1966 under sections 61(a)(7) and 301 as a distribution to which section 316(a)(2) applies. Corporation P's \$25,000 withdrawal of previously excluded subpart F income from investment in less developed countries is includible in A's gross income for 1966 under section 951(a)(1)(A)(ii) and paragraph (a)(2) of § 1.951-1.

(b) If P Corporation's earnings and profits accumulated for 1963, 1964, and 1965 were \$15,000, instead of \$40,000, the result would be the same as in paragraph (a) of this example, except that a withdrawal of only \$15,000 of previously excluded subpart F income from investment in less developed countries would be includible in A's gross income for 1966 under section 951(a)(1)(A)(ii) and paragraph (a)(2) of § 1.951-1.

Example (5). (a) The facts are the same as in paragraph (a) of example (4), except that, instead of having a \$25,000 decrease in qualified investments in less developed countries for 1966, P Corporation invests \$20,000 in tangible property (not described in section 956(b)(2)) located in the United States and such investment constitutes an increase (determined under section 956(a) but without regard to the earnings and profits of P Corporation for 1966) in earnings invested in United States property. Corporation P's earnings and profits accumulated for 1963, 1964, and 1965 and determined under paragraph (b)(1) of § 1.956-1 are \$22,000. The result is the same as in paragraph (a) of example (4), except that instead of including the \$25,000 withdrawal, A must include \$20,000 in his gross income for 1966 under section 951(a)(1)(B) and paragraph (a)(3) of § 1.951-1 as an investment of earnings in United States property.

(b) If P Corporation's earnings and profits accumulated for 1963, 1964, and 1965 were \$9,000 instead of \$22,000, the result would be the same as in paragraph (a) of this example, except that only \$9,000 would be includible in A's gross income for 1966 under

section 951(a)(1)(B) and paragraph (a)(3) of § 1.951-1 as an investment of earnings in United States property.

§ 1.952 Statutory provisions; subpart F income defined.

SEC. 952. Subpart F income defined.—(a) In general. For purposes of this subpart, the term "subpart F income" means, in the case of any controlled foreign corporation, the sum of—

(1) The income derived from the insurance of United States risks (as determined under section 953), and

(2) The foreign base company income (as determined under section 954).

(b) **Exclusion of United States income.** Subpart F income does not include any item includible in gross income under this chapter (other than this subpart) as income derived from sources within the United States of a foreign corporation engaged in trade or business in the United States.

(c) **Limitation.** For purposes of subsection (a), the subpart F income of any controlled foreign corporation for any taxable year shall not exceed the earnings and profits of such corporation for such year reduced by the amount (if any) by which—

(1) An amount equal to—
(A) The sum of the deficits in earnings and profits for prior taxable years beginning after December 31, 1962, plus

(B) The sum of the deficits in earnings and profits for taxable years beginning after December 31, 1959, and before January 1, 1963 (reduced by the sum of the earnings and profits for such taxable years); exceeds

(2) An amount equal to the sum of the earnings and profits for prior taxable years beginning after December 31, 1962, allocated to other earnings and profits under section 959(c)(3).

For purposes of the preceding sentence, any deficit in earnings and profits for any prior taxable year shall be taken into account under paragraph (1) for any taxable year only to the extent it has not been taken into account under such paragraph for any preceding taxable year to reduce earnings and profits of such preceding year.

(d) **Special rule in case of indirect ownership.** For purposes of subsection (c), if—

(1) A United States shareholder owns (within the meaning of section 958(a)) stock of a foreign corporation, and by reason of such ownership owns (within the meaning of such section) stock of any other foreign corporation, and

(2) Any of such foreign corporations has a deficit in earnings and profits for the taxable year,

then the earnings and profits for the taxable year of each such foreign corporation which is a controlled foreign corporation shall, with respect to such United States shareholder, be properly reduced to take into account any deficit described in paragraph (2) in such manner as the Secretary or his delegate shall prescribe by regulations.

[Sec. 952 as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006)]

§ 1.952-1 Subpart F income defined.

(a) **In general.** For purposes of sections 951 through 964, a controlled foreign corporation's subpart F income for any taxable year shall, except as provided in paragraph (b) of this section and subject to the limitations of paragraphs (c) and (d) of this section, consist of the sum of—

(1) The income derived by such corporation for such year from the insurance of United States risks (determined in accordance with the provisions of section 953 and §§ 1.953-1 through 1.953-6), and

(2) The income derived by such corporation for such year which constitutes foreign base company income (determined in accordance with the provisions of section 954 and §§ 1.954-1 through 1.954-5).

Pursuant to section 951(a)(1)(A)(i) and § 1.951-1, a United States shareholder of such controlled foreign corporation must include his pro rata share of such subpart F income in his gross income for his taxable year in which or with which such taxable year of the foreign corporation ends. See section 952(a). However, see paragraph (a) of § 1.957-2 for special rule limiting the subpart F income to the income derived from the insurance of United States risks in the case of certain controlled foreign corporations described in section 957(b).

(b) **Exclusion of United States income.—(1) In general.** Notwithstanding paragraph (a) of this section and except as provided in subparagraph (2) of this paragraph, a controlled foreign corporation's subpart F income for any taxable year shall not include any item of income which is includible in the gross income of such corporation for such year under provisions (other than sections 951 through 964) of chapter 1 of the Code as income derived from sources within the United States if for the taxable year a tax is imposed with respect to such income in accordance with section 882(a) and the deductions allowable to such corporation under section 882(c) and § 1.882-3 shall not be taken into account. Any item which is required to be excluded from gross income or which is taxed at a reduced rate under an applicable treaty obligation of the United States shall not be excluded from the gross income of a controlled foreign corporation under this subparagraph. See section 952(b). For purposes only of paragraph (b)(1)(viii) of § 1.956-2, an item of income derived by a controlled foreign corporation from sources within the United States with respect to which for the taxable year a tax is imposed in accordance with section 882(a) shall be considered described in section 952(b) whether or not such item of income would have constituted subpart F income for such year.

(2) **Treatment of United States income of foreign insurance companies.** The subpart F income for any taxable year of a controlled foreign corporation which is a foreign insurance company shall not include any item of income which is includible in the gross income of such corporation for such year under provisions (other than sections 951 through 964) of chapter 1 of the Code as income derived from sources within the United States if such income is described in section 819(a), 822(e), or 832(d) and, for such taxable year, a tax is imposed with respect to such income in accordance with section 802(a), 821(a), or 831(a), as the case may be. See paragraph (d) of § 1.953-4 and section 11(e)(2).

(c) **Limitation on a controlled foreign corporation's subpart F income.—(1) In general.** A United States shareholder's pro rata share (determined in accordance with the rules of paragraph (e) of

§1951-1) of a controlled foreign corporation's subpart F income for any taxable year shall not exceed his pro rata share of the earnings and profits (as defined in section 964(a) and §1964-1) of such corporation for such taxable year, computed as of the close of such taxable year without diminution by reason of any distributions made during such taxable year, minus the sum of—

(i) The amount, if any, by which such shareholder's pro rata share of—

(a) The sum of such corporation's deficits in earnings and profits for prior taxable years beginning after December 31, 1962, plus

(b) The sum of such corporation's deficits in earnings and profits for taxable years beginning after December 31, 1959, and before January 1, 1963 (reduced by the sum of the earnings and profits (as so defined) of such corporation for any of such taxable years) exceeds

(c) The sum of such corporation's earnings and profits for prior taxable years beginning after December 31, 1962, which, with respect to such shareholder, are allocated to other earnings and profits under section 959(c)(3) and §1959-3; and

(ii) Such shareholder's pro rata share of any deficits in earnings and profits of other foreign corporations for a taxable year beginning after December 31, 1962, which are attributable to stock of such other foreign corporations owned by such shareholder within the meaning of section 958(a) and which, in accordance with section 952(d) and paragraph (d) of this section, are taken into account as a reduction in the controlled foreign corporation's earnings and profits for such taxable year.

For purposes of applying this subparagraph, the reduction (if any) provided by subdivision (i) of this subparagraph in a United States shareholder's pro rata share of the earnings and profits of a controlled foreign corporation shall be taken into account before the reduction provided by subdivision (ii) of this subparagraph. See section 952(c).

(2) *Special rules.* For purposes only of determining the limitation under subparagraph (1) of this paragraph on a United States shareholder's pro rata share of a controlled foreign corporation's subpart F income for any taxable year—

(i) *Status of foreign corporation.* The earnings and profits, or deficit in earnings and profits, of a foreign corporation for any taxable year shall be taken into account whether or not such foreign corporation is a controlled foreign corporation at the time such earnings and profits are derived or such deficit in earnings and profits is incurred.

(ii) *Deficits in earnings and profits taken into account only once.* A controlled foreign corporation's deficit in earnings and profits for any taxable year preceding the taxable year shall be taken into account for the taxable year only to the extent such deficit has not been taken into account under this paragraph, paragraph (d) of this section, or paragraph (b)(2)(ii) of §1.963-3 in

computing a minimum distribution, for any taxable year preceding the taxable year, to reduce earnings and profits of such preceding year of such controlled foreign corporation or of any other controlled foreign corporation.

(iii) *Treatment of earnings and profits.* A controlled foreign corporation's earnings and profits for any taxable year shall be considered not to include, with respect to any United States shareholder of such corporation, dividends received by such corporation which are excluded under section 959(b) and §1.959-2 from the income of such corporation for such year with respect to such shareholder.

(iv) *Determination of pro rata share.* A United States shareholder's pro rata share of a controlled foreign corporation's earnings and profits, or deficit in earnings and profits, for any taxable year shall be determined in accordance with the principles of paragraph (e) of §1.951-1.

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

Example (1). (a) A is a United States shareholder who owns 100 percent of the only class of stock of M Corporation, a controlled foreign corporation organized on January 1, 1963. Both A and M Corporation use the calendar year as a taxable year.

(b) During 1963, M Corporation derives \$20,000 of subpart F income and has earnings and profits of \$30,000. Corporation M makes no distributions to A during such year. The limitation under section 952(c) on M Corporation's subpart F income for 1963 is \$30,000; and \$20,000 is includible in A's gross income for such year under section 951(a)(1)(A)(i).

(c) On January 1, 1964, M Corporation acquires 100 percent of the only class of stock of N Corporation, a controlled foreign corporation which uses the calendar year as a taxable year. During 1964, N Corporation derives \$6,000 of subpart F income, has \$7,000 of earnings and profits, and distributes \$5,000 to M Corporation. The limitation under section 952(c) on N Corporation's subpart F income for 1964 is \$7,000; and \$6,000 of subpart F income is includible in A's gross income for such year under section 951(a)(1)(A)(i).

(d) During 1964, M Corporation derives \$8,000 of rents which constitute subpart F income, makes a \$10,000 distribution to A, and has earnings and profits of \$12,000 (including the \$5,000 dividend received from N Corporation). The limitation under section 952(c) on M Corporation's subpart F income for 1964 is \$7,000, determined as follows:

Corporation M's earnings and profits for 1964 (determined under section 964(a) and §1.964-1 as of the close of such year without diminution for any distributions made during such year)	\$12,000
Less: Corporation M's earnings and profits for 1964 described in section 959(b)	5,000
Limitation on M Corporation's subpart F income for 1964	7,000

Thus, for 1964 with respect to A's interest in M Corporation, \$7,000 of subpart F income is includible in his gross income under section 951(a)(1)(A)(i). The \$10,000 dividend received from M Corporation is excludable from A's gross income for 1964 under section 959(a)(1) and paragraph (b) of §1.959-1.

Example (2). A is a United States shareholder who owns 100 percent of the only class of stock of R Corporation which was

organized on January 1, 1961. R Corporation is a controlled foreign corporation for the entire period after December 31, 1962, here involved. Both A and R Corporation use the calendar year as a taxable year. During 1963, R Corporation derives \$25,000 of subpart F income and has \$50,000 of earnings and profits. Corporation R has \$15,000 of earnings and profits for 1961, and a deficit in earnings and profits of \$45,000 for 1962. Thus, R Corporation has as of December 31, 1963, a net deficit in earnings and profits of \$30,000 for the years 1961 and 1962. Corporation R makes no distributions to A during 1963. The limitation under section 952(c) on R Corporation's subpart F income for 1963 is \$20,000 (\$50,000 minus \$30,000), and \$20,000 of subpart F income is includible in A's gross income for 1963 under section 951(a)(1)(A)(i). During 1964, R Corporation derives \$18,000 of subpart F income and has \$30,000 of earnings and profits. Corporation R makes no distributions to A during 1964. The entire \$18,000 of subpart F income is includible in A's gross income for 1964 under section 951(a)(1)(A)(i).

(d) *Treatment of deficits in earnings and profits attributable to stock of other foreign corporation indirectly owned by a United States shareholder.* (1) In general. For purposes of paragraph (c)(1)(ii) of this section, if—

(i) A United States shareholder owns (within the meaning of section 958(a)) stock in two or more foreign corporations in a chain of foreign corporations (as defined in subparagraph (2)(ii) of this paragraph), and

(ii) Any of the corporations in such chain has a deficit in earnings and profits for taxable year beginning after December 31, 1962,

then, with respect to such shareholder and only for purposes of determining the limitation on subpart F income under paragraph (c) of this section, the earnings and profits for the taxable year of each such foreign corporation which is a controlled foreign corporation shall, in accordance with the rules of subparagraph (2) of this paragraph, be reduced to take into account any deficit in earnings and profits referred to in subdivision (ii) of this subparagraph. See section 952(d).

(2) *Special rules.* For purposes of this paragraph—

(i) *Applicable rules.* The special rules set forth in paragraph (c)(2) of this section shall apply.

(ii) *"Chain" defined.* A chain of foreign corporations shall, with respect to a United States shareholder, include—

(a) Any foreign corporation in which such shareholder owns (within the meaning of section 958(a)(1)(A)) stock, but only to the extent of the stock so owned, and

(b) All foreign corporations in which such shareholder owns (within the meaning of section 958(a)(2)) stock, but only to the extent of the stock so owned by reason of his ownership of the stock referred to in (a) of this subdivision.

(iii) *Allocation of deficit.* If one or more foreign corporations (whether or not a controlled foreign corporation) includible in a chain of foreign corporations has a deficit in earnings and profits (determined under section 964(a) and §1.964-1) for the taxable year, the amount of deficit taken into account

under section 952(d) with respect to a United States shareholder in such chain as a reduction in earnings and profits for the taxable year of a controlled foreign corporation includible in such chain shall be an amount which bears the same ratio to such shareholder's pro rata share of the total deficits in earnings and profits for the taxable year of all includible foreign corporations as his pro rata share of the earnings and profits (determined under paragraph (c) of this section but without regard to the provisions of subparagraph (1)(ii) of such paragraph) for the taxable year of such includible controlled foreign corporation bears to his pro rata share of the total earnings and profits (as so determined under paragraph (c) of this section) for the taxable year of all includible foreign corporations. The amount of deficit taken into account under this subdivision with respect to any controlled foreign corporation includible in a chain of foreign corporations shall not exceed the United States shareholder's pro rata share of the controlled foreign corporation's earnings and profits for the taxable year.

(iv) **Taxable year.** The taxable year from which a deficit is allocated under this paragraph, and the taxable year to which such deficit is allocated to reduce earnings and profits, shall be the taxable year of the foreign corporation ending with or within the taxable year of the United States shareholder described in subparagraph (1)(i) of this paragraph.

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

Example (1). (a) Domestic corporation M owns 100 percent, 20 percent, and 100 percent, respectively, of the only class of stock of foreign corporations A, B, and F, respectively. Corporation A owns 80 percent of the only class of stock of each of foreign corporations B and C, respectively. Corporation F owns 20 percent of such stock of C Corporation. Corporation B owns 75 percent of the only class of stock of foreign corporation D, and C Corporation owns 75 percent of the only class of stock of foreign corporation E. All the corporations use the calendar year as a taxable year, and all of the foreign corporations are controlled foreign corporations throughout the period here involved.

(b) The subpart F income, and the earnings and profits (determined under paragraph (c) of this section but without regard to subparagraph (1)(ii) of such paragraph) or deficit in earnings and profits (determined under section 964(a) and § 1.964-1), of each of the foreign corporations for 1963 are as follows, the deficits being set forth in parentheses:

	Subpart F income	Earnings and profits (deficits)
A Corporation	\$5,000	\$15,000
B Corporation		(10,000)
C Corporation		(2,000)
D Corporation	4,000	5,000
E Corporation	8,000	10,000
F Corporation	10,000	13,500

(c) The chains of foreign corporations (within the meaning of subparagraph (2)(ii) of this paragraph) for 1963 are the "A"

chain, consisting of corporations A, B, C, D, and E, but only to the extent of M Corporation's stock interest in such corporations under section 958(a) by reason of its ownership of stock in A Corporation; the "B" chain, consisting of corporations B and D, but only to the extent of M Corporation's stock interest in such corporations under section 958(a) by reason of its ownership of stock in B Corporation; and the "F" chain, consisting of corporations F, C, and E, but only to the extent of M Corporation's stock interest in such corporations under section 958(a) by reason of its ownership of stock in F Corporation.

(d) Corporation M's stock interest under section 958(a) in each of the chains of foreign corporations is as follows for 1963:

	A	B	C	D	E	F
	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent
A chain:						
Direct interest	100					
(100%×80%)		80				
(100%×80%)			80			
(80%×75%)				60		
(80%×75%)					60	
B chain:						
Direct interest		20				
(20%×75%)				15		
F chain:						
Direct interest			20			100
(100%×20%)					15	
(20%×75%)						
Total interests	100	100	100	75	75	100

(e) Corporation M's pro rata share of the earnings and profits (determined under paragraph (c) of this section but without regard to subparagraph (1)(ii) of such paragraph), or of the deficit, of each foreign corporation includible in the respective chains for 1963 is as follows:

	Earnings and profits	Deficit
A chain:		
A Corporation (100%)	\$15,000	
B Corporation (80%)		(\$8,000)
C Corporation (80%)		(2,000)
D Corporation (60%)	3,000	
E Corporation (60%)	6,000	
Total	24,000	(10,000)
B chain:		
B Corporation (20%)		(2,000)
D Corporation (15%)	750	
Total	750	(2,000)
F chain:		
F Corporation (100%)	13,500	
C Corporation (20%)		(500)
E Corporation (15%)	1,500	
Total	15,000	(500)

(f) The amount by which M Corporation's pro rata share of the earnings and profits for 1963 of the controlled foreign corporations in each respective chain shall be reduced under section 952(d) by M Corporation's pro rata share of the deficits of corporations B and C for 1963 is determined as follows:

	Amount of reduction
A chain:	
A Corporation (\$10,000×\$15,000/\$24,000)	\$6,250
D Corporation (\$10,000×\$3,000/\$24,000)	1,250
E Corporation (\$10,000×\$6,000/\$24,000)	2,500
Total	10,000

B chain:

D Corporation (\$2,000×\$750/\$750, but not to exceed M Corporation's pro rata share of D Corporation's earnings and profits; leaving for use (but only with respect to M Corporation's interest in B Corporation) in later years \$1,250 unused deficit applicable to M Corporation's pro rata share of B Corporation's deficit)----- \$750

F chain:

F Corporation (\$500×\$13,500/\$15,000)----- 450

E Corporation (\$500×\$1,500/\$15,000)----- 50

Total----- 500

(g) Corporation M's pro rata share of the earnings and profits (determined after reduction for deficits under section 952(d)) for 1963 of each controlled foreign corporation in the respective chains, determined on a chain-by-chain basis, is determined as follows:

	Earnings and profits before reduction	Reduction (sec. 952(d))	Reduced earnings and profits
A chain:			
A Corporation	\$15,000	\$6,250	\$8,750
D Corporation	3,000	1,250	1,750
E Corporation	6,000	2,500	3,500
B chain:			
D Corporation	750	750	
F chain:			
F Corporation	13,500	450	13,050
E Corporation	1,500	50	1,450

(h) Corporation M's pro rata share of each controlled foreign corporation's subpart F income, limited as provided by section 952(c) and paragraph (c) of this section, for 1963 which is includible in its gross income for such year under section 951(a)(1)(A)(i) and § 1.951-1 is determined as follows:

	Subpart F income (before limitation)	Earnings and profits (sec. 952(e))	Amount includible in income
A Corporation (100%)	\$5,000	\$8,750	\$5,000
D Corporation (75%)	3,000	1,750	1,750
E Corporation (75%)	6,000	4,950	4,950
F Corporation (100%)	10,000	13,050	10,000
Total includable under sec. 951(a)(1)(A)(i)			21,700

Example (2). The facts are the same as in example (1) except that, in addition, for 1964, foreign corporations C, D, and E have no subpart F income and no earnings and profits. For 1964, B Corporation has subpart F income of \$1,000 and earnings and profits (determined in accordance with section 964(a) and § 1.964-1) of \$2,000; A Corporation has subpart F income of \$800 and earnings and profits of \$1,000; and F Corporation has subpart F income of \$500 and earnings and profits of \$1,000. Such earnings and profits are determined without regard to distributions for 1964. Corporation B has an unused deficit in earnings and profits of \$1,250 for 1963 applicable to M Corporation's interest in such corporation (paragraph (f) of example (1)), and, under paragraph (c)(1)(i) of this section, with respect to M Corpo-

ration, such deficit reduces B Corporation's earnings and profits for 1964 to \$750. Corporation M's pro rata share of each controlled foreign corporation's subpart F income, limited as provided by section 952(c) and paragraph (c) of this section, for 1964 which is includible in its gross income for such year under section 951(a)(1)(A)(i) and § 1.951-1 is determined as follows:

	Subpart F income (before limitation)	Earnings and profits (sec. 952(c))	Amount includible in income
A Corporation....	\$800	\$1,000	\$800
B Corporation....	1,000	750	750
F Corporation....	500	1,000	500

Example (3). The facts are the same as in example (2), except that for 1964 B Corporation has subpart F income of \$500 and earnings and profits (determined in accordance with section 964(a) and § 1.964-1) of \$800; such earnings and profits are determined without regard to distributions for 1964. Under paragraph (c)(1)(i)(a) of this section B Corporation's unused deficit of \$1,250 for 1963 reduces its earnings and profits for 1964 with respect to M Corporation to zero. The remaining \$750 of the unused deficit for 1963 applicable to M Corporation's interest in B Corporation may be used under paragraph (c)(1)(i)(a) of this section in later years to reduce M Corporation's interest in B Corporation's earnings and profits.

§ 1.952-2 Determination of gross income and taxable income of a foreign corporation.

For purposes of sections 951 through 972—

(a) *Determination of gross income.* The gross income of a foreign corporation for any taxable year shall, subject to the special rules of paragraph (c) of this section, be determined by treating such foreign corporation as a domestic corporation taxable under section 11 and by applying the principles of section 61 and the regulations thereunder.

(b) *Determination of taxable income.* The taxable income of a foreign corporation for any taxable year shall, subject to the special rules of paragraph (c) of this section, be determined by treating such foreign corporation as a domestic corporation taxable under section 11 and by applying the principles of section 63.

(c) *Special rules for purposes of this section.*—(1) *Nonapplication of certain provisions.* Except where otherwise distinctly expressed, the provisions of subchapters F, G, H, L, M, N, S, and T of chapter 1 of the Code shall not apply.

(2) *Application of principles of § 1.964-1.* The determinations with respect to a foreign corporation shall be made as follows:

(i) *Books of account.* The books of account to be used shall be those regularly maintained by the corporation for the purpose of accounting to its shareholders.

(ii) *Accounting principles.* Except as provided in subparagraphs (3) and (4) of this paragraph, the accounting principles to be employed are those described in paragraph (b) of § 1.964-1. Thus, in reflecting accounting principles generally accepted in the United States for purposes of consolidating the operations of foreign affiliates, no adjustment need be

made unless such adjustment will have a material effect, within the meaning of paragraph (b)(2) of § 1.964-1.

(iii) *Translation into United States dollars.*—(a) *In general.* Except as provided in (b) of this subdivision, the amounts determined in accordance with subdivision (ii) of this subparagraph shall be translated into United States dollars in accordance with the principles of paragraph (c) of § 1.964-1.

(b) *Special rule.* In any case in which the value of the foreign currency in relation to the United States dollar fluctuates more than 10 percent during any translation period (within the meaning of paragraph (c)(6) of § 1.964-1), the subpart F income and non-subpart F income shall be separately translated as if each constituted all the income of the controlled foreign corporation for the translation period.

(iv) *Tax accounting methods.* The tax accounting methods to be employed are those established or adopted by or on behalf of the foreign corporation under paragraph (d) of § 1.964-1. Thus, such accounting methods must be consistent with the manner of treating inventories, depreciation, and elections referred to in subdivisions (ii), (iii), and (iv) of paragraph (d)(1) of § 1.964-1 and used for purposes of such paragraph.

(v) *Exchange gain or loss.* Exchange gain or loss, determined in accordance with the principles of paragraph (e) of § 1.964-1, shall be taken into account and shall be allocated between subpart F income and non-subpart F income for any taxable year under a method which is reasonable under all the facts and circumstances. For example, such exchange gain or loss may be allocated to subpart F income in the same ratio that gross subpart F income of the corporation for the taxable year bears to its total gross income for the taxable year, determined without regard to this subdivision.

(3) *Necessity for recognition of gain or loss.* Gross income of a foreign corporation includes gain or loss only if such gain or loss would be recognized under the provisions of the Internal Revenue Code if the foreign corporation were a domestic corporation taxable under section 11 (subject to the modifications of subparagraph (1) of this paragraph). See section 1002.

(4) *Gross income and gross receipts.* The term "gross income" may not have the same meaning as the term "gross receipts". For example, in a manufacturing, merchandising, or mining business, gross income means the total sales less the cost of goods sold, plus any income from investments and from incidental or outside operations or sources.

(5) *Treatment of capital loss and net operating loss.* In determining taxable income of a foreign corporation for any taxable year—

(i) *Capital loss carryover.* The capital loss carryover provided by section 1212(a) shall not be allowed.

(ii) *Net operating loss deduction.* The net operating loss deduction under section 172(a) shall not be allowed.

PAR. 7. Paragraph (b)(2)(ii) of § 1.955-1 is amended by adding a new

(c). The amended provision reads as follows:

§ 1.955-1 Shareholder's pro rata share of amount of previously excluded subpart F income withdrawn from investment in less developed countries.

(b) *Amount withdrawn by controlled foreign corporation.* * * *

(2) *Limitations applicable in determining decreases.* * * *

(ii) *Treatment of earnings and profits.* * * *

(a) Amounts which are, or have been, included in the gross income of a United States shareholder of such controlled foreign corporation under section 951(a) (other than an amount included in gross income of a United States shareholder under section 951(a)(1)(A)(ii) or section 951(a)(1)(B) for the taxable year) and have not been distributed.

(b) Amounts described in section 959(b) which are, or have been, included in the gross income of a United States shareholder of another controlled foreign corporation under section 951(a) and which are distributed through a chain of ownership described in section 958(a) to the controlled foreign corporation with respect to which such determination is being made, or

(c)(i) Amounts which, for the current taxable year, are included in the gross income of a United States shareholder of such controlled foreign corporation under section 551(b) or would be so included under such section but for the fact that such amounts were distributed to such shareholder during the taxable year, or

(2) Amounts which, for any prior taxable year, have been included in the gross income of a United States shareholder of such controlled foreign corporation under section 551(b) and have not been distributed.

The rules of this subdivision apply only in determining the limitation on a controlled foreign corporation's decrease in qualified investments in less developed countries. See section 959 and the regulations thereunder for limitations on the exclusion from gross income of previously taxed earnings and profits.

PAR. 8. Paragraph (b)(2) of § 1.956-1 is amended by adding a new subdivision (iii). The amended provision reads as follows:

§ 1.956-1 Shareholder's pro rata share of a controlled foreign corporation's increase in earnings invested in United States property.

(b) *Amount of a controlled foreign corporation's investment of earnings in United States property.* * * *

(2) *Treatment of earnings and profits.* * * *

(i) Amounts which are, or have been, included in the gross income of a United States shareholder of such controlled foreign corporation under section 951(a) (other than an amount included in the gross income of a United States shareholder under section 951(a)(1)(B))

for the taxable year) and have not been distributed.

(ii) Amounts described in section 959 (b) which are, or have been, included in the gross income of a United States shareholder of another controlled foreign corporation under section 951(a) and which are distributed through a chain of ownership described in section 958(a) to the controlled foreign corporation with respect to which such determination is being made, or

(iii) (a) Amounts which are included in the gross income of a United States shareholder of such controlled foreign corporation under section 551(b) or would be so included under such section but for the fact that such amounts were distributed to such shareholder during the taxable year, or

(b) Amounts which, for any prior taxable year, have been included in the gross income of a United States shareholder of such controlled foreign corporation under section 551(b) and have not been distributed.

The rules of this subparagraph apply only in determining the limitation on a controlled foreign corporation's increase in earnings invested in United States property. See section 959 and the regulations thereunder for limitations on the exclusion from gross income of previously taxed earnings and profits.

PAR. 9. Section 1.957 and the historical note are amended to read as follows:

§ 1.957 Statutory provisions; controlled foreign corporations; United States persons.

SEC. 957. *Controlled foreign corporations; United States persons.* * * *

(b) *Special rule for insurance.* For purposes only of taking into account income described in section 953(a) (relating to income derived from insurance of United States risks), the term "controlled foreign corporation" includes not only a foreign corporation as defined by subsection (a) but also one of which more than 25 percent of the total combined voting power of all classes of stock 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 United States shareholders on any day during the taxable year of such corporation, if the gross amount of premiums or other consideration in respect of the reinsurance or the issuing of insurance or annuity contracts described in section 953(a)(1) exceeds 75 percent of the gross amount of all premiums or other consideration in respect of all risks.

[Sec. 957 (a), (b), and (c) as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006)]

PAR. 10. There is inserted immediately after § 1.957-1 the following new section.

§ 1.957-2 Controlled foreign corporation deriving income from insurance of United States risks.

(a) *In general.* For purposes of taking into account only the income derived from the insurance of United States risks under § 1.953-1, the term "controlled foreign corporation" means any foreign corporation of which more than 25 percent, but not 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 United States shareholders on any day of the taxable year of such foreign corporation, but only if the gross amount of premiums received by such foreign corporation during such taxable year which are attributable to the reinsuring and the issuing of insurance and annuity contracts in connection with United States risks, as defined in § 1.953-2 or 1.953-3, exceeds 75 percent of the gross amount of all premiums received by such foreign corporation during such year which are attributable to the reinsuring and the issuing of insurance and annuity contracts in connection with all risks. The subpart F income for a taxable year of a foreign corporation which is a controlled foreign corporation for such taxable year within the meaning of this paragraph shall, subject to the provisions of section 952 (b), (c), and (d), and § 1.952-1, include only the income derived from the insurance of United States risks, as determined under § 1.953-1.

(b) *Gross amount of premiums defined.* For a foreign corporation which is engaged in the business of reinsuring or issuing insurance or annuity contracts and which, if it were a domestic corporation engaged only in such business, would be taxable as—

(1) A life insurance company to which part I (sections 801 through 820) of subchapter L of the Code applies,

(2) A mutual insurance company to which part II (sections 821 through 826) of subchapter L of the Code applies, or

(3) A mutual marine insurance or other insurance company to which part III (sections 831 and 832) of subchapter L of the Code applies,

the term "gross amount of premiums" means, for purposes of paragraph (a) of this section, the gross amount of premiums and other consideration which are taken into account by a life insurance company under section 809(c)(1), determined without reduction for return premiums or for premiums and other consideration arising out of reinsurance ceded. Determinations for purposes of this paragraph shall be made without regard to section 501(c)(15).

PAR. 11. The following new sections are added:

§ 1.959 Statutory provisions; exclusion from gross income of previously taxed earnings and profits.

SEC. 959. *Exclusion from gross income of previously taxed earnings and profits—(a) Exclusion from gross income of United States persons.* For purposes of this chapter, the earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 951(a) shall not, when—

(1) Such amounts are distributed to, or

(2) Such amounts would, but for this subsection, be included under section 951 (a)(1)(B) in the gross income of,

such shareholder (or any other United States person who acquires from any person any portion of the interest of such United States shareholder in such foreign corporation, but only to the extent of such portion, and sub-

ject to such proof of the identity of such interest as the Secretary or his delegate may by regulations prescribe) directly, or indirectly through a chain of ownership described under section 958(a), be again included in the gross income of such United States shareholder (or of such other United States person).

(b) *Exclusion from gross income of certain foreign subsidiaries.* For purposes of section 951(a), the earnings and profits for a taxable year of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 951(a), shall not, when distributed through a chain of ownership described under section 958(a), be also included in the gross income of another controlled foreign corporation in such chain for purposes of the application of section 951(a) to such other controlled foreign corporation with respect to such United States shareholder (or to any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder in the controlled foreign corporation, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary or his delegate may prescribe by regulations).

(c) *Allocation of distributions.* For purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof, and then paragraph (1) thereof—

(1) First to earnings and profits attributable to amounts included in gross income under section 951(a)(1)(B) (or which would have been included except for subsection (a)(2) of this section),

(2) Then to earnings and profits attributable to amounts included in gross income under section 951(a)(1)(A) (but reduced by amounts not included under section 951(a)(1)(B) because of the exclusion in subsection (a)(2) of this section), and

(3) Then to other earnings and profits.

(d) *Distributions excluded from gross income not to be treated as dividends.* Except as provided in section 960(a)(3), any distribution excluded from gross income under subsection (a) shall be treated, for purposes of this chapter, as a distribution which is not a dividend.

[Sec. 959 as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006)]

§ 1.959-1 Exclusion from gross income of United States persons of previously taxed earnings and profits.

(a) *In general.* Sections 951 through 964 provide that certain types of income of controlled foreign corporations will be subject to United States income tax even though such amounts are not currently distributed to the United States shareholders of such corporations. The amounts so taxed to certain United States shareholders are described as subpart F income, previously excluded subpart F income withdrawn from investment in less developed countries, and increases in earnings invested in United States property. Section 959 provides that amounts taxed as subpart F income or as previously excluded subpart F income withdrawn from investment in less developed countries are not taxed again as increases in earnings invested in United States property. Section 959 also provides an exclusion whereby none of the amounts so taxed are taxed again when actually distributed directly, or indirectly through a chain of ownership described in section 958(a), to United

States shareholders or to such shareholders' successors in interest. The exclusion also applies to amounts taxed to United States shareholders as income of one controlled foreign corporation and later distributed to another controlled foreign corporation in such a chain of ownership where such amounts would otherwise be again included in the income of such shareholders or their successors in interest as subpart F income of the controlled foreign corporation to which they are distributed. Section 959 also provides rules for the allocation of distributions to earnings and profits and for the non-dividend treatment of actual distributions which are excluded from gross income.

(b) *Actual distributions to United States persons.* The earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder of such corporation under section 951(a) shall not, when such amounts are distributed to such shareholder directly, or indirectly through a chain of ownership described in section 958(a), be again included in the gross income of such United States shareholder. See section 959(a)(1). Thus, earnings and profits attributable to amounts which are, or have been, included in the gross income of a United States shareholder of a foreign corporation under section 951(a)(1)(A)(i) as subpart F income, under section 951(a)(1)(A)(ii) as previously excluded subpart F income withdrawn from investment in less developed countries, or under section 951(a)(1)(B) as earnings invested in United States property, shall not be again included in the gross income of such shareholder when such amounts are actually distributed, directly or indirectly, to such shareholder. See paragraph (d) of this section for exclusion applicable to such shareholder's successor in interest. The application of this paragraph may be illustrated by the following example:

Example. (a) A, a United States shareholder, owns 100 percent of the only class of stock of R Corporation, a corporation organized on January 1, 1963, which is a controlled foreign corporation throughout the period here involved. Both A and R Corporation use the calendar year as a taxable year.

(b) During 1964, R Corporation derives \$100 of subpart F income, and A includes such amount in his gross income under section 951(a)(1)(A)(i). Corporation R's current and accumulated earnings and profits (before taking into account distributions made during 1964) are \$150. Also, during 1964, R Corporation distributes \$50 to A. The \$50 distribution is excludable from A's gross income for 1964 under this paragraph and § 1.959-3 because such distribution represents earnings and profits attributable to amounts which are included in A's gross income for such year under section 951(a).

(c) If instead of deriving the \$100 of subpart F income in 1964, R Corporation derives such amount during 1963 and has earnings and profits for 1963 in excess of \$100, A must include \$100 in his gross income for 1963 under section 951(a)(1)(A)(i). However, the \$50 distribution made by R Corporation to A during 1964 is excludable from A's gross income for such year under this paragraph

and § 1.959-3 because such distribution represents earnings and profits attributable to amounts which have been included in A's gross income for 1963 under section 951(a).

(d) If, with respect to 1964—

(1) Instead of owning the stock of R Corporation directly, A owns such stock through a chain of ownership described in section 958(a), that is, A owns 100 percent of M Corporation which owns 100 percent of N Corporation which owns 100 percent of R Corporation,

(2) Both M and N Corporations use the calendar year as a taxable year and are controlled foreign corporations throughout the period here involved,

(3) Corporation R derives \$100 of subpart F income and has earnings and profits in excess of \$100,

(4) Neither M Corporation nor N Corporation has earnings and profits or a deficit in earnings and profits, and

(5) The \$50 distribution is from R Corporation to N Corporation to M Corporation to A,

A must include \$100 in his gross income for 1964 under section 951(a)(1)(A)(i) by reason of his indirect ownership of R Corporation. However, the \$50 distribution is excludable from A's gross income for 1964 under this paragraph and § 1.959-3 because such distribution represents earnings and profits attributable to amounts which are included in A's gross income for such year under section 951(a) and are distributed indirectly to A through a chain of ownership described in section 958(a).

(c) *Excludable investment of earnings in United States property.* The earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder of such corporation under section 951(a)(1)(A) shall not, when such amounts would, but for section 959(a)(2) and this paragraph, be included under section 951(a)(1)(B) in the gross income of such shareholder directly, or indirectly through a chain of ownership described in section 958(a), be again included in the gross income of such United States shareholder. Thus, earnings and profits attributable to amounts which are, or have been, included in the gross income of a United States shareholder of a foreign corporation under section 951(a)(1)(A)(i) as subpart F income or under section 951(a)(1)(A)(ii) as previously excluded subpart F income withdrawn from investment in less developed countries may be invested in United States property without being again included in such shareholder's income under section 951(a). Moreover, the first amounts deemed invested in United States property are amounts previously included in the gross income of a United States shareholder under section 951(a)(1)(A). See paragraph (d) of this section for exclusion applicable to such shareholder's successor in interest. The application of this paragraph may be illustrated by the following example:

Example. (a) A, a United States shareholder, owns 100 percent of the only class of stock of R Corporation, a corporation organized on January 1, 1963, which is a controlled foreign corporation throughout the period here involved. Both A and R Corporation use the calendar year as a taxable year.

(b) During 1964, R Corporation derives \$35 of subpart F income, and A includes

such amount in his gross income under section 951(a)(1)(A)(i). During 1964, R Corporation also invests \$50 in tangible property (other than property described in section 956(b)(2)) located in the United States. Corporation R makes no distributions during the year, and its current earnings and profits are in excess of \$50. Of the \$50 investment of earnings in United States property, \$35 is excludable from A's gross income for 1964 under section 959(a)(2) because such amount represents earnings and profits which are attributable to amounts which are included in A's gross income for such year under section 951(a)(1)(A)(i) and therefore may be invested in United States property without again being included in A's gross income. The remaining \$15 is includible in A's gross income for 1964 under section 951(a)(1)(B).

(c) If, instead of deriving \$35 of subpart F income in 1964, R Corporation has no subpart F income for 1964 but derives the \$35 of subpart F income during 1963 and has earnings and profits for such year in excess of \$35, A must include \$35 in his gross income for 1963 under section 951(a)(1)(A)(i). However, of the \$50 investment of earnings in United States property made by R Corporation during 1964, \$35 is excludable from A's gross income for 1964 under section 959(a)(2) because such amount represents earnings and profits attributable to amounts which have been included in A's gross income for 1963 under section 951(a)(1)(A)(i). The remaining \$15 is includible in A's gross income for 1964 under section 951(a)(1)(B).

(d) *Application of exclusions to shareholder's successor in interest.* If a United States person (as defined in § 1.957-4) acquires from any person any portion of the interest in the foreign corporation of a United States shareholder referred to in paragraph (b) or (c) of this section, the rules of such paragraph shall apply to such acquiring person but only to the extent that the acquiring person establishes to the satisfaction of the district director the right to the exclusion provided by such paragraph. The information to be furnished by the acquiring person to the district director with his return for the taxable year to support such exclusion shall include:

(1) The name, address, and taxable year of the foreign corporation from which the distribution is received and of all other corporations, partnerships, trusts, or estates in any applicable chain of ownership described in section 958(a);

(2) The name and address of the person from whom the stock interest was acquired;

(3) A description of the stock interest acquired and its relation, if any, to a chain of ownership described in section 958(a);

(4) The amount for which an exclusion under section 959(a) is claimed; and

(5) Evidence showing that the earnings and profits for which an exclusion is claimed are attributable to amounts which were included in the gross income of a United States shareholder under section 951(a), that such amounts were not previously excluded from the gross income of a United States person, and the identity of the United States shareholder including such amounts.

Such other information as may be required by the district director in support of the exclusion.

Example. (a) A, a United States shareholder, owns 100 percent of the only class of stock of R Corporation, a corporation organized on January 1, 1964, and a controlled foreign corporation throughout the period here involved. Both A and R Corporation use the calendar year as a taxable year.

(b) During 1964, R Corporation has \$100 of subpart F income and earnings and profits in excess of \$100. A includes \$100 in his gross income for 1964 under section 951(a)(1)(A). (i) During 1965, A sells 40 percent of his stock in R Corporation to B, a United States person who uses the calendar year as a taxable year. In 1965, R Corporation has no earnings and profits and experiences no increase in earnings invested in United States property. Corporation R distributes \$40 to B on December 1, 1965. If B establishes his right to the exclusion to the satisfaction of the district director, he may exclude \$40 from his gross income for 1965 under section 959(a)(1).

(c) If, instead of selling his 40-percent interest directly to B, A sells on February 1, 1965, 40 percent of his stock in R Corporation to C, a nonresident alien, and on October 1, 1965, B acquires the 40-percent interest in R Corporation from C, the result is the same as in paragraph (b) of this example, if B establishes his right to the exclusion to the satisfaction of the district director.

(d) If, instead of acquiring 40 percent, B acquires only 5 percent of A's stock in R Corporation and R Corporation distributes \$5 to B during 1965, B is not a United States shareholder (within the meaning of section 951(b)) with respect to R Corporation since he owns only 5 percent of the stock of R Corporation. Notwithstanding, B may exclude the \$5 distribution from his gross income for 1965 under section 959(a)(1) if he establishes his right to the exclusion to the satisfaction of the district director.

(e) If the facts are assumed to be the same as in paragraphs (a) and (b) of this example except that—

(1) A owns the stock of R Corporation indirectly through a chain of ownership described in section 958(a), that is, A owns 100 percent of M Corporation which owns 100 percent of N Corporation which owns 100 percent of R Corporation,

(2) B acquires from N Corporation 40 percent of the stock in R Corporation,

(3) Both M Corporation and N Corporation are controlled foreign corporations which use the calendar year as a taxable year,

(4) Neither M Corporation nor N Corporation has any amount in 1964 or 1965 which is includible in gross income of United States shareholders under section 951(a), and

(5) Neither M Corporation nor N Corporation has a deficit in earnings and profits for 1964.

the result is the same as in paragraph (b) of this example if B establishes his right to the exclusion to the satisfaction of the district director.

§ 1.959-2 Exclusion from gross income of controlled foreign corporations of previously taxed earnings and profits.

(a) **Applicable rule.** The earnings and profits for a taxable year of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 951(a) shall not, when distributed through a chain of ownership described in section 958(a), be also included in the gross income of another controlled foreign corporation in such chain for purposes of the application of section 951(a) to such

other controlled foreign corporation with respect to such United States shareholder. See section 959(b). The exclusion from the income of such other foreign corporation also applies with respect to any other United States shareholder who acquires from such United States shareholder or any other person any portion of the interest of such United States shareholder in the controlled foreign corporation, but only to the extent the acquiring shareholder establishes to the satisfaction of the district director the right to such exclusion. The United States shareholder claiming the exclusion under section 959(b) shall furnish to the district director with his return for the taxable year the information required under paragraph (d) of § 1.959-1 to support the exclusion under this paragraph.

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

Example. (a) A, a United States shareholder, owns 100 percent of the only class of stock of M Corporation which in turn owns 100 percent of the only class of stock of N Corporation. A and corporations M and N use the calendar year as a taxable year and corporations M and N are controlled foreign corporations throughout the period here involved.

(b) During 1963, N Corporation invests \$100 in tangible property (other than property described in section 956(b)(2)) located in the United States and has earnings and profits in excess of \$100. A is required to include \$100 in his gross income for 1963 under section 951(a)(1)(B) by reason of his indirect ownership of the stock of N Corporation. During 1963, M Corporation has no income or investments other than the income derived from a distribution of \$100 from N Corporation. Corporation M has earnings and profits of \$100 for 1963. Under paragraph (a) of § 1.954-2, the \$100 distribution received by M Corporation from N Corporation would otherwise constitute subpart F income of M Corporation; however, by reason of section 959(b) and this section, this amount does not constitute gross income of M Corporation for purposes of determining amounts includible in A's gross income under section 951(a)(1)(A)(i).

(c) During 1964, N Corporation derives \$100 of subpart F income and distributes \$100 to M Corporation which has no subpart F income for 1964 but which invests the \$100 distribution in tangible property (other than property described in section 956(b)(2)) located in the United States. Corporation N's earnings and profits for 1964 are in excess of \$100, and M Corporation's current and accumulated earnings and profits (before taking into account distributions made during 1964) are in excess of \$100. A is required with respect to N Corporation to include \$100 in his gross income for 1964 under section 951(a)(1)(A)(i) by reason of his indirect ownership of the stock of N Corporation. The investment by M Corporation in United States property would otherwise constitute an investment of earnings in United States property to which section 956 applies; however, by reason of section 959(b) and this section, such amount does not constitute gross income of M Corporation for purposes of determining amounts includible in A's gross income under section 951(a)(1)(B).

(d) If during 1965, N Corporation invests \$100 in tangible property (other than property described in section 956(b)(2)) located in the United States and has earnings and profits in excess of \$100, A will be required with respect to N Corporation to include \$100

in his gross income for 1965 under section 951(a)(1)(B), because the \$100 of earnings and profits for 1964 attributable to N Corporation's subpart F income which was taxed to A in 1964 was distributed to M Corporation in such year.

(e) If, with respect to 1966—

(1) Corporation N owns 100 percent of the only class of stock of R Corporation,

(2) Corporation R derives \$100 of subpart F income, has earnings and profits in excess of \$100, and makes no distributions to N Corporation,

(3) Corporation N invests \$25 in tangible property (other than property described in section 956(b)(2)) located in the United States and has current and accumulated earnings and profits in excess of \$25, and

(4) Corporation M has no income or investments and does not have a deficit in earnings and profits,

the \$100 of subpart F income derived by R Corporation is includible in A's gross income for 1966 under section 951(a)(1)(A)(i) and the \$25 investment of earnings in United States property by N Corporation is includible in A's gross income for 1966 under section 951(a)(1)(B).

(f) If, however, the facts are the same as in paragraph (e) of this example except that—

(1) During 1966, R Corporation distributes \$20 to N Corporation, and

(2) Corporation N makes no distributions during such year to M Corporation,

of the \$25 investment in United States property by N Corporation, \$20 is not includible in A's gross income for 1966 because such amount represents earnings and profits which are attributable to amounts included in A's gross income for such year under section 951(a)(1)(A)(i) with respect to R Corporation and which have been distributed to N Corporation by R Corporation. By reason of section 959(b) and this section, such \$20 distribution to N Corporation does not constitute gross income of N Corporation for purposes of determining amounts includible in A's gross income under section 951(a)(1)(B); however, the remaining \$5 of investment of earnings in United States property by N Corporation in 1966 is includible in A's gross income for such year under section 951(a)(1)(B).

§ 1.959-3 Allocation of distributions to earnings and profits of foreign corporations.

(a) **In general.** For purposes of §§ 1.959-1 and 1.959-2, the source of the earnings and profits from which distributions are made by a foreign corporation as between earnings and profits attributable to increases in earnings invested in United States property, previously taxed subpart F income, previously excluded subpart F income withdrawn from investment in less developed countries, and other amounts shall be determined in accordance with section 959(c) and paragraphs (b) through (e) of this section.

(b) **Applicability of section 316(a).** For purposes of this section, section 316(a) shall be applied, in determining the source of distributions from the earnings and profits of a foreign corporation, by first applying section 316(a)(2) and then by applying section 316(a)(1)—

(1) First, as provided by section 959(c)(1), to earnings and profits attributable to amounts included in gross income of a United States shareholder under section 951(a)(1)(B) (or which

would have been so included but for section 959(a)(2) and paragraph (c) of § 1.959-1).

(2) Secondly, as provided by section 959(c)(2), to earnings and profits attributable to amounts included in gross income of a United States shareholder under section 951(a)(1)(A) (but reduced by amounts not included in such gross income under section 951(a)(1)(B) because of the exclusion provided by section 959(a)(2) and paragraph (c) of § 1.959-1), and

(3) Finally, as provided by section 959(c)(3), to other earnings and profits.

Thus, distributions shall be considered first attributable to amounts, if any, described in subparagraph (1) of this paragraph (first for the current taxable year and then for prior taxable years beginning with the most recent prior taxable year), secondly to amounts, if any, described in subparagraph (2) of this paragraph (first for the current taxable year and then for prior taxable years beginning with the most recent prior taxable year), and finally to the amounts, if any, described in subparagraph (3) of this paragraph (first for the current taxable year and then for prior taxable years beginning with the most recent prior taxable year). See, however, paragraph (a)(3) of § 1.963-5 for a special rule for determination of the source of distributions counting as minimum distributions. Earnings and profits are classified as to year and as to section 959(c) amount in the year in which such amounts are included in gross income of a United States shareholder under section 951(a) (or would be so included but for the provisions of section 959(a)(2)), and subsequent distributions of such amounts to a higher tier in a chain of ownership described in section 958(a) do not change such classifications. Earnings and profits of a foreign corporation attributable to amounts previously excluded subpart F income withdrawn from investment in less developed countries (or from investments in export trade assets) shall be reclassified as amounts to which subparagraph (2), rather than subparagraph (3), of this paragraph applies for purposes of determining priority of distribution, and such earnings and profits shall be considered attributable to the taxable year in which the withdrawal occurs. This paragraph shall apply to distributions by one foreign corporation to another foreign corporation and by a foreign corporation to a United States person. The application of this paragraph may be illustrated by the following example:

Example. (a) M, a controlled foreign corporation is organized on January 1, 1963, and is 100-percent owned by A, a United States shareholder. Both A and M Corporation use the calendar year as a taxable year, and M Corporation is a controlled foreign corporation throughout the period here involved. As of December 31, 1966, M Corporation's accumulated earnings and profits of \$450 (before taking into account distributions made in 1966) applicable to A's interest in such corporation are classified for purposes of section 959(c) as follows:

Year	Classification of earnings and profits for purposes of sec. 959		
	(c)(1)	(c)(2)	(c)(3)
1963.....	\$100		
1964.....	100	\$75	
1965.....		75	\$50
1966.....			50

(b) During 1966, M Corporation makes three separate distributions to A of \$150 each, and the source of such distributions under section 959(c) is as follows:

	Amount	Year	Allocation of distributions under sec. 959
Distribution No. 1.....	\$100	1964	(c)(1)
	50	1963	(c)(1)
	150		
Distribution No. 2.....	50	1963	(c)(1)
	75	1965	(c)(2)
	25	1964	(c)(2)
	150		
Distribution No. 3.....	50	1964	(c)(2)
	50	1966	(c)(3)
	50	1965	(c)(3)
	150		

(c) If, in addition to the above facts—

(1) M Corporation owns throughout the period here involved 100 percent of the only class of stock of N Corporation, a controlled foreign corporation which uses the calendar year as a taxable year,

(2) Corporation N derives \$60 of subpart F income for 1963 which A includes in his gross income for such year under section 951(a)(1)(A)(i),

(3) Corporation N has earnings and profits for 1963 of \$60 but has neither earnings or profits nor a deficit in earnings and profits for 1964, 1965, or 1966, and

(4) During 1966, N Corporation invests \$20 in tangible property (not described in section 956(b)(2)) located in the United States and distributes \$45 to M Corporation,

the \$20 investment of earnings in United States property is excludable from A's gross income for 1966, under section 959(a)(2) and paragraph (c) of § 1.959-1, with respect to N Corporation and the \$45 dividend received by M Corporation does not, under section 959(b) and § 1.959-2, constitute gross income of M Corporation for 1966 for purposes of determining amounts includible in A's gross income under section 951(a)(1)(A)(i) with respect to M Corporation. However, the \$45 dividend paid by N Corporation to M Corporation is allocated under section 959(c) and this paragraph to the earnings and profits of N Corporation as follows: \$20 to 1963 earnings described in section 959(c)(1) and \$25 to 1963 earnings described in section 959(c)(2). In such case, M Corporation's earnings and profits of \$495 (before taking into account distributions made in 1966) would be classified as follows for purposes of section 959(c):

Year	Classification of earnings and profits for purposes of sec. 959		
	(c)(1)	(c)(2)	(c)(3)
1963.....	\$120	\$25	
1964.....	100	75	
1965.....		75	\$50
1966.....			50

(d) The three distributions to A in 1966 of \$150 each would then have the following source under section 959(c):

	Amount	Year	Allocation of distributions under sec. 959
Distribution No. 1.....	\$100	1964	(c)(1)
	50	1963	(c)(1)
	150		
Distribution No. 2.....	70	1963	(c)(1)
	75	1965	(c)(2)
	5	1964	(c)(2)
	150		
Distribution No. 3.....	70	1964	(c)(2)
	25	1963	(c)(2)
	50	1966	(c)(3)
	5	1965	(c)(3)
	150		

(c) *Allocation of deficits in earnings and profits.* For purposes of this section, a United States shareholder's pro rata share (determined in accordance with the principles of paragraph (e) of § 1.951-1) of a foreign corporation's deficit in earnings and profits, determined under section 964(a) and § 1.964-1, for any taxable year shall be applied first to earnings and profits described in paragraph (b)(3) of this section (for prior taxable years beginning with the most recent prior taxable year), secondly to earnings and profits described in paragraph (b)(2) of this section (for prior taxable years beginning with the most recent prior taxable year), and finally to earnings and profits described in paragraph (b)(1) of this section (for prior taxable years beginning with the most recent prior taxable year), for taxable years of such corporation beginning after December 31, 1962. The application of this paragraph may be illustrated by the following example:

Example. (a) Foreign corporation N is organized on January 1, 1964, is 100-percent owned by A, a United States shareholder, and is a controlled foreign corporation throughout the period here involved. Both A and N Corporation use the calendar year as a taxable year. For purposes of section 959, A's interest in N Corporation's earnings and profits as of December 31, 1964, determined after distributions for 1964, is classified as follows:

Sec. 959(c)(1) amounts.....	\$100
Sec. 959(c)(2) amounts.....	100
Sec. 959(c)(3) amounts.....	100
Total earnings and profits.....	300

(b) During 1965, N Corporation has a deficit in earnings and profits of \$125, makes no investment of earnings in United States property, no distributions, and no withdrawal of previously excluded subpart F income for investments in less developed countries. For purposes of section 959, A's interest in N Corporation's earnings and profits as of December 31, 1965, is classified as follows:

Sec. 959(c)(1) amounts.....	\$100
Sec. 959(c)(2) amounts.....	75
Sec. 959(c)(3) amounts.....	0
Total earnings and profits.....	175

(c) During 1966, N Corporation has a deficit in earnings and profits of \$150, makes

no investment of earnings in United States property, no distributions, and no withdrawal of previously excluded subpart F income from investments in less developed countries. For purposes of section 959, A's interest in N Corporation's earnings and profits as of December 31, 1966, is classified as follows:

Sec. 959(c)(1) amounts.....	\$25
Sec. 959(c)(2) amounts.....	0
Sec. 959(c)(3) amounts.....	0
Total	25

(d) During 1967, N Corporation has earnings and profits of \$300, has no subpart F income, no investment of earnings in United States property, no withdrawal of previously excluded subpart F income from investments in less developed countries, but distributes \$250 to A. The \$300 of earnings and profits for 1967 is classified as an amount to which section 959(c)(3) applies. Of the \$250 distribution by N Corporation for such year, \$25 is distributed first from 1964 earnings and profits described in section 959(c)(1) and paragraph (b)(1) of this section, and \$225 is then distributed from 1967 earnings and profits described in section 959(c)(3) and paragraph (b)(3) of this section. A is required to include \$225 in his gross income for 1967 as a dividend, and \$25 is excludable from his gross income under section 959(a)(1) and paragraph (b) of § 1.959-1.

(d) *Treatment of certain foreign taxes.* For purposes of this section, any amount described in subparagraph (1), (2), or (3) of paragraph (b) of this section which is distributed by a foreign corporation through a chain of ownership described in section 958(a)(2) shall be reduced by any income, war profits, or excess profits taxes imposed on or with respect to such distribution by any foreign country or possession of the United States.

Example. (a) Domestic corporation M owns 100 percent of the only class of stock of foreign corporation A, which is incorporated under the laws of foreign country X and which, in turn, owns 100 percent of the only class of stock of foreign corporation B, which is incorporated under the laws of foreign country Y. All corporations use the calendar year as a taxable year and corporations A and B are controlled foreign corporations throughout the period here involved.

(b) During 1963, B Corporation (a less developed country corporation for 1963 within the meaning of § 1.955-5) derives \$90 of subpart F income, after incurring \$10 of foreign income tax allocable to such income under paragraph (c) of § 1.954-1, has earnings and profits in excess of \$90, and makes no distributions. Corporation M must include \$90 in its gross income for 1963 under section 951(a)(1)(A)(i). As of December 31, 1963, with respect to M Corporation, B Corporation has earnings and profits for 1963 described in section 959(c)(2) of \$90.

(c) During 1964, B Corporation has neither earnings and profits nor a deficit in earnings and profits but distributes \$90 to A Corporation, and, by reason of section 959(b) and § 1.959-2, such amount is not includible in the gross income of M Corporation for 1964 under section 951(a) with respect to A Corporation. Corporation A incurs a withholding tax of \$13.50 on the \$90 dividend

distributed from B Corporation (15 percent of \$90) and an additional foreign income tax of 10 percent or \$7.65 by reason of the inclusion of the net distribution of \$76.50 (\$90 minus \$13.50) in its taxable income for 1964. As of December 31, 1964, with respect to M Corporation, B Corporation's earnings and profits for 1963 described in section 959(c)(2) amount to zero (\$90 minus \$90); and A Corporation's earnings and profits for 1963 described in section 959(c)(2) amount to \$68.85 (\$90 minus \$13.50 minus \$7.65).

(e) *Determination of foreign tax credit.* For purposes of determining the foreign tax credit under section 960(b) and the regulations thereunder in a case in which distributions received by a taxpayer include earnings and profits which were taxed to such taxpayer under section 951(a) by reason of his ownership (within the meaning of section 958(a)(2)) of a second-tier corporation, the rules of paragraph (b) of this section shall apply except that in applying subparagraph (1), (2), or (3) of such paragraph distributions from the earnings and profits for any taxable year shall be considered first attributable to the earnings and profits of the second-tier corporation, to the extent of such earnings and profits, and then to the earnings and profits of the first-tier corporation, to the extent thereof. For purposes of this paragraph, a second-tier corporation is a foreign corporation referred to in section 960(a)(1)(B), and a first-tier corporation is a foreign corporation referred to in section 960(a)(1)(A). The application of this paragraph may be illustrated by the following examples:

Example (1). (a) Domestic corporation A, a United States shareholder, owns 100 percent of the only class of stock of foreign corporation R which, in turn, owns 100 percent of the only class of stock of foreign corporation S. All corporations use the calendar year as a taxable year, and corporations R and S are controlled foreign corporations throughout the period here involved.

(b) Neither R Corporation nor S Corporation has subpart F income for 1963. During 1963, S Corporation increases by \$100 its investment in tangible property (not described in section 956(b)(2)) located in the United States, makes no distributions, and has earnings and profits of \$100. Corporation A must include \$100 in its gross income for 1963 under section 951(a)(1)(B) with respect to S Corporation. During 1963, R Corporation also increases by \$100 its investment in tangible property (not described in section 956(b)(2)) located in the United States, makes no distributions, and has earnings and profits of \$100. Corporation A must include \$100 in its gross income for 1963 under section 951(a)(1)(B) with respect to R Corporation.

(c) During 1964, S Corporation distributes \$100 to R Corporation, and R Corporation distributes \$100 to A Corporation. Neither corporation has any earnings or profits or deficit in earnings and profits for such year. At December 31, 1964, R Corporation has earnings and profits (computed before distributions to A Corporation made for the year) of \$200, consisting of \$100 of section

959(c)(1) amounts of R Corporation for 1963 and of \$100 of section 959(c)(1) amounts of S Corporation for 1963. For purposes of determining the foreign tax credit under section 960(b) and the regulations thereunder, the \$100 distribution by R Corporation shall be considered attributable to S Corporation's earnings and profits for 1963 described in section 959(c)(1).

Example (2). (a) Domestic corporation A, a United States shareholder, owns 100 percent of the only class of stock of foreign corporation T which, in turn, owns 100 percent of the only class of stock of foreign corporation U. All corporations use the calendar year as a taxable year, and corporations T and U are controlled foreign corporations throughout the period here involved.

(b) During 1964, T Corporation invests \$100 in tangible property (not described in section 956(b)(2)) located in the United States. For 1964, T Corporation has no subpart F income and makes no distributions; A must include \$100 in its gross income for 1964 under section 951(a)(1)(B) with respect to T Corporation. For 1964, U Corporation has no subpart F income or investment of earnings in United States property but U Corporation has \$100 of earnings and profits which it distributes to T Corporation. At December 31, 1964, T Corporation has earnings and profits of \$300, consisting of operating income of \$100 for each of the years 1963 and 1964 and \$100 in dividends received from the earnings and profits of U Corporation for 1964. These earnings and profits are classified as follows under section 959(c): \$100 of section 959(c)(1) amounts of T Corporation for 1964, \$100 of section 959(c)(3) amounts of U Corporation for 1964, and \$100 of section 959(c)(3) amounts of T Corporation for 1963.

(c) During 1965 neither T Corporation nor U Corporation has any earnings and profits or deficit in earnings and profits or investment of earnings in United States property, but T Corporation distributes \$100 to A Corporation. For purposes of determining the foreign tax credit under section 960(b) and the regulations thereunder, the \$100 distribution of T Corporation shall be considered attributable to T Corporation's earnings and profits for 1964 described in section 959(c)(1).

(f) *Illustration.* The application of this section may be illustrated by the following example:

Example. (a) M, a controlled foreign corporation is organized on January 1, 1963, and is wholly owned by A, a United States shareholder. Both A and Corporation M use the calendar year as a taxable year.

(b) Corporation M's earnings and profits (before distributions) for 1963 are \$200, \$100 of which is attributable to subpart F income. Corporation M's earnings and profits for such year also include \$25 attributable to subpart F income which is excluded from M Corporation's foreign base company income under section 954(b)(1) as dividends, interest, and gains invested in qualified investments in less developed countries. Corporation M's increase in earnings invested in tangible property (not described in section 956(b)(2)) located in the United States for 1963, is \$50, and M Corporation makes a distribution of such property during such year of \$20. For purposes of section 959, A's interest in M Corporation's earnings and profits as of December 31, 1963, determined after the distributions of \$20, is classified as follows:

Sec. 959(c)(1) amounts:

Earnings for 1963 attributable to increased investment in U.S. property which would have been included in A's gross income but for application of sec. 959(a)(2) and § 1.959-1(c)	\$50	
Less: Distribution for 1963 allocated under sec. 959(c)(1) and paragraph (b)(1) of this section to such amounts	20	\$30
Sec. 959(c)(2) amounts:		
Earnings for 1963 attributable to subpart F income included in A's gross income under sec. 951(a)(1)(A)(i)	100	
Less: Earnings for 1963 attributable to increased investment in U.S. property which would have been included in A's gross income but for application of sec. 959(a)(2) and § 1.959-1(c)	50	50
Sec. 959(c)(3) amounts:		
Predistribution earnings for 1963	200	
Less: Earnings for 1963 classified as:		
Sec. 959(c)(1) amounts	\$50	
Sec. 959(c)(2) amounts	50	100
A's total interest in M Corporation's earnings and profits	180	

For 1963, A is required to include \$100 of subpart F income in his gross income under section 951(a)(1)(A)(i). He would have been required to include \$50 in his gross income under section 951(a)(1)(B) as M Corporation's increase in earnings invested in United States property, except that section 959(a)(2) and paragraph (c) of § 1.959-1 provide in effect that earnings and profits taxed to A under section 951(a)(1)(A) with respect to M Corporation (whether in the current taxable year or in prior years) may be invested in United States property without again being included in gross income under section 951(a). The \$20 dividend from M Corporation is excluded from A's gross income under section 959(a)(1) and paragraph (b) of § 1.959-1, since such distribution is

allocated under section 959(c)(1) and paragraph (b)(1) of this section to amounts described in section 959(c)(1).

(c) During 1964, M Corporation's earnings and profits (before distributions) are \$300, \$75 of which is attributable to subpart F income. Corporation M has no change in investments in United States property during such year and withdraws \$15 of previously excluded subpart F income from investment in less developed countries. Corporation M makes a cash distribution of \$250 to A during 1964. For purposes of section 959, A's interest in M Corporation's earnings and profits as of December 31, 1964, determined after the distribution of \$250, is classified as follows:

Sec. 959(c)(1) amounts:		
Sec. 959(c)(1) net amount for 1963 (as determined under paragraph (b) of this example)	\$30	
Less: Distribution for 1964 allocated under sec. 959(c)(1) and paragraph (b)(1) of this section to such amount	30	0
Sec. 959(c)(2) amounts:		
Sec. 959(c)(2) net amount for 1963 (as determined under paragraph (b) of this example)	50	
Plus: Earnings for 1964 attributable to:		
Subpart F income for 1964 included in A's gross income under sec. 951(a)(1)(A)(i)	75	
Previously excluded subpart F income withdrawn in 1964 from investment in less developed countries and included in A's gross income under sec. 951(a)(1)(A)(ii)	15	
Less: Distribution for 1964 allocated under sec. 959(c)(2) and paragraph (b)(2) of this section to such amounts	140	0
Sec. 959(c)(3) amounts:		
Sec. 959(c)(3) net amount for 1963 (as determined under paragraph (b) of this example)	100	
Plus: Sec. 959(c)(3) net amount for 1964:		
Predistribution earnings for 1964	\$300	
Less:		
Earnings for 1964 classified as sec. 959(c)(1) amounts (\$30) and as sec. 959(c)(2) amounts (\$75-\$15)	\$90	
Distributions for 1964 allocated under sec. 959(c)(3) and paragraph (b)(3) of this section	80	170
A's total interest in M Corporation's earnings and profits	230	

For 1964, A is required to include in his gross income under section 951(a)(1)(A)(i) \$75 of subpart F income, and under section 951(a)(1)(A)(ii) \$15 of previously excluded subpart F income withdrawn from investment in less developed countries. Of the \$250 cash distribution, A may exclude \$170 from his gross income under section 959(a)(1) and paragraph (b) of § 1.959-1 and \$80 is includible in his gross income as a dividend. (d) The source under section 959(c) of the 1964 distribution of \$250 to A is as follows:

Year	Amount	Allocation of distribution under sec. 959
1963	30	(c)(1).
1964	90	(c)(2).
1963	50	(c)(2).
1964	80	(c)(3).
Total	250	

§ 1.959-4 Distributions to United States persons not counting as dividends.

Except as provided in section 960(a)(3), any distribution to a United States person which is excluded from the gross income of such person under section 959(a)(1) and § 1.959-1 shall be treated for purposes of chapter 1 (relating to normal taxes and surtaxes) of subtitle A (relating to income taxes) of the Code as a distribution which is not a dividend. However, see paragraph (b)(1) of § 1.956-1, relating to the dividend limitation on the amount of a controlled foreign corporation's investment of earnings in United States property.

[F.R. Doc. 64-6844; Filed, July 9, 1964; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 946]

IRISH POTATOES GROWN IN WASHINGTON

Proposed Expenses and Rate of Assessment

Notice is hereby given that the Secretary of Agriculture is considering the approval of the expenses and rate of assessment hereinafter set forth, which were recommended by the State of Washington Potato Committee, established pursuant to Marketing Agreement No. 113, as amended, and Order No. 946 (7 CFR Part 946).

This marketing order regulates the handling of Irish potatoes grown in Washington, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C., 20250, not later than the 15th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

§ 946.216 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the State of Washington Potato Committee, established pursuant to Marketing Agreement No. 113 and Order No. 946, to enable such committee to perform its functions, pursuant to the provisions of the aforesaid marketing agreement and order, during the fiscal year ending May 31, 1965, will amount to \$23,013.00.

(b) The rate of assessment to be paid by each handler pursuant to Marketing Agreement No. 113 and Order No. 946 shall be three-eighths of one cent (\$0.00375) per hundredweight of potatoes handled by him as the first handler thereof during said fiscal year.

(c) Terms used in this section shall have the same meaning as when used in the said marketing agreement and order.

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

Dated: July 7, 1964.

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

[F.R. Doc. 64-6890; Filed, July 9, 1964; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 253]

COMMERCIAL FISHERIES RESEARCH
AND DEVELOPMENT

Notice of Proposed Rule Making

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 8 of the Commercial Fisheries Research and Development Act of 1964 (Public Law 88-309), it is proposed to adopt 50 CFR part 253 as set forth below. The purpose of these regulations is to provide for procedures to be used by the Secretary in providing financial assistance to State Agencies for research and development of the Commercial fisheries resources of the Nation and, in cooperation with State Agencies, directly to the commercial fisheries in cases where he has determined that there is a commercial fishery failure due to a resource disaster arising from natural or undetermined causes.

This proposed regulation relates to matters which are exempt from the rule making requirements of the Administrative Procedures Act (5 U.S.C. 1003); however, it is the policy of the Department of the Interior that, whenever practicable, the rule making requirements be observed voluntarily. Accordingly, interested persons may submit in triplicate written comments, suggestions, or objections with respect to the proposed amendments to the Director, Bureau of Commercial Fisheries, Department of the Interior, Washington, D.C., 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER, except that comments with respect to section 253.4 must be submitted within 10 days.

Sec.	
253.1	Definitions.
253.2	Interpretation of the authorization.
253.3	Use of research and development funds.
253.4	Use of resource disaster funds.
253.5	Use of new commercial fishery funds.
253.6	Financial responsibility.
253.7	Reporting.
253.8	Record retention.
253.9	Audit and inspection.
253.10	Officials not to benefit.
253.11	Patents and inventions.
253.12	Convict labor.

AUTHORITY: The provisions of this part 253 issued under sec. 8, Public Law 88-309.

§ 253.1 Definitions.

As used in this part, terms shall have the meanings ascribed in this section.

(a) *Secretary*. The Secretary of the Interior or his authorized representative.

(b) *Act*. Public Law 88-309.

(c) *Research and development funds*. Funds, the appropriation of which, were authorized by subsection 4(a) of the Act.

(d) *Resource disaster funds*. Funds, the appropriation of which, were authorized by subsection 4(b) of the Act.

(e) *New commercial fishery funds*. Funds, the appropriation of which, were authorized by subsection 4(c) of the Act.

(f) *Person*. Individual, association, partnership or corporation, any one or all as the context requires.

(g) *Primary producer*. A person owning or having a beneficial interest in and managing a vessel or gear engaged in harvesting raw fish.

(h) *Net profits*. The net profit, before taxes, as computed in accordance with generally accepted accounting standards with due regard to the practices in the locality in which the fishing operation is conducted.

(i) *Reasonable amount as determined by the Secretary for the salary of the fisherman*. A computed amount equal to the average income of the applicant from fishing operations during the 3 preceding calendar years, with a maximum of \$3,000, computed from applicant's income tax returns for those years.

(j) *Contractor*. A person, agency or institution performing services, under contract with the State Agency, in carrying out the provisions of a project agreement.

§ 253.2 Interpretation of the authorization.

The terms used in the Act to describe the authorization to the Secretary are construed to be limited to the meanings ascribed in this section.

(a) Supplement, and, to the extent practicable, increase the amounts of State funds. The words "supplement, and, to the extent practicable, increase the amounts of State funds" mean that State funds, to be used for at least 25 percent of the cost of a project financed with research and development funds, will be additional funds provided for that project and will not represent funds diverted from some other fishery project except that during fiscal years 1965 and 1966, the fact that a State Legislature did not meet after approval of this Act will be considered evidence that it is not practicable for the State Agency to furnish funds that have not been previously used for other fishery projects.

(b) *Resource disaster arising from natural or undetermined causes*. The words "resource disaster arising from natural or undetermined causes" mean a serious disruption of the harvesting of raw fish, caused by inability to catch the raw fish, or inability to sell the catch, because of a natural or undetermined cause. It does not include inability to sell the catch because of competition from imported or other competitive products.

(c) *Developing a new commercial fishery*. The words "developing a new commercial fishery" mean the development of a fishery for species of fish not common to the commercial fishery in the State in which the development is anticipated, or on stocks of fish not then being utilized commercially.

(d) *Manufactured or processed fishery merchandise*. The words "manufactured or processed fishery merchandise" mean fishery products which are included in the tables entitled Manufactured Fishery Products appearing in the annual Bureau of Commercial Fisheries Statistical Digests, Fishery Statistics of the United States. Data on new prod-

ucts, or the collection of statistics on products not formerly covered in these tabulations, will only be included in the subsequent year's determination of the apportionments.

§ 253.3 Use of research and development funds.

(a) *Apportionment and obligation*. On July 1 of each year, or as soon thereafter as practicable, the Secretary shall certify to the respective State agencies and the Secretary of the Treasury the amount of the respective apportionments of funds appropriated pursuant to section 4(a) of the Act. The Governor of each State shall notify the Secretary which agency of the State government is the agency authorized under its laws to regulate commercial fisheries and a duly authorized official of the State shall certify as to the duly appointed official authorized in accordance with State law to commit the State to participation under the provision of the Act, to sign project documents, and to receive payments. The Secretary shall be advised promptly of any change made in such authorizations. No funds may be obligated until aforesaid certification has been received. Proposed projects may be submitted at any time after the apportionment is made, but must be submitted at least 120 days prior to the end of the fiscal year following the year in which the apportionment to be charged was made. Notice of obligation of the funds will be furnished the applicable State agency as soon as possible after approval of the project by the Secretary.

(b) *Preliminary project statement*. A preliminary project statement shall be submitted for each proposed project which shall contain such fundamental information as the Secretary may require, in order to determine if the project should be approved. The preliminary project statement shall include plans, specifications, duration, experimental design, personnel and cost estimates, as well as the source of funding.

(c) *Project agreement*. After the Secretary shall have approved a preliminary project statement, mutual obligations to be undertaken by the co-operating agencies shall be evidenced by a project agreement to be executed between the State agency and the Secretary for each such project.

(d) *Prosecution of work*. (1) The State Agency shall carry all approved projects through to a stage of completion acceptable to the Secretary with reasonable promptness. Failure to complete the project to the satisfaction of the Secretary shall be cause for the Secretary to withhold further payments until the project is satisfactorily completed. Projects may be terminated upon determination by the Secretary that satisfactory progress has not been maintained. The Secretary shall have the right to inspect and review work being done at any time.

(2) All construction work will be performed by contract awarded to the lowest responsible bidder as the result of free and open competitive bidding.

(3) Research work shall be continuously coordinated by the State Agency with other studies conducted by the

State and other agencies in order to avoid unnecessary duplication.

(4) All work shall be performed in accordance with applicable State laws, except when contradictory to Federal laws or regulations, in which case Federal law or regulations will prevail.

(e) *Economy and efficiency.* No project shall be approved until the State has shown to the satisfaction of the Secretary that appropriate and adequate means shall be employed to achieve economy and efficiency in the completion of the project.

(f) *Contracts.* Supply, service, equipment and construction contracts involving an expenditure of \$2,500 or more entered into by a State Agency for the execution of approved project activities shall be based upon free and open competitive bids. If a contract is awarded to other than the lowest responsible bidder, the payment of the Federal portion of the cost of the project shall be based on the lowest responsible bid, unless it is satisfactorily shown that it was advantageous to the project to accept a higher bid. Upon request, the State Agency shall certify and promptly furnish to the Secretary a copy of each contract executed and copies of all bids received concerning the contract.

(g) *Form of vouchers.* Vouchers on forms provided by the Secretary and certified as therein prescribed, showing amounts expended on each project and the Federal portion claimed to be due on account thereof shall be submitted to the Secretary by the State Agency either after completion of each project or as the work progresses.

(h) *Safety and accident prevention.* In the performance of each project, the State shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation. The State shall be responsible that all safeguards, safety devices, and protective equipment are provided and will take other needed actions reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of work on the project.

(i) *Personnel.* The State agency or the contractor shall maintain an adequate and competent force of employees to initiate and carry approved projects through to satisfactory completion. Personnel employed on approved projects by the State Agency shall be selected on the basis of their competence to perform the services required and shall conduct their duties in a manner acceptable to the Secretary.

(j) *Nondiscrimination.* Each project agreement shall contain the applicable sections of Executive Order No. 10925, dated March 6, 1961, as amended, pertaining to nondiscrimination and shall also be subject to Public Law 88-352 and any regulations promulgated thereunder.

§ 253.4 Use of resource disaster funds.

(a) *Determination.* The Secretary shall cause to be published in the FEDERAL REGISTER a notice of finding that a commercial fishery failure due to a resource disaster arising from natural or

undetermined causes when such a finding is made. After such publication, resource disaster funds may be used for the following purposes with the cooperation of the respective State Agencies:

(1) Payments causing the removal from the usual markets of stocks of fish or shellfish of the species listed in the said finding which are preventing normal trade operations. No payments will be made under this paragraph unless the Secretary deems such action necessary to aid in restoring normal trade operations; the person receiving such payment, if not the primary producer, provides evidence that he has paid the primary producer, or such other person from whom the raw fish was purchased, the entire purchase price of the fish; the person receiving such payments has furnished the Secretary with such information regarding purchases, costs, sales, etc., as the Secretary may require; and satisfactory evidence of removal of the products from channels of distribution, including storage, shall be provided to the Secretary. No payments may be made for any product which was removed from storage or other channels of distribution prior to the approval of this Act.

(2) Payments to primary producers of the species of fish listed in the said finding to assist them in obtaining gear or equipment necessary to operate in the same or a different fishery than that affected by the said resource disaster. No payments will be made under this paragraph unless the Secretary deems such action necessary to aid in restoring primary producers adversely affected by the said commercial fishery failure to a condition where they can operate profitably; the person receiving such payments furnishes the Secretary with such information regarding catches, sales and costs as the Secretary may require; and the person receiving such payments agrees to operate the gear purchased with the assistance of such payment in a manner satisfactory to the Secretary.

(3) Short-term loans for operating expenses of primary producers. When loans are made under this paragraph, the interest rate shall be 3 percent and repayment will be required only from net profits of the fishing operation, which net profit shall be reduced by such reasonable amount as determined by the Secretary for the salary of the fisherman. No such loans will be made unless the Secretary deems such action necessary to aid in restoring primary producers adversely affected by the said commercial fishery failure to a condition that will permit them to resume operations; the funds are not otherwise available on reasonable terms; and the past earning and credit record of the applicant is such that it provides reasonable assurance of repayment.

(4) Payments to State Agencies for projects directly related to the restoration of the fishery affected by the said resource disaster or to prevent a similar failure of the fishery in the future. Such preliminary project proposals and their processing will be subject to all regulations relating thereto in this Part, except that these projects will be given prefer-

ence over other proposed projects with reference to the use of funds obtained under subsection 4(b) of the Act, and Federal funds may be used for 100 percent of the cost of the project if all of the funds are obtained from appropriations authorized under subsection 4(b) of the Act.

(b) *Non-determination.* At any time when there is no finding of a commercial fishery failure as described in subsection (a) of this section, the Secretary may, if he deems such action to be in furtherance of the purposes of the Act, approved preliminary project proposals for funding under subsection 4(b) of the Act from funds carried over from previous fiscal years; provided however, that no preliminary project proposal from any State will be funded under this subsection until that State has had all of its available apportioned funds, if any, obtained from appropriations authorized under subsection 4(a) of the Act, obligated.

§ 253.5 Use of new commercial fishery funds.

Preliminary project proposals leading to the establishment of a new commercial fishery may be approved for funding under this section when the Secretary finds that the proposal, if approved and carried out, will reasonably assure the establishment of a new commercial fishery within the State submitting the proposal. All proposals under this section will be subject to all applicable regulations of this Part, except that 100 percent of the project costs may be paid from Federal funds and, if the Secretary deems that the proposal will further the purposes of the Act, these proposals may be approved without the requirement that the State submitting the proposal first have obligated all of its apportioned funds, if any.

§ 253.6 Financial responsibility.

(a) State Agencies are required to account for each approved project. Cost accounting records, consistent with generally accepted accounting standards, shall be maintained for each project separately.

(b) State Agencies are responsible for the financial management of the project. Appropriate internal controls will, therefore, be adopted and installed to insure that the project is accomplished in the most efficient and economical manner.

§ 253.7 Reporting.

(a) Quarterly progress reports on approved projects will be furnished by State Agencies. These reports will be compiled on forms approved by the Secretary. Progress payments or other disbursements will not be made unless reporting requirements are met.

(b) Completion reports, on forms approved by the Secretary, are required when the project is completed pursuant to the project agreement. Final progress payments to State Agencies on individual projects will not be made until a completion report has been rendered and accepted by the Secretary. Completion reports with respect to research and development projects will contain a certification that the State Agency has

contributed at least 25 percent of the total project cost.

(c) A mutual release will be executed by the State Agency and the Secretary, or his authorized representative, when both parties have fulfilled their respective obligations under the agreement or contract.

(d) Copies of audit reports on audits of projects made by State auditors or inspectors shall be furnished the Secretary and will not be returned to State Agencies.

§ 253.8 Record retention.

(a) All records of accounts, reporting and supporting documentation thereto will be retained by the State or State Agency for a period of 3 years after the project is completed.

(b) Loan applicants, to whom a loan has been granted pursuant to section 9 of Public Law 88-309 or § 253.4(a)(3), shall retain all records incident to the fishing operation for a period of 3 years after the Note has been satisfied.

§ 253.9 Audit and inspection.

(a) Authorized representatives of the United States Government and the United States General Accounting Office shall have the right to audit, examine or inspect accounts, books, documents and other pertinent records involving operations and transactions under these regulations.

(b) State Agencies are expected to provide for a system of periodic internal review or audit by State employees.

(c) Periodic audits will be performed on projects with State Agencies and other operations provided for in Public Law 88-309 by authorized representatives of the United States Government. Audits may be performed on active projects and within 3 years after the project is completed.

(d) Audit exceptions involving adjustments in payment to any State Agency on any project, whether active or completed, may be applied to other approved projects or to applicable apportionments of funds to State Agencies.

§ 253.10 Officials not to benefit.

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

§ 253.11 Patents and inventions.

It is understood and agreed that inventions or discoveries of processes, devices and methods of application conceived and developed as a result of a contract and all rights therein shall be the property of the Government. In furtherance of a contract, the State Agency shall agree to assign unto the Government any and all rights, title and interest which it may have or claim to have in any patentable invention or discoveries of processes, devices and methods of application arising out of activities under this contract. The State

Agency shall further agree that all its employees who shall perform work under a contract shall assign any patent rights which they may have or claim to have in discoveries or inventions resulting from work therefrom unto the Government. With respect to any subcontract, the State Agency's obligation under this section will be discharged upon its including in such subcontract a patent rights article not less favorable to the Government than as provided herein.

§ 253.12 Convict labor.

In connection with the performance of work, the State Agency agrees not to employ any person undergoing sentence of imprisonment at hard labor.

Secretary of the Interior.
STEWART L. UDALL,

JULY 8, 1964.

[P.R. Doc. 64-6921; Filed, July 9, 1964;
8:52 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release 40-4006]

PERIODIC-CALCULATION OF NET ASSET VALUE OF REDEEMABLE SECURITY

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration adoption of a proposed § 270.2a-4 of Title 17, CFR (Rule 2a-4 under the Investment Company Act of 1940 ("Act")). The proposed rule relates to the manner in which the net asset value of a redeemable security issued by a registered investment company is to be computed for purposes of the distribution, redemption, and repurchase of the security. The rule would be promulgated pursuant to authority conferred by section 38(a) of the Act.

Section 38(a) of the Act authorizes the Commission to make rules and regulations, inter alia, defining "accounting, technical, and trade terms" used in the Act. "Net asset value" is a term used in, among other sections, section 22 of the Act relating to "distribution, redemption, and repurchase of redeemable securities," and the concept is employed in the definition of the term "redeemable security" in section 2(a)(31) of the Act.

The Commission's experience in the administration of the Act and its analysis of data provided by the periodic inspection of books and records maintained by registered investment companies pursuant to section 31 of the Act indicate that the adoption of uniform procedures with respect to the calculation of net asset value of redeemable securities issued by registered investment companies would be in the public interest and in the interest of investors.

The text of the proposed § 270.2a-4 is as follows:

§ 270.2a-4 Periodic calculation of net asset value of redeemable security.

(a) The periodic calculation of the net asset value of any redeemable security issued by a registered investment company for purposes of distribution, redemption, and repurchase shall include calculations made substantially in accordance with the following, with estimates used where necessary or appropriate:

(1) Portfolio securities with respect to which market quotations are readily available shall be valued at market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company.

(2) Changes in holdings of portfolio securities shall be reflected no later than in the first calculation on the first business day following the trade date.

(3) Changes in the number of outstanding shares of the registered company resulting from distributions, redemptions, and repurchases shall be reflected no later than in the first calculation on the first business day following such change.

(4) Expenses, including any investment advisory fees, shall be reflected daily.

(5) Dividends receivable shall be reflected daily either at exdividend dates or record dates, as appropriate.

(6) Interest income and other income shall be reflected daily.

(b) Notwithstanding the requirements of paragraph (a) of this section, interim determinations of net asset value between calculations made as of the close of the New York Stock Exchange on the preceding business day and the current business day may be estimated so as to reflect any change in net asset value since the closing calculation on the preceding business day.

(Sec. 38(a), 54 Stat. 841, 15 U.S.C. 80a-37)

All interested persons are invited to submit their views and comments on the above proposal in writing to the Securities and Exchange Commission, Washington, D.C., 20549, on or before July 31, 1964. All such communications will be available for public inspection.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,
Secretary.

JULY 2, 1964.

[P.R. Doc. 64-6849; Filed, July 9, 1964;
8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

CHEWING GUM BASE

Proposal To Amend Regulation With Respect to Plasticizing Materials

Food additive petitions (FAP 224, 1301), filed by the National Association

of Chewing Gum Manufacturers, 100 East 42d Street, New York, N.Y., 10017, have requested the issuance of a regulation prescribing the safe use of rosin esters as components of chewing gum base. On the basis of these petitions and other available data, the Commissioner of Food and Drugs, as provided in section 409 of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), (d), 72 Stat. 1786, 1787; 21 U.S.C. 348(c)(1), (d)), proposes to amend § 121.1059 by changing the list of plasticizing materials

in paragraph (a) in the following respects:

1. By adding specifications to the items "Glycerin ester of partially hydrogenated wood rosin" and "Glycerin ester of polymerized rosin" and by changing the first word of both items to "Glycerol".

2. By adding five new items.

As proposed, the affected portions would read as follows:

§ 121.1059 Chewing gum base.

(a) * * *

PLASTICIZING MATERIALS (SOFTENERS)

Glycerol ester of partially dimethylized rosin.	Having an acid number of 3-8, a drop-softening point of 109° C.-119° C., and a color of M or paler.
Glycerol ester of partially hydrogenated wood rosin.	Having an acid number of 3-10, a drop-softening point of 79° C.-88° C., and a color of N or paler.
Glycerol ester of polymerized rosin.	Having an acid number of 3-12, a melting-point range of 80° C.-126° C., and a color of M or paler.
Glycerol ester of wood rosin.	Having an acid number of 5-9, a drop-softening point of 88° C.-96° C., and a color of N or paler. The ester is purified by counter-current steam distillation.
* * *	
Methyl ester of rosin, partially hydrogenated.	Having an acid number of 4-8, a refractive index of 1.5170-1.5205 at 20° C., and a viscosity of 23-66 poises at 25° C. The ester is purified by counter-current steam distillation.
Pentaerythritol ester of partially hydrogenated wood rosin.	Having an acid number of 7-18, a drop-softening point of 102° C.-110° C., and a color of K or paler.
Pentaerythritol ester of wood rosin.	Having an acid number of 6-16, a drop-softening point of 109° C.-116° C., and a color of M or paler.

All interested persons are invited to present their views in writing regarding the proposal published in this notice. Such views and comments should be submitted, preferably in triplicate, addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, within 30 days of the date of publication of this notice in the FEDERAL REGISTER. Such views and comments may be accompanied by a memorandum or brief in support thereof.

Dated: July 7, 1964.

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

[F.R. Doc. 64-6869; Filed, July 9, 1964; 8:48 a.m.]

Office of Education

[45 CFR Ch. 1]

BASIC CRITERIA FOR DETERMINING
PRIORITIES AND FEDERAL SHARE
UNDER TITLE I OF THE HIGHER EDUCATION
FACILITIES ACT OF 1963

Notice of Proposed Rule Making

Notice is hereby given in accordance with section 4 of the Administrative Procedures Act (5 U.S.C. 1003) that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Education with the approval of the Secretary of Health, Education, and Welfare.

States desiring to participate under Title I of the Higher Education Facilities Act of 1963 (P.L. 88-204) must submit a State plan to the Commissioner of Education through a "State Commis-

sion" designated or established pursuant to section 105. Among the provisions required in the State plan, as enumerated in section 105 of the Act, is the setting forth of objective standards and methods for determining (1) relative priorities of eligible projects for the construction of academic facilities submitted by institutions of higher education in the State and (2) in the absence of a uniform statewide Federal share established under such plan, the Federal share of the cost of each such project (other than a project for a public community college or public technical institute). These objective standards and methods for making the foregoing determinations, as set forth in a State's plan, must be consistent with the basic criteria prescribed by the Commissioner. The following regulations, proposed to be issued pursuant to section 107 of the Act, would constitute the basic criteria established by the Commissioner for that purpose.

Section 1. Criteria for standards and methods to determine relative priorities of eligible projects.

(a) The State plan shall set forth separately the standards and methods for determining the relative priorities of eligible projects for the construction of academic facilities (1) for public community colleges and public technical institutes and (2) for institutions of higher education other than public community colleges and public technical institutes.

(b) The standards for determining relative priorities shall give special consideration to:

(1) The planned for and reasonably expected numerical and/or percentage increase in undergraduate enrollment at the campus at which the facilities are to

be constructed by the third fall term after the fall term preceding the date of application, or in the case of any such campus which was not in operation as of the fall term preceding the date of application, its planned for and reasonably expected undergraduate enrollment for the third fall term after such term;

(2) The percentage by which the construction of those portions of the proposed project which are eligible for Federal financial participation will increase the square feet of assignable area in instructional and library facilities at the campus at which the facilities are to be constructed, or in the case of any such campus which was not in operation as of the fall term preceding the date of application, the number of square feet of assignable area in instructional and library facilities to be provided by the construction of those portions of the proposed project which are eligible for Federal financial participation;

(3) With respect to proposed projects for construction at campuses which were in operation as of the fall term preceding the date of application, the degree of utilization of existing academic facilities, as evidenced by such indicators as the enrollment/capacity ratio, the average weekly room-period use for general classrooms, and for instructional laboratories and shops, or by similar objective indicators designed to test the degree of utilization of existing academic facilities at such campuses;

(c) Additional standards for determining relative priorities which are not inconsistent with the criteria set forth in paragraph (b) of this section and which will carry out the purposes of the Act may be included in the State plan. Such standards may provide for giving consideration to factors such as:

(1) The geographic location of the proposed construction project;

(2) The type of institution or academic program to be expanded in conjunction with the academic facility or facilities to be constructed;

(3) The type of academic facility or facilities to be constructed;

(4) The ability of the applicant to promptly undertake the proposed construction if a grant is approved, as evidenced by the percentage of the total estimated costs involved, exclusive of the Federal share of those costs eligible for Federal financial participation, which the applicant has on hand or has firm commitments for if the grant is approved.

(5) The date of the most recent previous grant awarded under title I for construction at the same campus of an institution.

(d) The methods for application of the standards for determining relative priorities shall provide for the assignment of point scores for each standard applied, such that the potential score for each project will be the same whether the project is for a new institution or new campus of an institution or for one which was in operation as of the fall term preceding the date of application. The standard or group of standards which implement each of the three criteria listed in paragraph (b) of this section shall be assigned not less than 15

percent of the possible point score, except that in the case of a proposed project for construction at a campus which was not in operation as of the fall term preceding the date of application, the standard or group of standards implementing each of the first and second criteria so listed shall be assigned not less than 25 percent and 20 percent respectively, of the possible point score. The assignment of points for each standard may be by any one of the following methods, a different one of which may be used in connection with each standard:

(1) Applications may be ranked according to relative performance for the standard, and assigned a point score for relative rank (e.g., 10 points for placement in the highest 10 percent, 9 points for placement in the second highest 10 percent, 8 points for placement in the third highest 10 percent, etc.);

(2) Applications may be compared to a scoring table for the standard, and assigned points accordingly (e.g., for average weekly room-period use of general classrooms, a scoring table might provide for 10 points for an average use of 30 hours or more, 8 points for an average use of 24 hours or more, 6 points for an average use of 18 hours or more, etc.);

(3) Applications may be compared to a fixed requirement for the standard, and assigned points if they meet the requirement or denied points if they do not. This type of scoring should be used where comparison against the standard involves a "yes-no" decision (e.g., is the proposed project located in a geographic area of the State in which there is an unmet need for creation or expansion of undergraduate enrollment capacity? If "yes," award 5 points, if "no," award 0 points).

(e) The standards and methods for determining relative priorities must be developed on the basis of information which is to be submitted on the application form prescribed by the Commissioner, required by the State commission to be submitted in connection with the filing of an application, or contained in reports or publications readily available to the State commission and the institutions within the State. In no event shall an institution's readiness to admit out-of-State students be considered as a priority factor adverse to such institution and in no event may the nature of the control or sponsorship of the institution, or the fact that construction of the project has commenced, or that part of the cost of a project has been incurred before or under a contract entered into prior to the date of application, be considered as a priority factor either in favor of, or adverse to, an institution.

Sec. 2. Criteria for standards and methods to determine Federal shares of eligible projects.

(a) With respect to construction projects for public community colleges and public technical institutes, the Federal share of the costs eligible for Federal financial participation shall be 40 percent of such cost.

(b) With respect to construction projects for institutions of higher education other than public community col-

leges and public technical institutes, unless the Federal share is specified in the State plan as a uniform percentage of the costs eligible for Federal financial participation, the State plan shall prescribe the standards and methods in accordance with which the State commission shall determine the Federal share of such costs, but in no event may the Federal share exceed 33 1/3 percent of such costs.

(c) Standards and methods for determining the Federal share pursuant to paragraph (b) of this section: (1) must be objective and simple to apply, (2) may involve the use only of data which is to be submitted on the application form prescribed by the Commissioner, required by the State commission to be submitted in connection with the filing of an application, or contained in reports or publications readily available to the State commission and the institutions of higher education within the State, (3) must be such as will enable an applicant to calculate in advance the estimated Federal share which the State commission will certify to the Commissioner if it recommends the project for a Federal grant, and (4) must be consistent with the criteria published by the Commissioner with respect to the determination of relative priorities among projects and be promotive of the purposes of the Act.

Sec. 3. Definitions.

Terms used in sections 1 and 2 which are defined in the Higher Education Facilities Act of 1963 shall have the meaning given to them in the Act. As used in sections 1 and 2 the following terms shall have the meaning given them in paragraphs (a) through (d) of this section:

(a) *Instructional facilities include—*
(1) *General classrooms* used chiefly for lecture recitation and seminar type of classroom. The seating area of an auditorium or theatre, if regularly used for scheduled class meetings, should be included;

(2) *Instructional laboratories or shops* equipped for a special purpose such as chemistry experiments, language practice, painting, or shopwork;

(3) *Other facilities* such as music practice rooms, gymnasium floors, and swimming pools which are regularly used or intended for scheduled class meetings or individual instruction.

(b) *Library facilities* means rooms or groups of rooms used for the collection, storage, circulation, and use of books, periodicals, manuscripts and other reading and reference materials, including the general library, departmental libraries, and rooms for special collections of documents, rooms for storage of films, records, and other audio-visual equipment and materials, library reading and listening rooms, acquisition room, cataloging room, document reproduction room, circulation and reference desks, and any other similar library service area. Rooms used for any such purposes should be counted under library facilities. Library science laboratories and lecture classrooms located in a library building are to be counted under the appropriate type of "instructional facilities" as defined above.

(c) *Enrollment/Capacity ratio* means the ratio of the total square feet of assignable area in instructional facilities and library facilities at the campus at which the facilities are to be constructed to:

(1) The total student credit-hour enrollment divided by 100 at such campus other than a campus qualifying as a public community college or public technical institute; or

(2) The total student clock-hour enrollment divided by 100 at a campus qualifying as a public community college or public technical institute.

(d) *Average weekly room period use* means the average of the room period use for all general classrooms or for instructional laboratories and shops available at the campus at which the facilities are to be constructed, obtained separately for each type of room by dividing the total number of such rooms, regardless of size, into the total number of class hours scheduled per week in such rooms. A room is considered to be in use whenever a class meeting is held in it, regardless of the size of the class.

Prior to the official adoption of the proposed basic criteria, consideration will be given to any written data, views, or arguments pertaining thereto which are filed with the Commissioner of Education, U.S. Department of Health, Education, and Welfare, Office of Education, Washington, D.C., 20202, within the period of 20 days from the date of publication of this notice in the *FEDERAL REGISTER*. These proposed regulations, when adopted finally, will be promulgated simultaneously with, and as a part of, the overall regulations governing the administration of title I of the Act.

Dated: June 5, 1964.

[SEAL] FRANCIS KEPPEL,
U.S. Commissioner of Education.

Approved: July 2, 1964.

ANTHONY J. CELEBREZZE,
Secretary of Health,
Education, and Welfare.

[F.R. Doc. 64-6870; Filed, July 9, 1964;
8:48 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Ch. I]

[Docket No. RM-102-1]

CERTAIN TYPES OF LIGHT WATER, NUCLEAR POWER REACTORS

Notice of Consideration of Possible Finding of Practical Value; Request for Public Comments

Notice is hereby given that the Atomic Energy Commission has under consideration the question whether a finding of practical value should be made pursuant to section 102 of the Atomic Energy Act of 1954, as amended, with respect to some type or types of light water, nuclear power reactors. Section 102 provides that whenever the Commission has made a finding in writing that any type of production or utilization facility has been sufficiently

developed to be of practical value for industrial or commercial purposes, the Commission may thereafter issue licenses for such type of facility pursuant to section 103.

An opinion of the Commission's General Counsel dated February 12, 1964, contains an analysis of substantive and procedural considerations involved in making a finding of practical value and of the legal consequences of such a finding. Such considerations are also the subject of a letter dated May 15, 1964, from the Chairman of the Commission to the Joint Committee on Atomic Energy. Both the opinion and the letter are available for inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and copies may be obtained by addressing a request to the Director of Regulation, U.S. Atomic Energy Commission, Washington, D.C., 20545.

The Commission has thus far made the following determinations:

1. The "type of" reactor for which a finding is made need not encompass all reactors of a broad category, for example, all pressurized or boiling water reactors; rather it may be circumscribed as to scope by an appropriate description which is reasonably specific as to the technical characteristics of the reactor type, for example, coolant, moderator, power level, fuel type, containment.

2. The finding of "practical value", while presupposing a determination of technical feasibility, also involves economic considerations, the essential economic test being the competitiveness of the nuclear power plant with conventional power plants. The nuclear plant should be competitive in areas of the United States consuming a significant fraction of the nation's electrical energy.

3. The term "developed" includes the concept of demonstration of the basic technical characteristics of the reactor type.

The Commission also considers that it has discretion to determine that a finding should not be made until (1) the technical feasibility of the reactor concept and its basic technical characteristics have been adequately demonstrated and (2) there has been sufficient demonstration of the cost of construction and operation of the type of nuclear power plant as to provide a sound basis, with reasonable extrapolation, for a reliable estimate of the economic competitiveness of power produced in this type of plant with power that would be produced in a comparable conventional power plant that would be constructed at the same time and place.

To aid the Commission in its consideration of the question presented in this Notice, members of the public are invited to submit comments and suggestions, together with relevant data and information, with respect to the following:

a. Whether or not it is now appropriate for the Commission to make a finding of practical value pursuant to section 102 of the Act with respect to some type or types of light water, nuclear power reactors.

b. A description of such type or types of reactors, if any, appropriate for inclusion in a finding of practical value. The description should include such technical characteristics as the person commenting believes are appropriate.

c. The reasons supporting a proposed finding as to each type described in the response to the preceding item, or the reasons for any conclusions that no finding of practical value should be made, together with supporting economic, technical and other data.

d. The extent to which the technical feasibility of a reactor type and its basic technical characteristics should be demonstrated by reactor operation.

e. The extent to which the cost of construction and operation of a type of nuclear powerplant should be demonstrated by reactor construction and operation.

f. In estimating the economic competitiveness of power produced from a given type of nuclear powerplant with power that would be produced in a comparable conventional powerplant that would be constructed at the same time and place, what types of construction and operating cost data and information should be evaluated? In addition to the costs to the owner and operator of the nuclear powerplant, to what extent, if any, should consideration be given to the costs to the supplier of the nuclear plant with respect to: (a) the nuclear portion of the plant; (b) the conventional portion of the plant; and (c) the nuclear fuel?

g. With respect to each type of reactor described in the response to item b, above, in which areas of the United States would nuclear power be economically competitive with power produced from a comparable conventional powerplant? What fraction of the nation's electrical energy is consumed in each of such areas?

h. Any other comments and suggestions, together with relevant data and information, which the person commenting believes that the Commission should consider in connection with the question presented in this Notice.

There was published in the June 23, 1964, issue of the FEDERAL REGISTER (29 F.R. 7949) a notice of Filing of Petition for Rule Making, Docket No. PRM-102-A, relating to a petition filed with the Commission by the National Coal Policy Conference, Inc., the National Coal Association, and the United Mine Workers of America, requesting that the Commission issue a rule finding that boiling light water reactors and pressurized light water reactors are types of utilization or production facilities that have been sufficiently developed to be of practical value for industrial or commercial purposes. That petition and the question presented in this Notice, Docket No. RM-102-1, will be considered together by the Commission. Accordingly, the dockets have been consolidated.

All interested persons who desire to submit written comments or suggestions should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C., 20545, within 90 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is prac-

ticable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. After consideration of all comments and suggestions received in response to this Notice, the Commission will determine and announce the subsequent steps and procedures in this matter.

(Sec. 102, 68 Stat. 936; 42 U.S.C. 2132; sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 29th day of June 1964.

For the Atomic Energy Commission,

W. B. McCool,

Secretary to the Commission.

[F.R. Doc. 64-6962; Filed July 9, 1964; 11:55 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 73 [New]]

[Airspace Docket No. 64-CE-18]

TEMPORARY RESTRICTED AREA

Proposed Designation

Notice is hereby given that the Federal Aviation Agency is considering a proposal to amend § 73.45 of the Federal Aviation Regulation which would designate a temporary restricted area in the vicinity of Fort Leonard Wood, Missouri.

The Federal Aviation Agency has been requested by the Department of the Air Force to designate a temporary joint-use restricted area as described herein to encompass air maneuvers in support of joint U.S. Air Force/U.S. Army exercise GOLDFIRE I to be conducted in the vicinity of Fort Leonard Wood, Mo., from October 29, 1964, through November 13, 1964. The Air Force has stated that the tactical air activity and resulting maneuvers within portions of the area during certain periods of time would be such that flights of nonparticipating aircraft could not be absorbed without a serious sacrifice of air safety within the proposed restricted area.

This proposed exercise is to test and evaluate the joint aspects of assault air-lift concepts, doctrines, organization and equipments relating to tactical mobility requirements and would involve a total of two brigades of infantry, two tactical fighter squadrons, two tactical reconnaissance squadrons, and two troop carrier squadrons. USAF has advised that an unlimited number of aircraft may be assigned to each squadron. It is estimated that the number of daily aircraft sorties would vary from a low of 40 to as many as 600. Extensive airborne troop assaults would be conducted in support of ground forces. In addition to the heavy troop-carrier involvement, high speed jet fighter aircraft would conduct close air support missions simulating dive bomb, napalm, rocket and strafing attacks; and high speed jet reconnaissance aircraft would conduct numerous missions over employment bases in the exercise area.

The Air Force has also advised that, if a restricted area is designated, they propose to enter a joint-use agreement with the controlling agency, the Kansas City Center, and would release the entire

area, or portions thereof, to the center when not in use for the purpose designated. They plan to make provisions for civil and nonparticipating military pilots to contact the Exercise Director by reverse charge telephone calls for authorization to conduct flight within the area. Approval of such requests would be contingent on the type exercise activities in progress at the time of and on the route of the proposed flight.

An increase of IFR traffic during the exercise period at the Forney AAF, where exercise headquarters would be located, could be expected. To accommodate this traffic, the Forney AAF IFR procedures and the method of providing approach control would be reviewed and, if appropriate, changed to ensure the most expeditious handling and minimum interference with exercise activities.

The proposal was discussed at an informal Airspace Meeting in the Kansas City Regional Office on June 18, 1964. A second meeting will be held at Forney AAF, Fort Leonard Wood, Mo., on July 22, 1964, at 10:00 a.m. for the convenience of interested parties within, and adjacent to, the proposed area. Arrangements have been concluded with the Army to permit those proceeding to the meeting via general aviation type aircraft to land at Forney AAF, provided a flight plan has been filed.

The Kansas City Center would be designated as the controlling agency and the United States Air Force, Strike Command, Langley AFB, Va., as the temporary restricted area using agency.

The Department of Defense has been advised in the past to provide notice to the Federal Aviation Agency as soon as possible of planned large-scale exercises for which they believe a restricted area would be required in order to allow the Agency sufficient time to solicit public comment. Accordingly, the Department of the Air Force has advised the Agency that a temporary restricted area would be required for this exercise. However, detailed operational plans of the type and volume of exercise activities are not available at this time.

The Agency has considered the alternatives of publishing a notice of proposed rule making in light of the limited information available and permitting an adequate comment period, or delaying the notice of proposed rule making until a later date, and reducing the comment period, and has determined that the public interest would be served best by early publication of the Notice.

If this action is taken, temporary restricted area **GOLDFIRE I** would be designated as follows:

Boundaries. Beginning at latitude 37°31' N., longitude 92°58' W.; to latitude 37°52' N., longitude 92°33' W.; to latitude 37°52' N., longitude 92°05' W.; to latitude 37°09' N., longitude 91°21' W.; to latitude 36°45' N., longitude 91°51' W.; to latitude 37°21' N., longitude 92°58' W.; to the point of beginning.

Designated altitudes. Surface to and including 8,000 feet MSL.

Time of designation. Continuous from 0001 c.s.t., October 29, 1964, to 2359 c.s.t., November 13, 1964.

Controlling agency. Federal Aviation Agency, Kansas City ARTC Center, Kansas City, Missouri.

Using agency. United States Air Force, Strike Command, Langley AFB, Virginia.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City, Mo., 64110. All communications received within 30 days after publication of this notice in the *FEDERAL REGISTER* will be considered before action is taken on the proposed amendment. The proposed action contained in this notice may be changed in the light of comments received and the statements made during the second informal airspace meeting on July 22, 1964.

The official docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel, Attention Rules Docket, 800 Independence Avenue SW., Washington, D.C. An informal docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

(Sec. 307(a) of the Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

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

DANIEL E. BARROW,
Chief, Airspace Regulations
and Procedures Division.

[F.R. Doc. 64-6904; Filed, July 9, 1964;
8:51 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 15543; FCC 64-615]

OHIO; FM BROADCASTING STATIONS

Proposed Table of Assignments

In the matter of amendment of § 73.202, Table of Assignments, FM Broadcast Stations (Jackson, Lima, Kenton and Bellefontaine, Ohio); Docket No. 15543, RM-544.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has before it for consideration a petition requesting rule making filed on December 4, 1963, by Peoples Broadcasting Corporation, licensee of Station WRFD-FM, Columbus-Worthington, Ohio (hereinafter WRFD). The petitioner requests the following substitutions for existing FM channels in the Ohio communities named.

City	Present assignment	Proposed assignment
Jackson, Ohio	249A	261A
Kenton, Ohio	262A	237A
Lima, Ohio	249A, 271	285A, 271

3. There are neither applications pending nor authorizations outstanding for the use of Channel 249A in Jackson or in Lima. WKTN-FM operates on

Channel 252A in Kenton, and WIMA-FM operates on Channel 271 in Lima.

4. An opposition to the petition was filed by Ohio Radio, Incorporated, licensee of Station WKTN-FM (hereinafter WKTN). WRFD filed a response to WKTN's opposition.

5. WRFD-FM operates at Columbus-Worthington on Channel 250, with effective antenna height of 570 ft. and ERP of 185 kilowatts, considerably more than the 50 kilowatts which is the maximum which would be authorized for a new station in FM Zone I under the present rules. The object of the changes requested is to remove three assignments on channels adjacent to or two channels removed from Channel 250. It is asserted that stations using these assignments (only one of which is now in use) would cause interference to reception of WRFD-FM by other stations in the Ohio Emergency Network. WRFD-FM is a key station in that network; it is asserted that it was so selected by the State Industry Advisory Committee because of its position as a station assigned to the state capital and at the same time having its transmitter site (several miles north of Columbus) well removed from locations in the Columbus area which would be prime targets for enemy attack. The Network plan calls for WRFD-FM to broadcast emergency information to six other Ohio FM stations (including WPAY-FM, Portsmouth, and WMRN-FM, Marion), which re-broadcast it to four other stations, which in turn re-broadcast it to 10 others in the statewide network. According to the petition, the effect of operations on the three present assignments would be as follows:

(a) It is asserted that a station on Channel 249A at Jackson would cause interference to reception of WRFD-FM at Portsmouth by Station WPAY-FM "so as to destroy the emergency programming material supplied to WPAY-FM * * * for rebroadcast * * *". Portsmouth is about 95 miles from WRFD-FM; Jackson is about 28 miles from Portsmouth.

(b) Similarly, it is asserted that Station WKTN-FM operating at Kenton on Channel 252A would cause interference (with the same consequences) to reception of WRFD-FM at Marion by Station WMRN-FM. Kenton and Marion are, respectively, about 46 and 32 miles from WRFD-FM; Kenton is some 25 miles from Marion.

(c) With respect to reception at Lima, it is urged that operation by a station there on Channel 249A would "disrupt the direct, off the air emergency pickup of WRFD-FM by WIMA-FM, Lima * * *". But it is to be noted that the Network plan does not contemplate such off-the-air reception and rebroadcast; WIMA-FM is to receive emergency material for rebroadcast not directly from WRFD-FM but via WMRN-FM, Marion. Thus it is not clear that this change would really be substantially related to operation of the network, rather than merely being a means of affording WRFD-FM's "super-maximum" operation an extraordinary degree of protection. Lima is about 70 miles from WRFD-FM.

6. With respect to the proposed substitute assignments at Jackson and Lima, it appears that no question exists as to their meeting our minimum separation rules with respect to all assignments in the Table. As to the proposed substitute at Kenton, it appears that the distance between the transmitter of WKTN-FM and that of an existing station at Norwalk on Channel 237A is 64.54 miles. The rules provide for 65 miles as the minimum co-channel separation between Class A stations, and WKTN-FM in opposing the petition argues that in effect shifting it to Channel 237A, as proposed would create a short-spaced assignment. However, our rules (§ 73.208(c)(5)) provide that distances shall be rounded off to the nearest mile; giving in this case a distance of 65 miles. Thus it appears that in this case also the replacement proposed would comply with our rules.

7. In connection with the Kenton assignment, another matter is to be noted. If Channel 252A is deleted from Kenton, it can be used at Bellefontaine, Ohio (1960 Census population 11,424) which is the county seat of Logan County (population 34,803). There are no FM assignments in Logan County (which is outside of any standard metropolitan area) and the only broadcast station therein is WHOP, operating daytime-only at Bellefontaine. It appears that assignment of Channel 252A would provide a fulltime service. The licensee of WHOP (Hi-Point Broadcasting Company) has demonstrated an interest in FM operation, by applying for Channel 228A before it was deleted from Bellefontaine in October 1963¹ and by seeking reconsideration of our action deleting it. Bellefontaine is about 35 miles from Marion and 42 miles from WRFD-FM.

8. In December 1962, in the Second Report and Order in Docket No. 14185 (FCC 62-1243), we concluded that existing "super-maximum" stations, operating with power and/or effective antenna height greater than the maxima adopted in 1962 for stations of their class, would not generally be cut back in facilities. But we also made it clear (paragraph 14) that with respect to the making of new assignments such "super-maximum" stations would be protected only on the basis of the regular protected service area for stations of their class—i.e., for Class B stations such as WRFD-FM, out to a distance of 40 miles from objectionable co-channel and first-adjacent-channel interference, with stations on 2d and 3d adjacent channels to be located at least that distance from the existing station. In all three cases here, WRFD is seeking a greater degree of protection—in the cases of Lima and Jackson, against first-adjacent channel "interference" at points about 70 and 95

miles away, respectively, and in the case of Kenton, against "interference" which it asserts would be caused by a 2d-adjacent channel station some 45 miles from WRFD-FM.

9. We believe that under the circumstances comments should be invited on the three changes proposed by WRFD, together with the reassignment of Channel 252A to Bellefontaine. Comments should specifically be directed to matters noted in the next paragraph. In this connection, however, we wish to emphasize two points: first, we are of the view that we should not readily make changes in assignments, even where no existing station is involved and a replacement channel can be found, if the result would be a net loss of channel assignment possibilities in an area where channels are as scarce as they are in much of Ohio;² Second, if it should be concluded herein that any or all of the channels should be deleted as requested, this does not mean that in the future we will not deem ourselves free to make such use of these channels, consistent with our rules, as the public interest may dictate. In other words, if we conclude that in the particular situations now before us the public interest is served by a course of action which gives WRFD a greater than normal degree of protection, this does not mean that in other circumstances we would or will reach the same result, with respect to future use of the deleted channels or otherwise, if need for the making of assignments at near-minimum spacings appears to exist.

10. Comments are specifically invited on the following questions:

(a) Considering the distances between Jackson and Portsmouth, and between Kenton and Marion, what actually is the impairing effect of the "interference" involved to reception of WRFD-FM which would result—particularly (as urged by WKTN) since special receiving equipment can be used by the other Network stations to receive WRFD-FM?

(b) To what extent would the deletion of the channels as requested (particularly in the case of Lima, where Emergency Network operation is not directly involved) mean loss of the channel for use in this general area, or loss of use of the replacing channel elsewhere than proposed?

11. With respect to the Kenton proposal, we are, here as elsewhere, reluctant to disturb existing services. We are inviting comments on this matter in part because the change might also make available a needed channel at Bellefontaine. The cost to an existing station of changing channels is not usually prohibitive, but neither is it insubstantial. Therefore, if a shift involving an existing station is to be ordered—a move serving the public interest but also redounding to the benefit of other par-

ties—it appears likely that equity should require the parties benefitting to pay some or all of the cost involved to the existing station. Comments are invited on whether WRFD or parties interested in the Bellefontaine assignment will pay WKTN's costs if the move is ordered; and how much these costs would be.

12. In view of the foregoing, comments (including comments addressed to the questions mentioned in paragraphs 10 and 11) are invited on the following possible changes in the Table of FM Assignments (§ 3.202):

City	Channel No.	
	Present	Proposed
Jackson, Ohio.....	249A	261A
Kenton, Ohio.....	252A	237A
Bellefontaine, Ohio.....		252A
Lima, Ohio.....	249A, 271	271, 285A

13. If it is determined by the Commission that the rule amendments proposed herein will serve the public interest, the Commission will take such further action as may be appropriate with respect to the outstanding authorization of WKTN-FM. Accordingly we defer action upon WRFD's request for issuance of an Order to Show Cause against that station.

14. Authority for the adoption of the amendment proposed herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

15. Pursuant to applicable procedures set out in § 1.415 of the Commission rules, interested persons may file comments on or before August 3, 1964, and reply comments on or before August 17, 1964. All submissions by parties to this proceeding or by persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

16. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Attention is directed to the provisions of paragraph (c) of § 1.419 which require that any person desiring to file identical documents in more than one docketed rule making proceeding shall furnish the Commission two additional copies of any such document for each additional docket unless the proceedings have been consolidated.

Adopted: July 1, 1964.

Released: July 7, 1964.

FEDERAL COMMUNICATIONS
COMMISSION,³

[SEAL] BEN F. WAPLE,
Secretary.

³ Commissioner Cox dissenting.

[F.R. Doc. 64-6886, Filed, July 9, 1964;
8:50 a.m.]

¹ Channel 228A was deleted because a site could not be found in the Bellefontaine area meeting separations with respect to all existing stations. Memorandum Opinion and Order in Docket No. 14185 (FCC 63-976, released October 29, 1963).

² In this respect and others, we have doubts as to the public interest in the Lima change, but we are including it here as part of the "package."

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

MOTOR VEHICLES AND MOTOR PARTS FROM CANADA

Investigation of Suspected Bounty or Grant; Extension of Time for Presenting Views

A notice of opportunity to present views on the question whether certain action by Canada constitutes payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, upon exports of motor vehicles and motor vehicle parts from Canada, was published in the FEDERAL REGISTER for Wednesday, June 3, 1964.

The foregoing notice stated "Before a determination is made consideration will be given to any relevant data, views, or arguments with respect to the existence or nonexistence, and the net amount of a bounty or grant, which are submitted in writing to the Commissioner of Customs, Bureau of Customs, Washington, D.C., 20226, and received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER."

At the request of interested parties the time prescribed in that notice is thereby extended so that consideration will be given to relevant data, views, and arguments received not later than August 3, 1964. No hearing will be held.

(R.S. 251, secs. 303, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

[SEAL] PHILIP NICHOLS, Jr.,
Commissioner of Customs.

Approved: July 8, 1964.

J. P. HENDRICK,
Acting Assistant Secretary
of the Treasury.

[F.R. Doc. 64-6951; Filed, July 9, 1964;
10:58 a.m.]

Office of the Secretary

[AA 643.3-A]

PLASTIC BABY CARRIERS FROM JAPAN

Determination of Sales at Less Than Fair Value

JULY 2, 1964.

The description of the merchandise wherever it appears in the FEDERAL REGISTER notice of determination of sales at less than fair value of "plastic baby carriers (Infanseat) from Japan, manufactured by Marui Corporation, Tokyo, Japan," published June 24, 1964, is hereby changed to read "plastic baby carriers from Japan, manufactured by Marui Corporation, Tokyo, Japan."

[SEAL] JAMES POMEROY HENDRICK,
Acting Assistant Secretary
of the Treasury.

[F.R. Doc. 64-6866; Filed, July 9, 1964;
8:47 a.m.]

9462

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NONCOMMERCIAL EDUCATIONAL TELEVISION BROADCAST FACILITIES

Notice of Acceptance for Filing of Application for Federal Financial Assistance in Construction

Notice is hereby given that effective with this publication the following described application for Federal financial assistance in the construction of non-commercial educational television broadcast facilities is accepted for filing in accordance with 45 CFR, § 60.7:

Board of Regents of the Universities and State College of Arizona, File No. 71, to expand and improve the operation of the noncommercial educational television broadcasting station on channel 8, Phoenix, Arizona.

Any interested person may, pursuant to 45 CFR § 60.8, within 30 calendar days from the date of this publication, file comments regarding the above applica-

tion with the Director, Educational Television Facilities Program, U.S. Office of Education, Washington, D.C., 20202.
(76 Stat. 64, 47 U.S.C. 390)

RAYMOND J. STANLEY,
Director, Educational Television
Facilities Program, U.S.
Office of Education.

[F.R. Doc. 64-6871; Filed, July 9, 1964;
8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SAND MOUNTAIN SALES BARN ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and dated of posting	Current name of stockyard and date of change in name
ALABAMA	
Sand Mountain Sales Barn, Albertville, May 21, 1959.	White Livestock Commission Co., Inc., Feb. 1, 1964.
Alliceville Sales Barn, Alliceville, June 19, 1962-----	Pickens County Livestock Commission Co., May 20, 1964.
CALIFORNIA	
Cow Palace Livestock Auction, Elk Grove, Oct. 1, 1959.	Cattle Palace Auction, Feb. 15, 1964.
Sacramento Valley Stockyards, Willows, Nov. 13, 1959.	Willows Livestock Market, Apr. 20, 1964.
FLORIDA	
Hill Crest Livestock Market, Brooksville, Aug. 3, 1962.	Tri County Livestock Co-op, Inc., Apr. 1, 1964.
IDAHO	
Jerome Livestock Commission Co., Inc., Jerome, Mar. 29, 1950.	Jerome Livestock Commission Co., Apr. 30, 1964.
KANSAS	
Koenig Sales Company, Inc., Manhattan, Oct. 25, 1957.	Manhattan Sales Co., Inc., Feb. 1, 1964.
MINNESOTA	
Motley Sales Pavilion, Motley, Jan. 9, 1963-----	Motley Livestock Sales, June 6, 1963.
OKLAHOMA	
Altus Livestock Commission Co., Altus, Oct. 24, 1949.	Altus Stockyards, Inc., Mar. 30, 1964.
TEXAS	
Gillespie Livestock Co., Fredericksburg, June 14, 1957.	Gillespie Livestock Co., Inc., Jan. 1, 1964.

Done at Washington, D.C., this 6th day of July 1964.

H. L. JONES,
Chief, Rates and Registrations Branch,
Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 64-6865; Filed, July 9, 1964; 8:47 a.m.]

Office of the Secretary

NEW JERSEY

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of New Jersey a natural disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NEW JERSEY

Atlantic. Cumberland.
Camden. Ocean.
Cape May.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1965, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 6th day of July 1964.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 64-6859; Filed, July 9, 1964;
8:46 a.m.]

TEXAS

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Texas natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

TEXAS

Arkansas. Knox.
Atascosa. Live Oak.
Baylor. Morris.
Bee. Red River.
Calhoun. Refugio.
Cameron. Starr.
Camp. Throckmorton.
Cass. Titus.
Franklin. Upshur.
Gaines. Victoria.
Goliad. Wood.
Hopkins. Zapata.
Johnson.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1965, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

No. 134—7

Done at Washington, D.C., this 6th day of July 1964.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 64-6860; Filed, July 9, 1964;
8:47 a.m.]

ATOMIC ENERGY COMMISSION

AGREEMENT BETWEEN ATOMIC ENERGY COMMISSION AND STATE OF FLORIDA

Discontinuance of Certain Commission Regulatory Authority and Responsibility Within State

Whereas, The United States Atomic Energy Commission (hereinafter referred to as the Commission) is authorized under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under chapters 6, 7, and 8, and section 161 of the Act with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, The Governor of the State of Florida is authorized under section 290.13 of the Florida Nuclear Code (Chapter 290, Florida Statutes, 1961) to enter into this Agreement with the Commission; and

Whereas, The Governor of the State of Florida certified on April 2, 1964, that the State of Florida (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, The Commission found on June 17, 1964, that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemption from licensing of those materials subject to this Agreement;

Now, therefore, it is hereby agreed between the Commission and the Gover-

nor of the State, acting in behalf of the State, as follows:

Article I. Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under chapters 6, 7, and 8, and section 161 of the Act with respect to the following materials:

- A. Byproduct materials;
- B. Source materials; and
- C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II. This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

- A. The construction and operation of any production or utilization facility;
- B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;
- C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;
- D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards there of, not be so disposed of without a license from the Commission.

Article III. Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article IV. This Agreement shall not affect the authority of the Commission under Subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article V. The Commission will use its best efforts to cooperate with the State and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Com-

mission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

Article VI. The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VII. The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

Article VIII. This Agreement shall become effective on July 1, 1964, and shall remain in effect unless, and until such time as it is terminated pursuant to Article VII.

Done at Tallahassee, State of Florida, in triplicate, this 1st day of July 1964.

For the United States Atomic Energy Commission.

JAMES T. RAMEY,
Commissioner.

For the State of Florida.

C. FARRIS BRYANT,
Governor.

[F.R. Doc. 64-6845; Filed, July 9, 1964;
8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 13777; Order No. E-21034]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 6th day of July 1964.

There has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, an agreement between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 (Commodity Rates Board).

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in IATA memoranda, names additional rates as set forth below:

C.A.B. 17666	IATA memorandum TOL Rates	Commodity Item	Rates
R-42.....	2005	1204	45/40 cents per kilogram, minimum weight, 200/1000 kilograms, respectively; Sao Paulo to New York.
R-43.....	2006	2002	45/35 cents per kilogram, minimum weight, 200/1500 kilograms, respectively; Buenos Aires and Montevideo to New York.
R-43.....	2006	2102	45/35 cents per kilogram, minimum weight, 200/1500 kilograms, respectively; Buenos Aires to New York.
R-43.....	2006	2102	35 cents per kilogram, minimum weight, 1500 kilograms; Montevideo to New York.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the subject agreement to be adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That Agreement C.A.B. 17666, R-42 and R-43, be and hereby is approved, provided that such approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action herein. An original and nineteen copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 64-6875; Filed, July 9, 1964;
8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[List 58; FCC 64-603]

STANDARD BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

JULY 7, 1964.

Notice is hereby given, pursuant to § 1.571(c) of the Commission rules, that on August 13, 1964, the standard broadcast applications listed below will be considered as ready and available for processing. Pursuant to § 1.227(b)(1) and § 1.591(c) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other

application on file by the close of business on August 12, 1964, which involves a conflict necessitating a hearing with an application on this list, must comply with interim criteria governing acceptance of standard broadcast applications set forth in the former note to § 1.571 of the Commission rules and be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by whichever date is earlier: (a) The close of business on August 12, 1964, or (b) the earlier effective cut-off date which a listed application or any other conflicting application may have by virtue of conflicts necessitating a hearing with applications appearing on previous lists.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(l) of the Commission rules for provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: July 1, 1964.

FEDERAL COMMUNICATIONS COMMISSION,¹

[SEAL] BEN F. WAPLE,
Secretary.

Applications From the Top of the Processing Line

- BP-15077 New, Burien, Wash.
John W. Mowbray tr/as Suburban Broadcasters.
Req: 800 kc, 1 kw, DA-Day.
- BP-15967 KRED, Eureka, Calif.
California Oregon Radio Co.
Has: 1480 kc, 5 kw, DA-N, U.
Req: 1480 kc, 1 kw, 5 kw-LS, U.
- BMP-11113 WPRT, Prestonsburg, Ky.
Stephens Industries, Inc.
Has Lic: 960 kc, 1 kw, Day.
Has CP: 960 kc, 5 kw, DA, Day.
Req MP: 960 kc, 5 kw, Day.
- BP-16011 KSTP, St. Paul, Minn.
Hubbard Broadcasting, Inc.
Has: 1500 kc, 50 kw, DA-2, U.
Req: 1500 kc, 50 kw, DA-N, U.
- BP-16055 WDEA, Ellsworth, Maine.
Coastal Broadcasting Company, Inc.
Has: 1370 kc, 5 kw, Day.
Req: 1370 kc, 1 kw, 5 kw-LS, DA-N, U.
- BP-16083 KOTE, Fergus Falls, Minn.
Northland Broadcasting Corp.
Has: 1250 kc, 500 w, 1 kw-LS, DA-N, U.
Req: 1250 kc, 1 kw, DA-N, U.
- BP-16097 New, Eleale, Hawaii.
American Islands Broadcasting Corp.
Req: 720 kc, 5 kw, U.
- BP-16141 KEYL, Long Prairie, Minn.
Communications Associates, Inc.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw-LS, U.
- BP-16150 WXVW, Jeffersonville, Ind.
Electrocast, Inc.
Has: 1450 kc, 250 w, U.
Req: 1450 kc, 250 w, 1 kw-LS, U.
- BP-16153 New, Plymouth, N.H.
Pemigewasset Broadcasters, Inc.
Req: 1300 kc, 1 kw, Day.
- BP-16154 KDRS, Paragould, Ark.
KDRS, Inc.
Has: 1490 kc, 250 w, U.
Req: 1490 kc, 250 w, 1 kw-LS, U.

¹ Commissioner Ford absent.

- BP-16155 KINO, Winslow, Ariz.
Willard Shoecraft.
Has: 1230 kc, 250 w, U.
Req: 1230 kc, 250 w, 1 kw-LS, U.
- BP-16156 KBLL, Helena, Mont.
Capital City Television, Inc.
Has: 1240 kc, 250 w, U.
Req: 1240 kc, 250 w, 1 kw-LS, U.
- BP-16178 WKLA, Ludington, Mich.
Raymond A. Plank.
Has: 1450 kc, 250 w, U.
Req: 1450 kc, 250 w, 1 kw-LS, U.
- BP-16177 KBRV, Soda Springs, Idaho.
J. C. Wallentine.
Has: 540 kc, 500 w, Day.
Req: 1450 kc, 250 w, 1 kw-LS, U.
- BP-16178 KTOH, Lihue, Hawaii.
Garden Island Publishing Co., Ltd.
Has: 1490 kc, 250 w, U.
Req: 1490 kc, 250 w, 1 kw-LS, U.
- BP-16184 KBIM, Roswell, N. Mex.
Taylor Broadcasting Co.
Has: 910 kc, 5 kw, Day.
Req: 910 kc, 500 w, 5 kw-LS, DA-N, U.
- BP-16185 New, Saratoga Springs, N.Y.
A.M. Broadcasters of Saratoga Springs, Inc.
Req: 900 kc, 250 w, Day.
- BP-16204 WMRC, Milford, Mass.
Milford Radio Corporation.
Has: 1490 kc, 250 w, U.
Req: 1490 kc, 250 w, 1 kw-LS, U.

Applications Deleted From Public Notice of December 13, 1963 (FCC 63-1142) (28 F.R. 13803)

- BP-16012 New, Plymouth, N.H.
Pemigewasset Broadcasters, Inc.
Req: 1240 kc, 250 w, U.
(Assigned New File Number BP-16153.)
- BP-16003 KOTE, Fergus Falls, Minn.
Northland Broadcasting Corp.
Has: 1250 kc, 500 w, 1 kw-LS, DA-N, U.
Req: 1250 kc, 1 kw, 5 kw-LS, DA-2, U.
(Assigned New File Number BP-16083.)
- BP-16009 KBIM, Roswell, N. Mex.
Taylor Broadcasting Co.
Has: 910 kc, 5 kw, Day.
Req: 910 kc, 500 w, 5 kw-LS, DA-N, U.
(Assigned New File Number BP-16184.)

[F.R. Doc. 64-6887; Filed, July 9, 1964; 8:50 a.m.]

[Docket No. 14251; FCC 64-620]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Order Regarding Tariff F.C.C. No. 250, TELPAK Service and Channels

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 6th day of July 1964;

The Commission having under consideration the petitions of the following parties to reconsider Order FCC 64-538, June 18, 1964, and to enlarge the time for oral argument allotted to intervenors: Aeronautical Radio, Inc., American Trucking Associations, Inc., NAM Communications Committee, Olin Mathieson Chemical Corporation, New York Central Railroad Company, The National Association of Motor Bus Owners, Lockheed Aircraft Corporation, Bethlehem

Steel Company, Douglas Aircraft Company, United States Steel Corporation; the answer of Eastern Air Lines Inc. to petitions for reconsideration; and the notice by United Press International, Inc. that it will not require the time allotted to it; and

It appearing, that additional time may be allotted to the parties without substantially delaying the proceedings:

Now therefore it is ordered, That the time allowed for oral argument to all intervenors except The Administrator of General Services, United Press International, Inc., Motorola Inc. and The Western Union Telegraph Company is extended to a total of two hours and ten minutes to be divided and apportioned among such parties in such manner as they may agree:

It is further ordered, That such intervenors shall meet with the Chief, Common Carrier Bureau in the offices of the Commission, Washington, D.C., at 10 a.m., July 13, 1964, to divide and apportion the time among such of them as have given timely and proper notice of an intention to appear, and the Chief of the Bureau shall file a statement of the apportionment with the Commission on the day following:

It is further ordered, That the oral argument herein before the Commission en banc scheduled for Friday, July 24, 1964, shall begin at 9:30 a.m. instead of at 10:00 a.m. as originally ordered:

It is further ordered, That all matter in Order FCC 64-538 not inconsistent with the matter herein, is republished:

It is further ordered, That the above-mentioned petitions are granted to the extent indicated and in all other respects are denied.

Released: July 7, 1964.

FEDERAL COMMUNICATIONS COMMISSION,¹

[SEAL] BEN F. WAPLE, Secretary.

[F.R. Doc. 64-6888; Filed, July 9, 1964; 8:50 a.m.]

[Docket No. 14611; FCC 64M-641]

PROGRESS BROADCASTING CORP. (WHOM)

Order re Procedural Dates

In re application of Progress Broadcasting Corporation (WHOM), New York, New York, Docket No. 14611, File No. BP-13915; for construction permit.

Pursuant to a prehearing conference as of this date: It is ordered, This 2d day of July 1964, that

1. There will be a further prehearing conference on September 11, 1964, at 10:00 a.m.;

2. The applicant shall tender its exhibits to counsel for other parties on or before November 9, 1964;

3. Notification shall be made of witnesses desired for cross-examination on or before December 1, 1964, and

4. The hearing herein shall commence on January 12, 1965, 10:00 a.m.,

¹ Commissioners Hyde and Ford absent.

in the Commission's Offices, Washington, D.C.

Released: July 7, 1964.

FEDERAL COMMUNICATIONS

COMMISSION,

[SEAL] BEN F. WAPLE, Secretary.

[F.R. Doc. 64-6889; Filed, July 9, 1964; 8:50 a.m.]

[Docket No. 15497; FCC 64M-646]

WSIV, INC.

Order re Procedural Dates

In re application of WSIV, Inc., Pekin, Illinois, Docket No. 15497, File No. BPH-4122; for construction permit.

Pursuant to a prehearing conference held this date: It is ordered, This 6th day of July 1964, as follows:

1. Applicant will furnish exhibits on September 4, 1964;

2. Further prehearing conference will be held September 16, 1964, at 9:00 a.m.;

3. The hearing herein originally scheduled for July 28, 1964, is continued to September 30, 1964, and will be convened at 10:00 a.m., in the Offices of the Commission, Washington, D.C.

Released: July 7, 1964.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, Secretary.

[F.R. Doc. 64-6890; Filed, July 9, 1964; 8:51 a.m.]

FEDERAL MARITIME COMMISSION

GULF/MEDITERRANEAN PORTS CONFERENCE

Notice of Agreements Filed for Approval

Notice is hereby given that the following Agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 301, or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by L. M. Paine, Jr., Secretary, Gulf/Mediterranean Ports Conference, Suite

927, Whitney Building, New Orleans 12, Louisiana.

Agreement 134-23, between the member lines of the Gulf/Mediterranean Ports Conference, modifies the basic agreement, as amended, which covers the trades from U.S. Gulf of Mexico and South Atlantic ports (from and including Brownsville, Texas, to and including Cape Hatteras, North Carolina) to Spanish, French, and Egyptian Mediterranean ports and North African ports named therein, to Sicily, Sardinia and the West Coast of Italy, to Israeli, Syrian, Lebanese, Grecian, Turkish, Bulgarian, Roumanian, and Russian (Black Sea) ports, and to all Adriatic and Gulf of Taranto ports, to provide for the amendment (1) of Article 21 thereof to include a penalty payable monthly by a member who has failed to have a sailing in the Conference trade for a period of six consecutive calendar months, and (2) of Articles 22, 23 and 25 to conform to the provisions of § 523.2 of General Order 9 relating to the admission, withdrawal and expulsion of Conference members.

Dated: July 7, 1964.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Special Assistant
to the Secretary.

[F.R. Doc. 64-6872; Filed, July 9, 1964;
8:48 a.m.]

N. V. NEDLLOYD LIJNEN AND CHINA NAVIGATION CO., LTD.

Notice of Agreements Filed for Approval

Notice is hereby given that the following Agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 301, or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by Nedlloyd Lines, N.T.S. Building, Post Office Box 1522, Singapore 1, Malaya.

Agreement 9352, between N. V. Nedlloyd Lijn and the China Navigation Co., Ltd., establishes a through billing arrangement restricted to the transportation of asbestos in bags between ports in the State of Western Australia and ports in the United States on the Gulf

of Mexico, and on the Atlantic Coast with transshipment at Singapore, in accordance with the terms and conditions set forth in the agreement.

Dated: July 7, 1964.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Special Assistant
to the Secretary.

[F.R. Doc. 64-6873; Filed, July 9, 1964;
8:48 a.m.]

STATES STEAMSHIP CO. AND KAWA- SAKI KISEN KAISHA, LTD.

Notice of Agreements Filed for Approval

Notice is hereby given that the following Agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 301, or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 5 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of Agreement filed for approval by States Steamship Company, Winston J. Jones, Vice President, 320 California Street, San Francisco, California, 94104.

Agreement 9359 between States Steamship Company (initial carrier) and Kawasaki Kisen Kaisha, Ltd. (delivering carrier), covers a through billing arrangement on general cargo from ports of the initial carrier on the West Coast of the United States/Canada and Hawaii, with transshipment at Yokohama, Kobe or Nagoya, Japan, to the delivering carrier for discharge at Fremantle and/or other ports in Western Australia. Agreement 9359 has been filed to supersede and cancel approved Agreement 9282, between States Steamship Company and Iino Lines covering a similar arrangement in the trade from West Coast ports of the United States to North West Cape, Western Australia, with transshipment at Yokohama, Japan.

Dated: July 7, 1964.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Special Assistant
to the Secretary.

[F.R. Doc. 64-6874; Filed, July 9, 1964;
8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-18765 etc.]

TENNECO OIL CO. AND TENNECO CORP.

Certificates of Public Convenience and Necessity and FPC Gas Rate Sched- ules

JUNE 30, 1964.

Tenneco Oil Company (successor to Tenneco Corporation), Docket Nos. G-18765, etc., CI63-343, CI64-682; Tenneco Corporation, Docket No. CI63-311; Tenneco Oil Company, Docket Nos. RI63-187¹, RI63-474², RI64-38, RI64-76; Tenneco Oil Company (Operator), et al., Docket Nos. RI64-37, RI64-75, RI64-635.

Findings and order after statutory hearing issuing Certificates of Public Convenience and Necessity, amending orders issuing certificates, terminating certificates, substituting applicant and redesignating proceedings, permitting withdrawal of FPC Gas Rate Schedule, substituting respondent and redesignating proceedings, and requiring filing of agreements and undertakings.

On January 31, 1964, and March 10, 1964, Tenneco Oil Company (Applicant) filed applications pursuant to section 7 of the Natural Gas Act for certificates of public convenience and necessity, to amend orders issuing certificates of public convenience and necessity, and to be substituted in pending proceedings as successor in interest to Tenneco Corporation, all as more fully set forth in the applications and in the Appendix hereto.

The applications state that as of December 31, 1963, Applicant acquired all of the oil and gas leaseholds and certain other assets of Tenneco Corporation. The applications further state that there will be no interruption or change in the sales made under certificates granted to Tenneco Corporation.

The FPC gas rate schedules of Tenneco Corporation have been redesignated as FPC gas rate schedules of Tenneco Oil Company as set forth in the Appendix hereto. Applicant is presently selling gas to Arkansas Louisiana Gas Company from the Cheniere Brake Field, Ouachita Parish, Louisiana, pursuant to its FPC Gas Rate Schedule No. 20. The contract comprising this rate schedule is identical to the contract on file as Tenneco Corporation FPC Gas Rate Schedule No. 139. Applicant proposes that its FPC Gas Rate Schedule No. 20 should include the entire sale. Accordingly, the related certificate issued to Tenneco Corporation in Docket No. CI63-311 will be terminated, and order issuing a certificate to Applicant in Docket No. CI63-343 will be amended to include the additional interest.

¹ Dockets in which action is taken which are not listed here are set forth in the Appendix hereto.

² Where Applicant is operator of the subject properties, the complete designation is set forth in the Appendix hereto.

³ Consolidated with Docket No. AR61-2, et al.

⁴ Consolidated with Docket No. AR64-1, et al.

On January 31, 1964, Applicant filed a motion in Docket Nos. RI63-187, RI63-474, RI64-37, RI64-38, RI64-75, and RI64-76 to be substituted as respondent in said proceedings in lieu of Tenneco Corporation. A change in rate filed by Tenneco Corporation was suspended in Docket No. RI64-635 subsequent to the filing of the motion. Rates are being collected subject to refund in Docket Nos. RI63-474, RI64-37, RI64-38, RI64-75, and RI64-76.

Tenneco Corporation has filed an application pursuant to section 7(b) of the Natural Gas Act in Docket No. CI64-682 for permission and approval of the Commission to abandon the sale of natural gas. Applicant herein will be substituted as applicant in said proceeding.

After due notice no notice of intervention or protest to the granting of the applications has been received. Petitions to intervene have been received in Docket Nos. CI64-1017 and CI64-1065 which dockets are included in the application filed March 10, 1964. Said dockets are not included in this order. No other petitions to intervene have been received.

At a hearing held on June 26, 1964, the Commission on its own motion received and made part of the record in these proceedings all evidence, including the applications and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Tenneco Oil Company, is engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act.

(2) The sales of natural gas proposed in Docket Nos. CI64-983 through CI64-1078^{*} hereinbefore described, as more fully described in the application filed March 10, 1964, and in the Appendix hereto, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by Applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sales of natural gas by Applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates authorizing the sales to which Applicant is successor in Docket Nos. CI64-983

through CI64-1078^{*} should be terminated, except that the certificate issued in Docket No. CI61-1273 should be amended to delete authorization for the subject sales.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificates heretofore issued in Docket Nos. G-18765, G-18980, CI62-159, CI62-463, CI62-557, CI62-895, CI62-896, CI62-1135, CI62-1426, CI63-282, CI63-312, CI63-753, CI63-1182, and CI63-1424 should be amended by substituting Applicant in lieu of Tenneco Corporation as certificate holder.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Tenneco Oil Company should be substituted as applicant in lieu of Tenneco Corporation in the proceedings pending in Docket Nos. CP60-116, CI61-1615, CI64-44, and CI64-682.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order issuing a certificate in Docket No. CI63-343 should be amended by authorizing the sale of natural gas by Applicant from the interest covered by Tenneco Corporation FPC Gas Rate Schedule No. 139, that Applicant should be permitted to withdraw said rate schedule, and that the related certificate issued to Tenneco Corporation in Docket No. CI63-311 should be terminated.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should be substituted as respondent in lieu of Tenneco Corporation in the proceedings pending in Docket Nos. RI63-187, RI63-474, RI64-37, RI64-38, RI64-75, RI64-76, and RI64-635, that said proceedings should be redesignated accordingly, and that Applicant should be required to file agreements and undertakings in Docket Nos. RI63-474, RI64-37, RI64-38, RI64-75, and RI64-76 to assure the refunds of any amounts collected in excess of the amounts to be determined to be just and reasonable in said proceedings.

The Commission orders:

(A) Certificates of public convenience and necessity be and the same are hereby issued to Applicant in Docket Nos. CI64-983 through CI64-1078^{*} authorizing the sale and delivery of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the application filed March 10, 1964, and in the Appendix hereto; and the predecessor's certificates are hereby terminated, except the certificate issued in Docket No. CI61-1273 which is hereby amended to delete authorization for the subject sales.

(B) The certificates granted in paragraph (A) above are not transferable

^{*} Except Docket Nos. CI64-1017 and CI64-1065.

and shall be effective only so long as Applicant continues the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Applicant. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the respective contracts, particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The orders issuing certificates in Docket Nos. G-18765, G-18980, CI62-159, CI62-463, CI62-557, CI62-895, CI62-896, CI62-1135, CI62-1426, CI63-282, CI63-312, CI63-753, CI63-1182, and CI63-1424 be and the same are hereby amended by substituting Applicant in lieu of Tenneco Corporation as certificate holder, and in all other respects said orders shall remain in full force and effect.

(E) Tenneco Oil Company is hereby substituted in lieu of Tenneco Corporation as applicant in the proceedings pending in Docket Nos. CP60-116, CI61-1615, CI64-44, and CI64-682, and said proceedings are redesignated accordingly.

(F) The order issuing a certificate to Applicant in Docket No. CI63-343 be and the same is hereby amended by authorizing the sale of natural gas by Applicant from the interest covered by Tenneco Corporation FPC Gas Rate Schedule 139; Applicant is permitted to withdraw Tenneco Corporation FPC Gas Rate Schedule No. 139 and the interest thereunder shall hereafter be covered by Applicant's FPC Gas Rate Schedule No. 20; and the certificate issued to Tenneco Corporation in Docket No. CI63-311 be and the same is hereby terminated.

(G) Applicant be and is hereby substituted in lieu of Tenneco Corporation as respondent in the proceedings pending in Docket Nos. RI63-187, RI63-474, RI64-37, RI64-38, RI64-75, RI64-76, and RI64-635, and said proceedings are redesignated accordingly.

(H) Within 30 days from the issuance of this order, Applicant shall execute, in the form set out below, and shall file with the Secretary of the Commission, acceptable agreements and undertakings in Docket Nos. RI63-474, RI64-37, RI64-38,

NOTICES

RI64-75, and RI64-76 to assure refunds of any amounts, both past and future, together with interest at the rate of seven percent per annum, collected in excess of the amounts to be found just and reasonable in said proceedings. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreements and undertakings shall be deemed to have been accepted for filing.

(I) Applicant shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and Applicant's agreements and undertakings filed in Docket Nos. RI63-474, RI64-37, RI64-38, RI64-75, and RI64-76

shall remain in full force and effect until discharged by the Commission.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

SUGGESTED AGREEMENT AND UNDERTAKING

BEFORE THE
FEDERAL POWER COMMISSION

(Name of Respondent)

Docket No. -----

Agreement and Undertaking of (Name of Respondent) to Comply With Refunding and Reporting Provisions of § 154.102 of the Commission's Regulations Under the Natural Gas Act

(Name of Respondent) hereby agrees and undertakes to comply with the refunding

and reporting provisions of Section 154.102 of the Commission's Regulations under the Natural Gas Act insofar as they are applicable to the proceeding in Docket No. ----- (and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto¹), this ----- day of -----, 196--.

(Name of Respondent)

By -----

Attest:

¹ If a corporation.

APPENDIX

Docket No.	New designation	Supplement	Former designation	Purchaser	Location	Predecessor's certificate Docket No.	Price (cents per Mcf) and pressure base (psia)
	Tenneco Oil Co. rate schedule		Tenneco Corp. rate schedule				
CI64-983-----	*25	1	*1	El Paso Natural Gas Co.	Spraberry Field, Reagan County, Tex.	CI61-1273----- G-9889	10.0 at 14.65.
CI64-984-----	*26	1	*2	do.	Aztec Field, San Juan County, N. Mex.	CI61-1273----- G-9889	11.0454 at 15.025.
CI64-985-----	27	1	4	American Louisiana Pipe Line Co.	North Holly Beach Field, Cameron Parish, La.	CI61-1273----- G-11227 G-15067	19.5 at 15.025. ¹
CI64-986-----	*28	1-2	5	Northern Natural Gas Co.	Eunice Monument Field, Lea County, N. Mex.	CI61-1273----- G-10761	10.5433 at 14.65. ¹
CI64-987-----	29	1	6	Phillips Petroleum Co.	Fuhrman-Mascho Field, Andrews County, Tex.	CI61-1273----- G-10761	10.0 at 14.65.
CI64-988-----	*30	-----	7	United Gas Pipe Line Co.	Sibley Field, Webster Parish, La.	CI61-1273----- G-12054	11.2432 at 15.025.
CI64-989-----	31	-----	9	Northern Natural Gas Co.	Prentice Field, Yokum County, Tex.	CI61-1273----- G-12267	12.096 at 14.65.
CI64-990-----	*32	1	*10	Colorado Interstate Gas Co.	Mocene Field, Beaver County, Okla.	CI61-1273----- G-15255 G-12545	15.0 at 14.65.
CI64-991-----	*33	1	*12	Cities Service Gas Co.	Northwest Sharon Field, Barber County, Kans.	CI61-1273----- G-12963 G-14174	12.0 at 14.65.
CI64-992-----	34	1	13	do.	Hardtner Field, Barber County, Kans.	CI61-1273----- G-14270	12.0 at 14.65.
CI64-993-----	*35	-----	*14	do.	East Hugoton Field, Finney County, Kans.	CI61-1273----- G-14271	8.4 at 10.4.
CI64-994-----	*36	1	*15	El Paso Natural Gas Co.	West Kutz Canyon, San Juan County, N. Mex.	CI61-1273----- G-14379	11.0454 at 15.025.
CI64-995-----	*37	1	*16	do.	Blanco Mesa Verde Field, San Juan County, N. Mex.	CI61-1273----- G-14379	13.0495 at 15.025. ¹
CI64-996-----	38	1	17	do.	Blanco Pictured Cliffs Field, Rio Arriba County, N. Mex.	CI61-1273----- G-14803	11.0454 at 15.025.
CI64-997-----	39	1	18	do.	Blanco Mesa Verde Field, Rio Arriba County, N. Mex.	CI61-1273----- G-14804	13.0495 at 15.025. ¹
CI64-998-----	40	1	19	Lone Star Gas Co.	Katie Field, Garvin County, Okla.	CI61-1273----- G-15066	12.35 at 14.65. ¹
CI64-999-----	41	-----	20	El Paso Natural Gas Co.	South Fullerton Field, Andrews County, Tex.	CI61-1273-----	10.0 at 14.65.
CI64-1000-----	*42	-----	*21	Natural Gas Pipeline Co. of America.	Fairbanks Field, Harris County, Tex.	CI61-1273----- G-15119	15.2877 at 14.65.
CI64-1001-----	43	-----	22	United Gas Pipe Line Co.	Cowards Gulley Area, Beauregard and Calcasieu Parishes, La.	CI61-1273----- G-15149	18.5 at 15.025.
CI64-1002-----	*44	1	*23	Northern Natural Gas Co.	East Hugoton Field, Finney County, Kans.	CI61-1273----- G-16945	12.0 at 14.65.
CI64-1003-----	*45	1	*24	El Paso Natural Gas Co.	West Huerfano Field, San Juan County, N. Mex.	CI61-1273----- G-18152	13.0495 at 15.025. ¹
CI64-1004-----	46	1	25	do.	Sonora and Roberts Fields, Sutton County, Tex.	CI61-1273----- G-18151	10.5 at 14.65.
CI64-1005-----	*47	1	*26	do.	Aztec Field, San Juan County, N. Mex.	CI61-1273----- G-18460	13.0495 at 15.025.
CI64-1006-----	48	1	28	Kansas Nebraska Natural Gas Co., Inc.	Armstrong Field, Logan County, Colo.	CI61-1273----- G-18835	14.0 at 10.4.
G-18980-----	49	1-4	29	Transcontinental Gas Pipe Line Corp.	Cal Pass Field, Cameron Parish, La.	CI61-1273----- G-18980	20.625 at 15.025.
CI64-1007-----	50	1	30	El Paso Natural Gas Co.	Blanco Field, Pictured Cliffs Formation, Rio Arriba County, N. Mex.	CI61-1273----- G-19080	11.0454 at 15.025.
CI64-1008-----	51	1	31	do.	Blanco Field, Mesa Verde Formation, Rio Arriba County, N. Mex.	CI61-1273----- G-19081	13.0495 at 15.025. ¹
CI64-1009-----	52	1	32	Arkansas Louisiana Gas Co.	Simsboro Field, Lincoln Parish, La.	CI61-1273----- G-19083	13.703 at 15.025.
CI64-1010-----	*53	-----	*33	Coastal States Gas Producing Co.	Chilipin Field, Duval County, Tex.	CI61-1273----- G-19084	12.23837 at 14.65.
CI64-1011-----	*54	-----	*34	South Texas Natural Gas Gathering Co.	North Monte Christo Field, Hidalgo County, Tex.	CI61-1273----- G-19182	14.5 at 14.65.
CI64-1012-----	*55	-----	*35	do.	do.	CI61-1273----- G-19182	14.5 at 14.65.
CI64-1013-----	56	-----	36	Panhandle Eastern Pipe Line Co.	Southeast Light Field, Beaver County, Okla.	CI61-1273----- G-19390	16.0 at 14.65.
CI64-1014-----	*57	1	*38	El Paso Natural Gas Co.	Blanco Field, San Juan and Rio Arriba Counties, N. Mex.	CI61-1273-----	13.0495 at 15.025. ¹
CI64-1015-----	58	-----	39	Colorado Interstate Gas Co.	Keyes Field, Cimarron County, Okla.	CI61-1273-----	15.0 at 14.65.
CI64-1016-----	59	-----	42	Arkansas Louisiana Gas Co.	Calhoun Field, Ouachita Parish, La.	CI61-1273----- G-20056	18.75 at 15.025.
CI64-1018-----	61	1-3	44	Transcontinental Gas Pipe Line Corp.	Vermilion Block 76 Field, Vermilion Parish, La.	CI61-1273----- CP60-6	19.0¢ at 15.025.
CI64-1019-----	62	-----	45	Texas Gas Transmission Corp.	Sugar Creek Field, Claiborne Parish, La.	CI61-1273----- CP60-37	18.25 at 15.025.

See footnotes at end of table.

Docket No.	New designation	Supplement ¹	Former designation	Purchaser	Location	Predecessor's certificate	Price (cents per Mcf) and pressure base (psia)
	Tenneco Oil Co. rate schedule		Tenneco Corp. rate schedule			Docket No.	
CI64-1020	63		46	United Gas Pipe Line Co.	Maxie-Pistol Ridge Area, Forrest, Lamar, and Pearl River Counties, Miss.	CI61-1273	20.0 at 15.025.
CI64-1021	*64		*47	Cities Service Gas Co.	Eureka Field, Grant County, Okla.	CP60-55	
CP60-116	65		48	Michigan Wisconsin Pipeline Co.	Laverne Area, Harper County, Okla.	CI61-1273	12.0 at 14.65.
CI64-1022	*66		*49	Lone Star Gas Co.	Doyle Field, Stephens County, Okla.	CP60-105	17.0 at 14.65.
CI64-1023	*67		*50	do	do	CI61-1273	14.0 at 14.65.
CI64-1024	68	1	51	United Gas Pipe Line Co.	Cotton Valley Field, Webster Parish, La.	CP61-22	14.0 at 14.65.
CI64-1025	*69	1	*52	El Paso Natural Gas Co.	West Huorano Field, San Juan County, N. Mex.	CI61-1273	12.55076 at 15.025.
CI64-1026	*70	1-6	*53	Arkansas Louisiana Gas Co.	Longwood Field, Caddo Parish, La.	CP61-133	15.025.
CI64-1027	71	1-5	54	do	East Haynesville Field, Claiborne Parish, La.	CP61-140	15.025.
CI64-1028	72	1-17	56	Texas Eastern Transmission Corp.	Delhi Field, Richland, Madison, and Franklin Parishes, La.	CI61-1273	11.8 at 15.025.
CI64-1029	73	1-7	57	Arkansas Louisiana Gas Co.	East Haynesville Field, Claiborne Parish, La.	G-3530	13.478 at 15.025.
CI64-1030	74	1-8	58	do	do	CI61-1273	13.478 at 15.025.
CI64-1031	75	1-7	59	Mississippi River Fuel Corp.	Woodlawn Field, Harrison and Marion Counties, Tex.	G-3533	15.025.
CI64-1032	*76	1-14	*60	Texas Gas Transmission Corp.	South Cottonwood Creek Field, De Witt County, Tex.	CI61-1273	16.6212 at 14.65.
CI64-1033	*77	1-10	*61	United Gas Pipe Line Co.	Waskom Field, Harrison County, Tex.	G-3547	15.025.
CI64-1034	78	1-10	62	do	do	CI61-1273	13.029 at 15.025.
CI64-1035	*79	1-7	*63	Mississippi River Fuel Corp.	Woodlawn Field, Harrison County, Tex.	G-3534	15.025.
CI64-1036	80	1-9	64	Arkansas Louisiana Gas Co.	Bethany Field, Panola County, Tex.	CI61-1273	13.478 at 15.025.
CI64-1037	81	1-9	65	do	North Lansing Field, Harrison County, Tex.	G-3535	15.025.
CI64-1038	82	1-9	66	do	South Hallsville Field, Harrison and Rusk Counties, Tex.	CI61-1273	14.1344 at 14.65.
CI64-1039	83	1-8	67	do	Waskom Field, Harrison County, Tex.	G-3525	12.0672 at 14.65.
CI64-1040	84	1-7	68	do	Sibley Field, Webster Parish, La.	CI61-1273	10.8876 at 14.65.
CI64-1041	85	1-10	70	United Gas Pipe Line Co.	Carthage Field, Panola County, Tex.	G-3529	10.8876 at 14.65.
CI64-1042	86	1-7	71	do	Burnell and North Pettus Fields, Bee County, Tex.	CI61-1273	14.65.
CI64-1043	*87	1-9	*72	do	Bethany Field, Panola County, Tex.	G-3524	14.65.
CI64-1044	88	1-10	74	do	do	CI61-1273	11.394 at 14.65.
CI64-1045	89	1-16	75	do	do	G-3519	14.65.
CI64-1046	90	1-11	76	do	do	CI61-1273	12.5446 at 14.65.
CI64-1047	91	1-12	77	Texas Eastern Transmission Corp.	Myersville Field, De Witt County, Tex.	G-3518	14.65.
CI64-1048	92	1-11	78	United Gas Pipe Line Co.	Cotton Valley Field, Webster Parish, La.	CI61-1273	10.7310 at 14.65.
CI64-1049	93	1-16	79	Arkansas Louisiana Gas Co.	Waskom Field, Harrison County, Tex.	G-3526	11.7438 at 14.65.
CI64-1050	94	1-12	80	Texas Eastern Transmission Corp.	North Hostetter Field, McMullen County, Tex.	CI61-1273	13.645 at 15.025.
CI64-1051	*95	1-8	*81	Arkansas Louisiana Gas Co.	Sentell Field, Bossier Parish, La.	G-3540	13.9999 at 14.65.
CI64-1052	96	1-7	82	United Fuel Gas Co.	Ellis Field, Acadia Parish, La.	CI61-1273	10.8876 at 14.65.
CI64-1053	97	1-5	84	Arkansas Louisiana Gas Co.	Longstreet Field, De Soto Parish, La.	G-3520	10.8876 at 14.65.
CI64-1054	98	1-7	85	do	Ivan Field, Bossier Parish, La.	G-3521	10.8876 at 14.65.
CI64-1055	*99	1-6	*86	do	Scottsville Field, Harrison County, Tex.	CI61-1273	10.8876 at 14.65.
CI64-1056	100	1-7	87	United Gas Pipe Line Co.	Elysian Field, Harrison County, Tex.	G-3522	10.8876 at 14.65.
CI64-1057	101	1-9	88	Texas Eastern Transmission Corp.	Bethany-Longstreet Field, Caddo and De Soto Parishes, La.	CI61-1273	13.8733 at 14.65.
CI64-1058	102	1	89	Natural Gas Pipeline Co. of America	East Maxine Field, Live Oak County, Tex.	G-3541	13.05076 at 15.025.
CI64-1059	*103	1-5	*90	Texas Eastern Transmission Corp.	North Myersville Field, De Witt County, Tex.	CI61-1273	11.7438 at 14.65.
CI64-1060	*104	1-5	*91	do	North Mission Valley Field, De Witt County, Tex.	G-3531	14.3733 at 14.65.
CI64-1061	105	1-6	92	Arkansas Louisiana Gas Co.	Athens Field, Claiborne Parish, La.	CI61-1273	13.603 at 15.025.
CI64-1062	106	1	93	Cities Service Gas Co.	Northeast Waynoka Field, Woods County, Okla.	G-3550	17.5 at 15.025.
CI64-1063	*107	1	*94	do	Northeast Clyde Field, Grant County, Okla.	CI61-1273	12.871 at 15.025.
CI64-1064	*108	1-2	*95	Texas Gas Gathering Corp.	Lake St. John Field, Tensas and Concordia Parishes, La.	G-8094	13.003 at 15.025.
CI64-1065	110	1-3	97	United Gas Pipe Line Co.	Emma Haynes Field, Goliad County, Tex.	CI61-1273	11.7438 at 14.65.
CI64-1067	111	1-7	98	Texas Eastern Transmission Corp.	Bethany-Longstreet Field, Caddo and De Soto Parishes, La.	G-8484	13.003 at 15.025.
CI64-1068	112	1-6	99	do	Waskom Field, Harrison County, Tex.	CI61-1273	11.7438 at 14.65.
CI64-1069	113	1-2	100	do	Bethany-Longstreet Field, Caddo and De Soto Parishes, La.	G-10445	10.8876 at 14.65.
CI64-1070	114	1	102	United Gas Pipe Line Co.	Logansport Field, De Soto Parish, La.	CI61-1273	16.3654 at 15.025.
CI64-1071	115	1	103	do	Greenwood-Waskom Field, Caddo Parish, La.	G-15134	6.0768 at 14.65.

Footnotes at end of table.

Docket No.	New designation Tenneco Oil Co. rate schedule	Supplement ¹	Former designation Tenneco Corp. rate schedule	Purchaser	Location	Predecessor's certificate Docket No.	Price (cents per Mcf) and pressure base (psia)
CI64-1072	*116	1	*105	El Paso Natural Gas Co.	Bird-Ringo (Spraberry) Field, Reagan County, Tex.	CI61-1273	10.0 at 14.65.
CI64-1073	117	1	106	Kansas Nebraska Natural Gas Co.	Walker, et al., Fields, Logan County, Colo.	CI61-1273	14.0 at 16.4.
CI61-1615	118		130	Cimarron Transmission Co.	Marletta Field, Love County, Okla.	CI61-1615	15.0 at 14.65.
CI62-169	119	1	131	Texas Eastern Transmission Corp.	Bomba Field, Goliad County, Tex.	CI-62-169	12.0 at 14.65.
CI62-463	120	1-3	132	El Paso Natural Gas Co.	West Kutz Field, San Juan County, N. Mex.	CI62-463	13.0495 at 15.025. ⁴
CI62-557	121	1-2	133	do	Gallegos, et al., Fields, San Juan County, N. Mex.	CI62-557	13.0495 at 15.025. ⁴
CI62-895	*122		*134	Lone Star Gas Co.	Katie Field Garvin County, Okla.	CI62-895	8.0 at 14.65.
CI62-896	123		135	Cities Service Gas Co.	Southwest Wakita Field, Grant County, Okla.	CI62-896	13.0 at 14.65.
CI62-1135	124	1-3	136	El Paso Natural Gas Co.	Basin Dakota Field, San Juan County, N. Mex.	CI62-1135	13.0495 at 15.025. ⁴
CI62-1426	*125		*137	Lone Star Gas Co.	Doyle Field, Stephens County, Okla.	CI62-1426	14.0 at 14.65.
CI63-282	126	1	138	El Paso Natural Gas Co.	Blanco Mesa Verde Field, San Juan County, N. Mex.	CI63-282	13.0495 at 15.025. ⁴
CI63-312	127	1-2	140	Panhandle Eastern Pipe Line Co.	Northwest Avord Field, Woods County, Okla.	CI63-312	17.0 at 14.65.
CI64-1074	128		141	Tennessee Gas Transmission Co.	El Ebanito Field, Starr County, Tex.	CI61-1272	14.6 at 14.65.
CI64-1075	129		142	do	Heyger Field, Calhoun County, Tex.	CI61-1272	14.0 at 14.65.
CI64-1076	130		143	do	Deekers Prairie Field, Montgomery County, Tex.	CI61-1272	14.0 at 14.65.
CI64-1077	131		144	do	Palacios Field, Matagorda County, Tex.	CI61-1272	16.0 at 14.65.
CI64-1078	132		145	do	LaSalle Field, Jackson County, Tex.	CI61-1272	14.0 at 14.65.
CI63-753	133		146	Cities Service Gas Co.	Buffalo (West) Area, Harper County, Okla.	CI63-753	16.0 at 14.65.
CI63-1424	134		147	Panhandle Eastern Pipe Line Co.	Northeast Trail Field, Dewey County, Okla.	CI63-1424	15.0 at 14.65.
CI64-44 ¹⁰	135		148	Tennessee Gas Transmission Co.	Block 17 East Cameron Field, Cameron Parish, La.	CI64-44	19.5 at 15.025.
CI63-1182	136		149	Arkansas Louisiana Gas Co.	North Cooper Field, Blaine County, Okla.	CI63-1182	16.8 at 14.65.
G-18765	137		27	South Texas Natural Gas Gathering Co.	North Monte Christo Field, Hidalgo County, Tex.	G-18765	15.0 at 14.65.

* (Operator), et al.

¹ The supplements to the Tenneco Oil Company rate schedules are numbered the same as the supplements to the Tenneco Corporation rate schedules.

² The increased rate of 22.0¢ per Mcf has been suspended in Docket No. RI63-187 and has not been made effective.

³ The increased rate of 11.7199¢ per Mcf has been suspended in Docket No. RI64-635 and has not been made effective.

⁴ This rate is in effect subject to refund in Docket No. RI64-75.

⁵ This rate is in effect subject to refund in Docket No. RI64-76.

⁶ This rate is in effect subject to refund in Docket No. RI63-474.

⁷ This rate is in effect subject to refund in Docket No. RI64-37.

⁸ This rate is in effect subject to refund in Docket No. RI64-38.

⁹ This is a pending application consolidated with Docket No. G-4281, et al.

¹⁰ This is a pending application.

[F.R. Doc. 64-6756; Filed, July 9, 1964; 8:45 a.m.]

[Docket No. RI64-803]

CHAMPLIN OIL & REFINING CO.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund

JULY 6, 1964.

On June 12, 1964, Champlin Oil & Refining Company (Champlin) tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are set forth in Appendix "A" hereof.

Champlin's proposed increased rates and charges exceed the applicable area price level for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR Ch. I, Part 2, § 2.56). Champlin's contracts were executed subsequent to September 28, 1960, the date of issuance of the Commission's aforementioned policy statement, and the proposed rates are below the applicable area ceiling for initial rates in the area involved. Under the circumstances, we believe it to be in the public interest to

suspend Champlin's proposed increases for one day from September 1, 1964, the requested effective date.

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, a public hearing shall be held concerning the lawfulness of the proposed changes.

(B) Pending a hearing and decision thereon, the rate supplements herein are suspended and their use deferred until the date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however*, That the supplements to the rate schedules filed by Champlin, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed

if within 20 days from the date of the issuance of this order Champlin shall execute and file under the above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Champlin is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(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 this proceeding 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 August 19, 1964.

By the Commission.

[SEAL]

JOSEPH H. GUTRIE,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate scheduled No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
E104-803...	Champlin Oil & Refining Co., P.O. Box 9365, Fort Worth, Tex., 76107. Champlin Oil & Refining Co.	80	2	Cities Service Gas Co. (Christian Science Church Unit, Woodward County, Okla.) (Panhandle Area).	\$4,974	6-12-64	10-1-64	2-9-2-64	\$ 15.0	\$ 16.0	
		88	2	Cities Service Gas Co., (Canfield Unit, Woodward County, Okla.) (Panhandle Area).	319	6-12-64	1-9-1-64	2-9-2-64	\$ 15.0	\$ 16.0	

¹ The stated effective date is the effective date requested by respondent.

² The suspension period is limited to 1 day.

³ Periodic rate increase.

⁴ Pressure base is 14.65 psia.

⁵ Subject to downward Btu adjustment.

[F.R. Doc. 64-6851; Filed, July 9, 1964; 8:45 a.m.]

[Docket No. CP64-285]

CITIES SERVICE GAS CO.

Notice of Application

JULY 6, 1964.

Take notice that on May 28, 1964, Cities Service Gas Company (Applicant), P.O. Box 1995, Oklahoma City, Oklahoma, filed in Docket No. CP64-285 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a tap, meter and regulator on its Pampa 20-inch transmission line at a point in Harper County, Kansas, for the purpose of making an interruptible sale of natural gas to Mid-Kansas Construction Company. The gas to be sold will be used to heat asphalt for state highway construction.

The estimated cost of the proposed facilities is \$2,200 and the period of their use is estimated to last for two months.

The estimated volume of gas to be delivered during the two-month period is 27,000 Mcf and the rate to be charged is 26 cents per Mcf.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that preliminary staff analysis has indicated that there are no problems which would warrant a recommendation that the Commission designate this application for formal hearing before an examiner and that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing may be held without further notice before the Commission on this application provided no protest or petition to intervene is filed within the time required herein. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and pro-

cedure (18 CFR 1.8 or 1.10) on or before July 27, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64-6852; Filed, July 9, 1964; 8:45 a.m.]

[Docket No. CP64-292]

EL PASO NATURAL GAS CO.

Notice of Application

JULY 2, 1964.

Take notice that on June 5, 1964, El Paso Natural Gas Company ("El Paso"), a Delaware corporation, whose mailing address is Post Office Box 1492, El Paso, Texas, 79999, filed at Docket No. CP64-292 an application for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act, as amended, authorizing the construction and operation of certain facilities and the sale and delivery of natural gas to Southwest Gas Corporation ("Southwest"), Southern Union Gas Company ("Southern Union") and the City of Safford, Arizona ("Safford") for resale by use thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that El Paso proposes to construct four (4) mainline taps, at a total estimated cost of \$1,760, in order to accommodate routine natural gas requests received from Southwest, Southern Union and Safford. Natural gas proposed to be delivered to each of the foregoing resale customers through the proposed facilities will be resold to domestic, commercial and irrigation consumers.

The delivery facilities proposed in the application by El Paso will be situated at various points throughout El Paso's system. Facilities proposed to be constructed by the resale customers will consist of routine distribution facilities at an aggregate cost of \$30,270.

The application states that during the third full year of operation of the proposed facilities, peak day and annual natural gas requirements of the consumers proposed to be served will aggregate 96 Mcf and 14,800 Mcf, respectively.

The sales and deliveries which are the subject of the application are proposed to be made in accordance with and at

rates contained in El Paso's existing FPC Gas Tariff.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that preliminary staff analysis has indicated that there are no problems which would warrant a recommendation that the Commission designate this application for formal hearing before an examiner and that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing may be held without further notice before the Commission on this application provided no protest or petition to intervene is filed within the time required herein. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 24, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64-6853; Filed, July 9, 1964; 8:45 a.m.]

[Docket No. CP64-228]

NORTHERN NATURAL GAS CO.

Notice of Application

JULY 2, 1964.

Take notice that on April 6, 1964, Northern Natural Gas Company (Northern) filed an application in Docket No. CP64-228 pursuant to section 7 of the Natural Gas Act for authority to construct and operate certain facilities to deliver 14,000 Mcf per day of contract demand to a proposed anhydrous ammonia fertilizer plant to be constructed by The Consumers Cooperative Association near Fort Dodge, Iowa.

In order to provide this service, Northern proposes to install 27.3 miles of 30-inch pipeline loop, 4000 horsepower and

modifications at existing compressor stations, one mile of 8-inch branchline and measuring facilities. The estimated cost of such facilities including interest and overheads is \$4,188,900.

Northern states that it has approximately 12.3 trillion cubic feet of gas reserves as of January 1, 1964. Based on estimated withdrawals, these reserves are adequate to meet the peak and average day requirements of its system for twelve years.

The proposed facilities will be financed from cash on hand, reserve accruals and retained earnings.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that preliminary staff analysis has indicated that there are no problems which would warrant a recommendation that the Commission designate this application for formal hearing before an examiner and that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing may be held without further notice before the Commission on this application provided no protest or petition to intervene is filed within the time required herein. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 22, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64-6854; Filed, July 9, 1964;
8:45 a.m.]

[Docket Nos. RI60-85, RI61-372]

GORDON STREET INC.

Order Redesignating Proceedings

JULY 2, 1964.

Gordon Street, Inc., has filed a motion requesting that Gordon Street, Inc. (Street), be substituted as Respondent in lieu of Gordon P. Street in the above-captioned rate suspension proceedings. In support of its motion to substitute, Street states that Gordon P. Street has assigned to Gordon Street, Inc., the gas properties of which he is listed as producer in the Commission's records; that the corporation now operates these properties as producer and Gordon P. Street, in his individual capacity, has relinquished operation of the properties.

The proceeding in Docket No. RI60-85 relates to two rate increases filed by Gordon P. Street, designated as Supplements Nos. 5 and 2 to his FPC Gas

Rate Schedules Nos. 2 and 3, respectively, for sales of natural gas to El Paso Natural Gas Company from the Spraberry Trend Field, Reagan County, Texas. By the Commission's order issued January 28, 1960, the proposed increased rates were suspended until July 4, 1960. Pursuant to appropriate motion filed July 1, 1960, the suspended rates were permitted to become effective, subject to refund, upon the filing by Gordon P. Street of a surety bond to assure refund of any excess charges which may ultimately be determined by the Commission not justified. A surety bond in the amount of \$78,500.00 was filed by Gordon P. Street on August 25, 1960.

The proceeding in Docket No. RI61-372 relates to two proposed increased rates filed by Gordon P. Street on January 30, 1961, designated as Supplement No. 1 to Supplement No. 5 to his FPC Gas Rate Schedule No. 2, and Supplement No. 1 to Supplement No. 2 to his FPC Gas Rate Schedule No. 3, for sales of natural gas to El Paso Natural Gas Company from the Spraberry Field, Reagan County, Texas. By the Commission's order issued March 1, 1961, the proposed increased rates were suspended for one day from March 2, 1961, and permitted by said order to become effective subject to refund as of March 3, 1961, upon the filing by Gordon P. Street of his agreement and undertaking in Docket No. RI61-372 to comply with the refunding and reporting procedure required by the Natural Gas Act and Section 154.102 of the Regulations thereunder. The required agreement and undertaking was never filed by Gordon P. Street.

Gordon Street, Inc., states in its motion to substitute that it is willing to file a surety bond to cover any refunds ordered by the Commission in Docket No. RI60-85. Accordingly, Gordon Street, Inc., shall file a surety bond in the amount of \$78,500.00 to cover any refunds that may be required in Docket No. RI60-85. The bond heretofore filed by Gordon P. Street shall be deemed discharged after Gordon Street, Inc., has filed a satisfactory bond.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act that Gordon Street, Inc., be substituted for Gordon P. Street in the proceedings in Docket Nos. RI60-85 and RI61-372, that said proceedings be redesignated accordingly, and that a surety bond, as outlined above, be filed by Gordon Street, Inc., in the proceeding in Docket No. RI60-85.

The Commission orders:

(A) Gordon Street, Inc., is hereby substituted as Respondent in lieu of Gordon P. Street in the proceedings in Docket Nos. RI60-85 and RI61-372, and said proceedings are redesignated accordingly.

(B) Within 30 days from the issuance of this order, Gordon Street, Inc., shall execute, in the form set out below, and file with the Secretary of the Commission an acceptable surety bond in Docket No. RI60-85 in the amount of \$78,500.00 to assure the refund of any excess

¹ Redesignated as Gordon Street, Inc., FPC Gas Rate Schedule Nos. 3 and 4, respectively.

charges. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such bond shall be deemed to be satisfactory and to have been accepted for filing.

(C) Gordon Street, Inc., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and its corporate surety bond to be filed in Docket No. RI60-85 shall remain in full force and effect until discharged by the Commission.

By the Commission.

[SEAL]

JOSEPH H. GUTRIDE,
Secretary.

[F.D. Doc. 64-6855; Filed, July 9, 1964;
8:46 a.m.]

OFFICE OF EMERGENCY PLANNING MONTANA

Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, and Executive Order 11051 of September 27, 1962 (18 F.R. 407, 22 F.R. 8799, 27 F.R. 9683); Reorganization Plan No. 1 of 1958, Public Law 85-763, and Public Law 87-296; by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855-1855g), as amended; notice is hereby given of a declaration of "major disaster" by the President in his letter to me dated June 9, 1964, reading in part as follows: I have determined the damage in various areas of Montana adversely affected by excessive rainfall and flooding beginning on or about June 8, 1964, to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement State and local efforts.

I do hereby determine the following areas in the State of Montana to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 9, 1964:

The Counties of:

Cascade.
Chouteau.
Fergus.
Flathead.
Glacier.
Jefferson.
Judith Basin.
Lake.
Lewis and Clark.
Pondera.
Powell.
Sanders.
Teton.
Toole.
Yellowstone.

Dated: June 22, 1964.

EDWARD A. McDERMOTT,
Director,

Office of Emergency Planning.

[F.R. Doc. 64-6876; Filed, July 9, 1964;
8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 2-20950]

WHITESTONE 1963 PROGRAM CORP.

Notice of Application for Exemption

JULY 2, 1964.

Notice is hereby given that Whitestone 1963 Program Corporation, a corporation organized under the laws of Delaware, ("issuer"), has filed an application pursuant to Rule 15d-20 of the general rules and regulations under the Securities Exchange Act of 1934 ("Act") for an order exempting the issuer from the operation of section 15(d) of the Act with respect to the duty to file any reports required by that section and the rules and regulations thereunder.

Rule 15d-20 permits the Commission, upon application and subject to appropriate terms and conditions, to exempt an issuer from the duty to file annual and other periodic reports if the Commission finds that all outstanding securities of the issuer are held of record, as therein defined, that the number of such record holders does not exceed fifty persons, and that the filing of such reports is not necessary in the public interest or for the protection of investors.

On January 30, 1963 Registrant's Registration Statement (File No. 2-20950) Form S-1 covering a maximum of \$5,000,000 of participations in the 1963 Whitestone Program, a program for the exploration, acquisition and development of oil, gas and other mineral properties, was declared effective.

Pursuant to said Registration Statement, Registrant entered into Basic Agreements with thirty-eight individual Participants. As of May 19, 1964 the aggregate dollar amount of participations in effect was \$2,788,500. Registrant's post-effective amendment requesting deregistration of the unsold participations as of said date was declared effective on April 22, 1964.

The application represents with respect to the request for exemption, that: All of the issued and outstanding shares of Registrant's Common Stock is owned by its parent, Whitestone Petroleum Corporation.

The application alleges that the filing of further periodic reports on Form 8-K, 9-K and 10-K is not necessary in the public interest or for the protection of investors. The accounting firm of Arthur Andersen & Co. prepares an annual audit of the Program which is to be distributed to the Participants after the end of each calendar year.

Notice is further given that an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate may be issued by the Commission at any time on or after August 15, 1964, unless prior thereto a hearing is ordered by the Commission. Any interested persons may, not later than August 7, 1964 at 5:30 p.m. submit to the Commission in writing his views or any additional facts bearing upon the application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reason for such request, and the issues of facts or law raised by the application which he desires to controvert.

For the Commission (pursuant to delegated authority).

[SEAL]

ORVAL L. DuBOIS,
Secretary.[F.R. Doc. 64-6850; Filed, July 9, 1964;
8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1010]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 7, 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 66779. By order of June 30, 1964, the Transfer Board approved the transfer to Blue Bird Transfer, Inc., Vancouver, Wash., of Certificate in No. MC 258, issued December 14, 1940, to C. I. Cook, doing business as Blue Bird Trans-

fer, Vancouver, Wash., authorizing the transportation of: General commodities in truckload lots, excluding household goods, commodities, in bulk, and other specified commodities, between Vancouver, Wash., and Portland, Ore.; and household goods, between points in Washington on the one hand, and, on the other, points in Oregon. Earle V. White, 2130 Southwest Fifth Avenue, Portland 1, Oregon, attorney for applicants.

No. MC-FC 66785. By order of July 1, 1964, the Transfer Board approved the transfer to Louis B. Janvrin and Donald L. Janvrin, a partnership, doing business as B. T. Janvrin Sons Company, Kensington Road, Hampton Falls, N.H., of the Permit in No. MC 74056, issued September 12, 1946, to L. B. Janvrin and R. M. Janvrin, a partnership, doing business as B. T. Janvrin Sons Co., Kensington Road, Hampton Falls, N.H., authorizing the transportation of: Lumber, piling, bridge timbers, and logs, between points in York and Cumberland Counties, Maine, on the one hand, and, on the other, Providence, R.I., and points in Middlesex, Essex, Suffolk, and Norfolk Counties, Mass., and Strafford, Rockingham, and Hillsboro Counties, N.H.

No. MC-FC 66840. By order of June 30, 1964, the Transfer Board approved the transfer to Maury S. Sheer, doing business as Sheer Cartage Company, Pittsburgh, Pa., of Certificate in No. MC 9136, issued August 6, 1962, to Guy and Epperly Transfer Co., Inc., Pittsburgh, Pa., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between Pittsburgh, Pa., on the one hand, and, on the other, points within 15 miles of Pittsburgh. Arthur J. Diskin, 302 Frick Building, Pittsburgh 19, Pa., attorney for applicants.

No. MC-FC 66963. By order of June 30, 1964, the Transfer Board approved the transfer to Roy W. Rinehart and Kathryn Rinehart, a partnership, doing business as Triple "M" Taxi, 1227 D Street, Fairbury, Nebr., of the operating rights issued by the Commission December 4, 1961, under Permit No. MC 119942, to Sid Backer, doing business as Triple "M" Taxi, 521 H Street, Fairbury, Nebr., authorizing the transportation, over irregular routes, of passengers and their baggage in the same vehicle with passengers, between Belleville and Phillipsburg, Kans., and Council Bluffs, Iowa, on the one hand, and, on the other, Fairbury, Nebr.

[SEAL]

HAROLD D. MCCOY,
Secretary.[F.R. Doc. 64-6863; Filed, July 9, 1964;
8:47 a.m.]

CUMULATIVE CODIFICATION GUIDE—JULY

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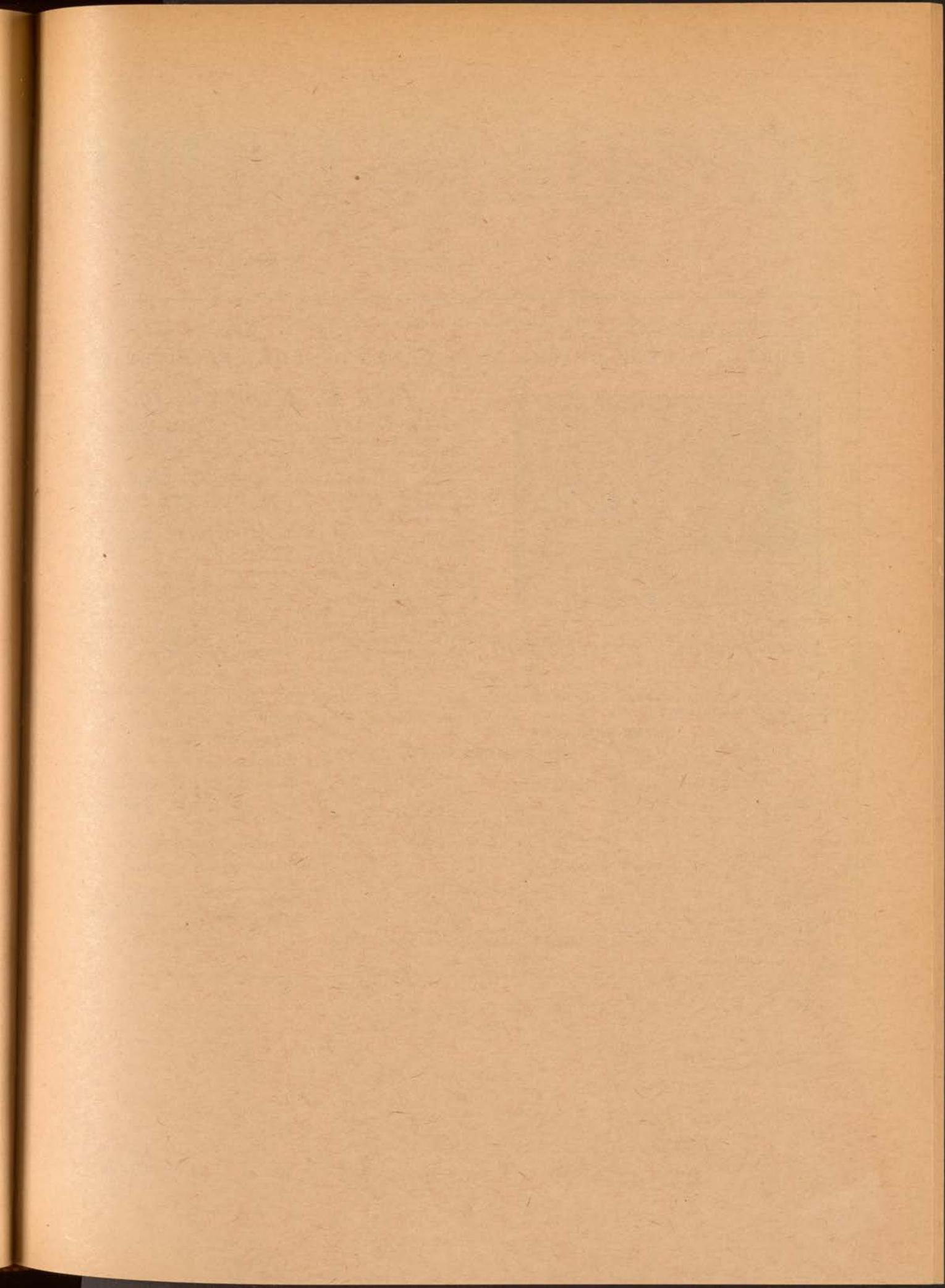
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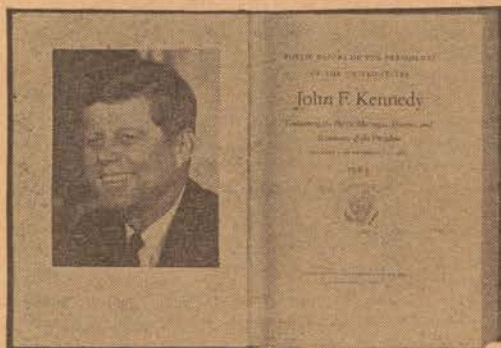
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