FEDERAL REGISTER

VOLUME 30 • NUMBER 129

Wednesday, July 7, 1965 • Washington, D.C.

Pages 8561–8602

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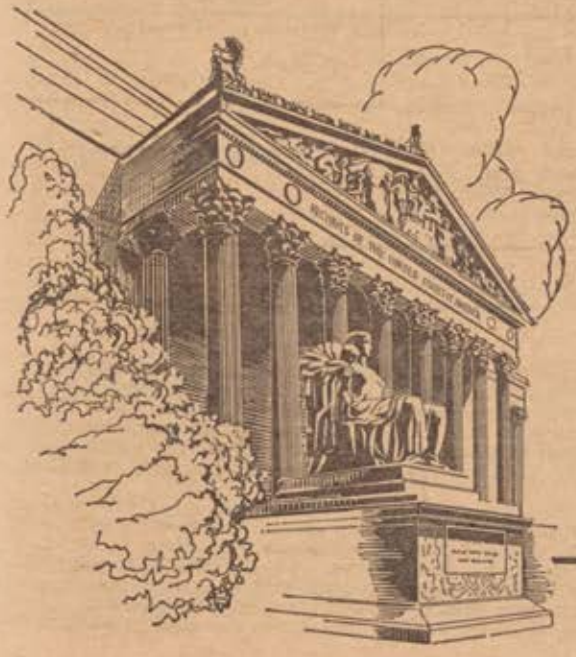

FEDERAL REGISTER

Area Code 202 Phone 963-3261

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

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List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1965, and specifies how they are affected.

Rules and Regulations

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 8]

PART 728—WHEAT

Subpart—Regulations Pertaining to Farm Acreage Allotments, Small Farm Bases and Normal Yields for 1964 and Subsequent Crop Years

MISCELLANEOUS AMENDMENTS

The amendments herein are issued pursuant to and in accordance with the provisions of the Agricultural Adjustment Act of 1938 as amended. Their purposes are (1) to revise the final dates for certain counties in the States of North Dakota and Nebraska for the disposal of excess wheat acreage as wheat cover crop, effective for the 1965 and subsequent crops of wheat, and (2) to list the counties eligible for participation in the special national acreage reserve for 1966.

Since the determination of 1965 wheat acreages is now being made, it is important that State and county committees be notified of the final date for disposing of excess wheat as wheat cover crop in the affected counties. In addition, 1966 farm acreage allotments are now being determined and information as to the counties in which such allotments may be adjusted from the special national acreage reserve should be available to committeemen and producers as soon as possible. Accordingly, it is hereby found that compliance with the public notice, procedure, and effective date provisions of the Administrative Procedure Act (5 U.S.C. 1003) is impracticable and contrary to the public interest. Moreover, the disposal of excess wheat as cover crop for 1965 affects only the wheat diversion and wheat certificate programs which relate to loans, grants, benefits, and contracts and the amendment revising those dates insofar as 1965 is concerned is exempted from the public procedure requirements of section 4 of the Administrative Procedure Act. Therefore, this document shall become effective upon filing with the Director, Office of the Federal Register.

§ 728.10 [Amended]

1. Section 728.10(q) is amended, effective for 1965 and subsequent years, to revise the final dates for disposing of excess wheat as wheat cover crop in the State of North Dakota as follows:

July 8. Adams, Bowman, Dickey, Emmons, Grant, Hettinger, La Moure, Logan, McIntosh, Ranson, Richland, Sargent, Sioux and Slope.

July 15. Barnes, Billings, Burleigh, Cass, Dunn, Foster, Golden Valley, Griggs, Kidder, McKenzie, McLean, Mercer, Morton, Oliver, Sheridan, Stark, Steele, Stutsman, Traill and Wells.

July 22. Benson, Bottineau, Burke, Cavalier, Divide, Eddy, Grand Forks, McHenry, Mountrail, Nelson, Pembina, Pierce, Ramsey, Renville, Rolette, Towner, Walsh, Ward and Williams.

2. Section 728.10(q) is amended, effective for 1965 and subsequent years, to revise the final date for disposing of excess wheat as wheat cover crop from June 20 to July 1 for the following counties in the State of Nebraska:

Banner, Cheyenne, Deuel, Garden, Kimball, Morrill and Scotts Bluff.

3. A new paragraph (c) is added to § 728.29 to read as follows:

§ 728.29 Special national acreage reserve.

* * * * *

(c) For the 1966 program year the following counties shall be considered eligible for participation in the special national acreage reserve:

COLORADO

Adams.
Arapahoe.
Archuleta.
Bent.
Baca.
Boulder.
Cheyenne.
Crowley.
Dolores.
Douglas.
Elbert.
El Paso.
Huerfano.
Jefferson.
Kiowa.
Kit Carson.
La Plata.
Larimer.
Las Animas.
Lincoln.
Logan.
Moffat.
Montezuma.
Morgan.
Phillips.
Prowers.
Pueblo.
Rio Blanco.
Routt.
San Miguel.
Sedgwick.
Washington.
Weld.
Yuma.

KANSAS

All counties.

IDAHO

Bannock.
Bear Lake.
Benewah.
Camas.
Caribou.
Clearwater.
Franklin.
Fremont.
Idaho.
Kootenai.
Latah.
Lewis.
Madison.
Nez Perce.
Oneida.
Power.
Teton.

MINNESOTA

Kittson.
Marshall.
West Polk.
Norman.
Clay.
Wilkin.

MONTANA

Big Horn.
Blaine.
Broadwater.
Carbon.
Carter.
Cascade.
Chouteau.
Custer.
Daniels.
Dawson.
Fallon.
Fergus.
Flathead.
Gallatin.
Garfield.
Glacier.
Golden Valley.
Hill.
Jefferson.
Judith Basin.
Lake.
Lewis and Clark.
Liberty.
Madison.
McCone.
Meagher.
Mineral.
Missoula.
Musselshell.
Park.
Petroleum.
Phillips.
Pondera.
Powder River.
Prairie.
Richland.
Roosevelt.
Rosebud.
Sanders.
Sheridan.
Stillwater.
Sweet Grass.
Teton.
Toole.
Treasure.
Valley.
Wheatland.
Wibaux.
Yellowstone.

NEBRASKA

Adams.
Banner.
Box Butte.
Chase.
Cheyenne.
Clay.
Dawes.
Deuel.
Dundy.
Fillmore.
Franklin.
Frontier.
Furnas.
Garden.
Gosper.
Harlan.
Hayes.
Hitchcock.
Jefferson.
Kearney.
Keith.
Kimball.
Morrill.
Nuckolls.
Perkins.
Phelps.
Redwillow.
Saline.
Sheridan.
Sioux.
Thayer.
Webster.

NEW MEXICO

Colfax.
Curry.
Harding.
Quay.
Roosevelt.
Union.

NORTH DAKOTA

All counties.

OKLAHOMA

Alfalfa.
Beaver.
Beckham.
Blaine.
Caddo.
Canadian.
Cimarron.
Comanche.
Cotton.
Craig.
Custer.
Delaware.
Dewey.
Ellis.
Garfield.
Grady.
Grant.
Greer.
Harmon.
Harper.
Jackson.
Kay.
Kiowa.
Kingfisher.
Logan.
Major.
Mayes.
Noble.
Nowata.
Oklahoma.
Osage.
Ottawa.
Pawnee.
Payne.
Roger Mills.
Rogers.
Texas.
Tillman.
Washington.
Washita.
Woods.
Woodward.

OREGON

Baker.
Gilliam.
Jefferson.
Lake.
Morrow.
Sherman.
Umatilla.
Union.
Wallowa.
Wheeler.
Wasco.

SOUTH DAKOTA

Beadle.
Bennett.
Brown.
Brule.
Buffalo.
Butte.
Campbell.
Corson.
Custer.
Dewey.
Edmunds.
Fall River.
Faulk.
Haakon.
Hand.
Harding.
Hughes.
Hyde.

SOUTH DAKOTA—Continued

Jackson.	Shannon.
Jones.	Spink.
Lawrence.	Stanley.
Lyman.	Sully.
McPherson.	Todd.
Meade.	Trip.
Mellette.	Walworth.
Pennington.	Washabaugh.
Perkins.	Ziebach.
Potter.	

WASHINGTON

Adams.	Grant.
Asotin.	Klickitat.
Benton.	Lincoln.
Chelan.	Okanogan.
Columbia.	Spokane.
Douglas.	Stevens.
Ferry.	Walla Walla.
Franklin.	Whitman.
Garfield.	Yakima.

TEXAS

Armstrong.	Moore.
Archer.	Ochiltree.
Baylor.	Oldham.
Callahan.	Potter.
Carson.	Randall.
Dallam.	Roberts.
Deaf Smith.	Sherman.
Foard.	Shackelford.
Gray.	Stephens.
Hansford.	Taylor.
Hardeman.	Throckmorton.
Hartley.	Wichita.
Hemphill.	Wilbarger.
Hutchinson.	Young.
Lipscomb.	

UTAH

Box Elder.	Salt Lake.
Cache.	San Juan.
Juab.	Tooele.
Rich.	

WYOMING

Campbell.	Platte.
Carbon.	Sheridan.
Laramie.	

(Secs. 301, 334, 339, 375, 379b, 52 Stat. 38, as amended, 53, as amended, 76 Stat. 622, as amended, 52 Stat. 66, as amended, 76 Stat. 626, sec. 1, 55 Stat. 203, as amended; 7 U.S.C. 1301, 1334, 1339, 1340, 1375, 1379b)

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

Signed at Washington, D.C., on July 1, 1965.

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

[F.R. Doc. 65-7106; Filed, July 6, 1965; 8:48 a.m.]

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

[Milk Order 136]

PART 1136—MILK IN GREAT BASIN MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Great Basin marketing area (7 CFR Part 1136), it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act for the months of June and July 1965: "There is disposed of on routes fluid milk products equal to not less than 40 percent of the receipts during the month at such plant of producer milk and receipts at the plant of fluid milk products from plants described pursuant to paragraph (b) of this section, and", appearing in § 1136.11(a).

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

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

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

(3) This suspension order will reduce for the months of June and July 1965, requirements for pool plant qualifications of distributing plants. A suspension order effective January 1, 1965, for the period of January 1, 1965, through July 31, 1965, reduced the percentage of fluid milk products required to be distributed on routes to 40 percent in all months. This action will eliminate for the months of June and July 1965, the 40 percent requirement. To be qualified as a pool distributing plant for the months of June and July 1965, a plant must have disposed of on routes in the marketing area fluid milk products equal to not less than 15 percent of the fluid milk product disposition from the plant on routes.

This action is necessary to enable cooperative associations to maintain pool plant status during the months of June and July in view of the necessity for the cooperatives to handle the reserve milk supplies for the other handlers in the market. It is expected that the recent trend toward increased milk production and a decline in Class I sales will continue in this market and make it impossible for the cooperative associations to maintain pool plant status during the months of June and July for all of their plants which have been pool plants in previous months. Hence, this suspension action will permit dairy farmers who are members of the cooperative associations and who have supplied the fluid milk requirements of the market to continue as producers under the order.

(4) Interested parties were afforded opportunity to file written data, views or arguments concerning this suspension (30 F.R. 8049). On the basis of the views, data and arguments filed in response to this invitation, it is concluded that this suspension order should be issued.

Therefore, good cause exists for making this order effective on date of signature.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the months of June and July 1965.

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

Effective date: On date of signature.

Signed at Washington, D.C., on June 30, 1965.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 65-7107; Filed, July 6, 1965; 8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 74—SCABIES IN SHEEP

Interstate Movement

Pursuant to the provisions of sections 4 through 7 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and sections 1 through 4 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126), §§ 74.2 and 74.3 of Part 74, Subchapter C, Chapter I, Title 9, Code of Federal Regulations, as amended, are hereby amended to read as follows:

§ 74.2 Designation of free and infected areas.

(a) Notice is hereby given that sheep in the following States, Territories, and District, or parts thereof as specified, are not known to be infected with scabies, and such States, Territories, District, and parts thereof, are hereby designated as free areas:

(1) Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Virgin Islands of the United States, Washington, West Virginia, Wisconsin, and Wyoming;

(2) All counties in Texas except (i) that portion of Carson, Gray, Hutchison, and Roberts Counties surrounding a point northeast of the town of White Deer in Carson County, Tex., lying within the area bounded by a line beginning at a point where Texas Farm Road 293 intersects Texas State Highway 70; thence running in a northerly direction along Highway 70 for a distance of approximately 55 miles through the town of Pampa to the Canadian River; thence running in a southwesterly direction along the Canadian River for approximately 45 miles to Texas Highway 15; thence running in a southerly direction along Highway 15 for approximately 28 miles through the town of Borger to the town of Panhandle; thence running in

an easterly direction along Texas Farm Road 293 to the point of beginning, where Farm Road 293 intersects with Highway 70; and (ii), that portion of Coke, Nolan, Runnels, and Taylor Counties surrounding the town of Wilmeth in Runnels County, Tex., herein described as beginning at a point in Coke County, Tex., 2½ miles south of the Colorado River on Highway 277; thence running in a southeasterly direction along a dirt road that follows the general course of the Colorado River, south bank, for a distance of 12 miles; thence running east 6 miles on same dirt road to the intersection of FM 2133; thence running in an easterly direction along FM 2133 to its intersection with Highway 83, which intersection lies 3 miles south of the town of Ballinger in Runnels County; thence running north along Highway 83 to its intersection with Highway 382 in the town of Ballinger; thence running along Highway 382 in a northeasterly direction for 5 miles to its intersection with FM 2647; thence running northerly along FM 2647 and across FM 1770, at which point an unnamed dirt road begins; thence running along said dirt road in a northerly direction to the town of Bradshaw in Taylor County, which town lies 1½ miles north of the Runnels-Taylor County line; thence running from the town of Bradshaw 15 miles westerly on FM 1086 to Happy Valley in Taylor County; thence running from Happy Valley northwesterly 1 mile on FM 1086 to the intersection of same with FM 1170; thence running 15 miles southwesterly on FM 1170 through the town of Hylton in Nolan County to the town of Blackwell in Nolan County; thence running from the town of Blackwell 5 miles south on Highway 70 to the intersection of same with Highway 277; thence running south on Highway 277 through the town of Bronte in Coke County 17 miles to the Colorado River; thence running 2½ miles south of Colorado River to point of beginning.

(b) Notice is hereby given also that sheep scabies exists in all States and Territories and parts of States not designated as free areas in paragraph (a) of this section, and they are hereby designated as infected areas.

§ 74.3 Designation of eradication areas.

(a) Notice is hereby given that sheep in the following States, or parts thereof as specified, are being handled systematically to eradicate scabies in sheep, and such States, and parts thereof, are hereby designated as eradication areas:

(1) Iowa;

(2) The following portions of counties in Texas: (i) That portion of Carson, Gray, Hutchison, and Roberts Counties surrounding a point northeast of the town of White Deer in Carson County, Tex., lying within the area bounded by a line beginning at a point where Texas Farm Road 293 intersects Texas State Highway 70; thence running in a northerly direction along Highway 70 for a distance of approximately 55 miles through the town of Pampa to the Canadian River; thence running in a southwesterly direction along the Canadian River for approximately 45 miles to Texas Highway 15; thence running in a southerly direction along Highway 15 for approximately 28 miles through the town of Borger to the town of Panhandle; thence running in an easterly direction along Texas Farm Road 293 to the point of beginning, where Farm Road 293 intersects with Highway 70; and (ii), that portion of Coke, Nolan, Runnels, and Taylor Counties surrounding the town of Wilmeth in Runnels County, Tex., herein described as beginning at a point in Coke County, Tex., 2½ miles south of the Colorado River on Highway 277; thence running in a southeasterly direction along a dirt road that follows the general course of the Colorado River, south bank, for a distance of 12 miles; thence running east 6 miles on same dirt road to the intersection of FM 2133; thence running in an easterly direction along FM 2133 to its intersection with Highway 83, which intersection lies 3 miles south of the town of Ballinger in Runnels County; thence running north along Highway 83 to its intersection with Highway 382 in the town of Ballinger; thence running along Highway 382 in a northeasterly direction for 5 miles to its intersection with FM 2647; thence running northerly along FM 2647 and across FM 1770, at which point an unnamed dirt road begins; thence running along said dirt road in a northerly direction to the town of Bradshaw in Taylor County, which town lies 1½ miles north of the Runnels-Taylor County line; thence running from the town of Bradshaw 15 miles westerly on FM 1086 to Happy Valley in Taylor County; thence running from Happy Valley northwesterly 1 mile on FM 1086 to the intersection of same with FM 1170; thence running 15 miles southwesterly on FM 1170 through the town of Hylton in Nolan County to the town of Blackwell in Nolan County; thence running from the town of Blackwell 5 miles south on Highway 70 to the intersection of same with Highway 277; thence running south on Highway 277 through the town of Bronte in Coke County 17 miles to the Colorado River; thence running 2½ miles south of Colorado River to point of beginning.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, as amended, 1265, as amended; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126; 19 F.R. 74, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment adds the entire State of Tennessee and all counties north of the Missouri River, in the State of Missouri, to the list of free areas and deletes such State and counties from the list of infected and eradication areas as sheep scabies is no longer known to exist therein. In addition to Tennessee, the entire State of Missouri has now been designated as a free area. Hereafter, the restrictions pertaining to the interstate movement of sheep from or into infected and eradication areas, as contained in 9 CFR Part 74, as amended, will not apply to Missouri and Tennessee. However, the restrictions in said Part 74 pertaining to the interstate movement of sheep from or into free areas will apply to such States.

The amendment relieves certain restrictions presently imposed and must be made effective immediately to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 30th day of June 1965.

R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 65-7109; Filed, July 6, 1965; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 65-CE-33]

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

Alteration of Federal Airway

On April 8, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 4554) stating that the Federal Aviation Agency was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a north alternate segment to VOR Federal airway No. 74 from Ponca City, Okla., via the intersection of the Ponca City 094° and the Tulsa, Okla., 319° radials, to Tulsa.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., September 16, 1965, as hereinafter set forth.

In § 71.123 (29 F.R. 17509), V-74 is amended by deleting "Tulsa, Okla.," and substituting "Tulsa, Okla., including an N alternate from Ponca City to Tulsa via the INT of Ponca City 094° and Tulsa 319° radials;" therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348))

Issued in Washington, D.C., on June 29, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-7058; Filed, July 6, 1965; 8:45 a.m.]

[Airspace Docket No. 65-SO-39]

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

Alteration of Federal Airway

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to exclude from the description of VOR Federal airway No. 185 the phrase "the airspace within R-3003 is excluded."

The segment of V-185 between Augusta, Ga., and Savannah, Ga., is designated to exclude the airspace within R-3003. Action taken in Airspace Docket No. 62-SO-24 reduced R-3003 to avoid the airway. For this reason, reference to the exclusion of the restricted area from the pertinent portion of V-185 is no longer necessary and action is taken herein to reflect this change.

Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective on less than 30 days' notice.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER, as hereinafter set forth.

In § 71.123 (29 F.R. 17509), V-185 is amended by deleting from the end of the text "The airspace within R-3003 is excluded."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348))

Issued in Washington, D.C., on June 28, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-7059; Filed, July 6, 1965; 8:45 a.m.]

[Airspace Docket No. 65-WA-19]

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

Extension of Federal Airway

On March 24, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 3821) stating that the Federal Aviation Agency was considering an amendment to Part 71 of the Federal Aviation Regulations that would extend VOR Federal airway No. 501 from Wellsville, N.Y., to the Bellona, N.Y., intersection.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., August 19, 1965, as hereinafter set forth.

In § 71.123 (29 F.R. 17509, 30 F.R. 4121), V-501 is amended to read as follows:

V-501 From Martinsburg, W. Va., via St. Thomas, Pa.; to Philipsburg, Pa. From Wellsville, N.Y., to INT Elmira, N.Y., 357° and Geneseo, N.Y., 091° radials.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348))

Issued in Washington, D.C., on June 29, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-7060; Filed, July 6, 1965; 8:45 a.m.]

[Reg. Docket No. 6296; Amdt. No. 93-8]

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

Anchorage, Alaska, Terminal Area

On March 17, 1965, a notice of proposed rule making, Notice 65-5, was published in the FEDERAL REGISTER (30 F.R. 3550) stating that the Federal Aviation Agency was considering amending Part 93 of the Federal Aviation Regulations to make the Bryant segment of the Anchorage Airport traffic area effective only during the hours the Bryant control tower is in operation. The purpose of the proposed amendment, as stated in the notice, was to eliminate the requirement for Bryant traffic to maintain two-way radio contact with the Elmendorf control tower when the Bryant control tower is not operating. The notice also stated the Agency's intention to retain the traffic pattern for Bryant, as shown in Appendix A of Part 93, and the minimum flight altitude prescribed in § 93.67(a), when the tower is not operating. In addition, certain editorial changes were proposed in the notice to correct inconsistencies which exist in the rule.

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

In consideration of the foregoing, and for the reasons stated in the notice of proposed rulemaking, Subpart D of Part 93 of the Federal Aviation Regulations is amended, effective August 5, 1965, as hereinafter set forth.

§ 93.53 [Amended]

1. Section 93.53 is amended as follows:

a. The introductory paragraph is amended by striking out the words "R-2203; thence west and north along the south and west boundary of R-2203" and inserting the words "R-2203A; thence west along the southern boundaries of R-2203A and R-2203B; thence north along the west boundary of R-2203B" in place thereof.

b. By adding the following new paragraph at the end thereof:

(d) That airspace described as the "Bryant segment" in § 93.55(e), when the Bryant control tower is not in operation.

2. Section 93.57(a) is amended to read as follows:

§ 93.57 General rules: All segments.

(a) Each person piloting an aircraft to, from or on an airport within the airport traffic area shall operate it according to the rules set forth in this section and §§ 93.59, 93.61, 93.63, 93.65, or 93.67, as applicable, unless otherwise authorized or required by ATC.

* * * * *

3. Section 93.67(b) is amended to read as follows:

§ 93.67 General rules: Bryant segment.

* * * * *

(b) Whenever Bryant control tower is not operating, each person piloting an aircraft to or from the Bryant Airport shall conform to the flow of traffic shown on the appropriate diagram in Appendix A of this Part, and, while in the traffic pattern, shall operate at an altitude of at least 1,000 feet m.s.l. until maneuvering for a safe landing requires further descent.

4. The title of § 93.69 is amended to read as follows:

§ 93.69 Special Requirements, Lake Campbell and Sixmile Lake Airports.

* * * * *

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

Issued in Washington, D.C., on June 29, 1965.

N. E. HALABY,
Administrator.

[F.R. Doc. 65-7061; Filed, July 6, 1965; 8:45 a.m.]

[Reg. Docket No. 1866; Amdt. 121-9]

PART 121—CERTIFICATION AND OPERATIONS: AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Landing Performance Operating Limitations for Turbojet Powered Transport Category Airplanes

The purpose of this amendment to Part 121 of the Federal Aviation Regulations is to increase for turbojet powered airplanes the required runway length for landing, at alternate airports at all times, and at destination airports whenever weather reports and forecasts indicate that the runways will be wet or slippery at the estimated time of arrival.

This amendment is based on a notice of proposed rule making (Notice 63-28) issued on July 15, 1963, and published in the FEDERAL REGISTER on July 25, 1963 (28 F.R. 7565). Notice 63-28 also proposed to increase the accelerate-stop distance for turbojet powered airplanes. This proposal is being withdrawn for the reasons set forth below.

The Agency received numerous comments, both favorable and unfavorable, addressed to both of the major proposals contained in Notice 63-28. In view of the wide divergency of the comments received, the Agency held a public hearing on June 23, 1964. As stated in the notice of public hearing (29 F.R. 5640), the hearing was held to give interested persons further opportunity to express their views, and in addition, the Agency solicited specific recommendations as to the criteria or procedures that could be used in establishing adequate accelerate-stop and landing distances for each type and model turbojet powered airplane.

The basis for the Agency's original proposal and the significant comments, both favorable and unfavorable, received by the Agency, before, at, and after, the public hearing are hereafter summarized and discussed.

Accelerate-stop distance. The Agency's proposal to add an additional margin of 800 feet to the accelerate-stop distance was based on the following:

(1) The existing accelerate-stop distance is considered to result in the absolute minimum level of safety.

(2) There are no built-in safety margins to account for normal operational variations other than 50 percent headwind and 150 percent tailwind accountability.

(3) Airline pilots cannot reproduce during normal operations the accelerate-stop distance determined during type certification.

(4) There are no arbitrary factors applied to the accelerate-stop distance to account for operational variations; i.e., pilot technique, runway surface conditions, etc.

(5) In airline operations, airplanes are operated at times with tires and brakes that do not provide maximum braking action.

(6) If an engine failure occurs at V_1 speed during airline operations, there is a time period during which the pilot decides whether to abort or continue the takeoff and also a reaction time to initiate braking.

(7) The effective runway length required for accelerate-stop distance can be exactly equal to the runway length. No allowance need be made for the runway consumed in positioning the airplane.

Based on the preceding, the Agency proposed to add 800 feet to the normal accelerate-stop distance for turbojet airplanes, 600 feet to provide a 3-second decision time to the pilot and 200 feet to account for runway used in positioning the airplane.

Synopsis of comments opposed to proposed increase in accelerate-stop distance. (1) Airport taxi aprons are normally located so as to allow airplane positioning on the runway edge. However, where airport layout precludes such positioning "effective runway length" should be redefined rather than to arbitrarily add a 200-foot increase that would penalize airports at which there is no problem.

(2) There are safety margins not recognized in the notice such as reverse thrust, low probability of engine failure at V_1 speed, and time delays imposed during type certification.

(3) There is no basis for increasing accelerate-stop distances for turbojet airplanes only, when the reciprocating engine powered airplane is statistically more likely to experience an engine failure and aborted takeoff.

(4) Type certification performance in an aborted takeoff is repeatable if the specified procedures are followed. Furthermore, a decision time is inappropriate since the pilot's decision is already made depending upon whether the airplane's actual speed is below or above V_1. Once V_1 is reached, the pilot no longer will consider aborting, and until it is reached, he will automatically abort if an engine fails.

(5) The type certification accelerate-stop distance is based on: (a) acceleration to V_1; (b) complete power loss on one engine at this exact point; (c) pilot reaction time; and (d) full braking on a dry runway. The very basis for determining accelerate-stop distance has a built-in conservatism that provides an adequate safety margin for normal operations. This is true for several reasons: In practice, if an engine fails before V_1 is reached, more distance is available for stopping; if after, the pilot's decision to takeoff has already been made.

(6) Several comments from foreign manufacturers and operators stated that even if an increase was justified for some turbojet airplanes type certificated in the United States, such an increase should not apply to those airplanes type certificated in a foreign country whose type certification process contained additional safety factors (such as additional decision time) not considered in U.S. type certification process.

Synopsis of comments in favor of proposed increase in accelerate-stop distance. Several comments that favored the proposed 800-foot increase in accelerate-stop distance agreed with the Agency based on the justification contained in the notice. Several qualified favorable comments were received that agreed that for some airplanes at some airports there could be a safety problem. These commentators favored an approach directed at the specific problem situations rather than an arbitrary 800-foot increase that would affect all turbojet operations.

Conclusion. After reviewing all of the comments received relating to the proposed increase in accelerate-stop distance, the Agency believes that it does not at this time have sufficient facts to justify the proposed increase.

The Agency agrees that the proposed 200-foot increase to account for positioning the airplane on the runway is not justified in all cases and would therefore penalize operations in which there is no problem. The Agency believes that a better approach to solve this problem where it does exist would be to redefine effective runway length so as to account for any runway lost due to positioning. However, this approach would affect the takeoff distance and takeoff run as well as the accelerate-stop distance and would therefore be outside the scope of Notice 63-28. The Agency also agrees that there are additional safety margins built into the accelerate-stop distance determined during type certification not considered in Notice 63-28. Since these additional built-in factors were listed above, they need not be repeated. Furthermore, the Agency finds that there have been no overrun aborted takeoffs experienced in air carrier operations with a turbojet powered airplane on a dry runway. Thus, if the present accelerate-stop distance is inadequate in some cases, it would appear that any increase should be based on runway conditions and not applied arbitrarily to all operations.

In view of the above, the Agency has decided to withdraw the proposed increase in accelerate-stop distance contained in Notice 63-28. The Agency will continue to study the adequacy of the present accelerate-stop distance requirements with particular attention to the effect of adverse runway conditions. If it finds that the present accelerate-stop distance is inadequate under certain conditions, the Agency will consider more particular regulatory action that would not arbitrarily penalize operations in which there is now no safety problem.

Landing distance limitations. The Agency's proposal to increase the required landing runway lengths for turbojet airplanes as stated in Notice 63-28 was based primarily on the following:

(1) A survey completed by the Agency indicated that some of the major airlines operating turbojet equipment already apply some correction factor for landing on slippery or wet runways.

(2) FAA policy for approval of turbojet operations with 200-½ landing minimums requires that runway lengths be increased by 1,000 feet or 15 percent, whichever is greater.

(3) In actual operations, the landing technique differs from that on which the type certification landing distance is based, i.e., in operations the airplane usually touches down at a greater distance from the runway threshold and at a higher touchdown speed.

(4) The effectiveness of the braking systems is substantially reduced on wet or icy runways.

(5) That, as a result of the factors discussed in Item 3 a substantial portion of the 40 percent runway margin that is presumably available for adverse conditions is used up in normal operations on dry runways leaving an inadequate margin for operations in adverse conditions, such as wet or slippery runways.

Based on the preceding, the Agency proposed to increase the required runway length at the destination airport by 20 percent whenever the weather reports or forecasts indicated that at the estimated time of arrival wet or slippery runways could be expected.

Synopsis of comments opposed to proposed increase in landing distance. (1) The use of actual landing data obtained on runways where there is a substantial excess runway length over that required by the regulations is not a proper basis for concluding that the type certification landing conditions cannot be met. Pilots in normal operations will frequently use as much runway as they have available, and, therefore, the fact that the actual landing involves a longer touchdown distance at a higher speed than that used during type certification is not relevant unless the landing is made on a runway where the length is critical.

(2) Additional factors that are not considered in the type certification process, such as reverse thrust, together with the presently required margin, compensate for the fact that operational landings differ from type certification determinations.

(3) The accident/incident record does not justify an increase in landing distance runway lengths since that record would not have been changed had the proposed landing requirements been effective before the accidents.

(4) The proposed increase in landing distance would cause an economic burden that would far outweigh any increase in safety that might be achieved. The burden from reducing landing weights to meet the proposed 20 percent increase in required runway length was estimated to be in excess of 18 million dollars per year for the affected airlines, on an actual load factor basis.

(5) Only a few of the airlines apply additional margins similar to those proposed in Notice 63-28 and these usually apply to specific airports and are used at the discretion of the pilot in command.

Synopsis of comments in favor of proposed increase in landing distance. Basically, the favorable comments agreed in substance with the Agency's reasons for proposing an increase in the required landing distance for wet or slippery runways. Particular attention was given to the fact that pilots did not feel that they could duplicate the type certification landing distances in normal operations. The history of overrun, underrun, missed approach, cross wind, and wind shear, and other terminal area accidents indicates that longer runways are necessary. The Air Line Pilots Association stated that while it supported the proposed increase as an interim measure it felt that an increase of 40 percent over existing runway requirements is actually needed to cover slippery runway conditions encountered in actual operations.

Discussion. The Agency has thoroughly examined all of the comments and detailed data submitted in connection with the proposed increase in landing distances for wet or slippery runways. On the basis of this review, the Agency believes that many of the persons who commented on the notice misunderstood much of the basis for the Agency's determination that additional runway length was necessary for landings on wet or slippery runways. This belief is based on the numerous comments critical of the use to which the Agency was putting the operational data evaluated in Flight Standards Service Release No. 470 and also critical of the basis set forth in the notice upon which the Agency concluded that an equivalent of 1,300 feet should be added to the required landing runway lengths. In view of this possible misunderstanding, the Agency believes that further discussion of the basis for its original proposal is warranted.

The phototheodolite data accumulated on 183 daylight turbojet landing operations of scheduled air carriers reported in Flight Standards Service Release No. 470 were used by the Agency basically to determine information concerning the airborne portion of the average operational landing. This data revealed that the mean threshold speed was $1.39V_s$ (round to $1.4V_s$ for the purpose of this preamble) (type certification $1.3V_s$), mean touchdown distance 1,514 feet (type certification 1,000 feet), and mean touchdown speed $1.3V_s$ (Type certification $1.2V_s$). The Agency realizes that, as pointed out in many of the comments, a large portion of the 183 landings studied in obtaining this data were made at airports at which there was substantial additional runway to that required to meet the present landing distance requirements. The Agency also recognizes that, to some extent, pilots will use as much runway as they have available. However, the Agency found that there was little difference in the mean values of threshold speed, touchdown distance, and touchdown speed between runways with excess length as compared with those that might be termed critical. Furthermore, the relevance of the mean values stated above is supported by the data obtained by the United Kingdom in similar studies.[1]

Touchdown distance and touchdown speed are controlling factors affecting the total landing distance whether the runway is wet or dry. However, landing on wet or slippery runways is more critical because braking effectiveness is reduced. For example, for a typical turbojet powered airplane landing at a weight of 155,000 pounds using the type certification techique (threshold speed $1.3V_s$ at 50 feet above threshold, touchdown speed $1.2V_s$ and touchdown distance 1,000 feet), the type certification distance from threshold to stop is about 3,300 feet and the present operationally required runway length is 5,500 feet. Thus a margin of about 2,200 feet is presumably available to cover variations in landing techniques and runway conditions. However, when the mean touchdown speeds ($1.3V_s$ instead of $1.2V_s$ and mean touchdown distances (1,500 feet instead of 1,000 feet) found to occur in actual operations on dry runways are considered, this margin drops to about 1,300 feet. When the effect of wet or slippery runways on braking effectiveness is considered, the Agency finds that this remaining margin completely disappears for some airplane types. Thus, the Agency concludes that the present landing distance requirements provide barely enough margin over the average type certification technique landing to account for the mean airline technique and wet or slippery runway landing conditions. When probable deviations from the mean operational landing are considered, the Agency finds that no margin remains when the runway is wet or slippery and that in fact if the runway length available was equal to the present requirements an overrun would likely occur. The Aerospace Industries Association submitted data based on type certification landing techniques on wet runways to which the effect of 50 and 100 percent reverse thrust was applied that would appear to refute the above stated conclusions. However, when the AIA data are corrected to account for average operational landing techniques, the above stated conclusions are confirmed.

It is for the above stated reasons that the Agency feels that operations with turbojet powered airplanes into airports with wet or slippery runways, that do not have any excess length over that required under the present rules, are of sufficient potential danger to warrant a requirement for additional runway under adverse conditions (or compensating reduction in weight).

While the Agency did not in Notice 63-28 base its original proposal on the accident/incident record of turbojet airplanes, many of the comments received were addressed to this record. The Agency recognizes that in each of the 10 incidents (1960-64) that involved overruns with turbojet airplanes there were so many contributing factors that no firm conclusions can be drawn therefrom. However, the Agency believes it is relevant that nine of the ten overruns occurred on wet or slippery runways. These incidents also indicate that where operational conditions into wet or slippery runways vary to any substantial degree from the average conditions, there is a strong likelihood that an overrun will occur unless the runway length is substantially in excess of that required by the present regulations. The Agency believes that the fact that there have been so few such overruns as compared to the total number of airline landings is attributable to a large degree to the fact that most of the airports into which the large turbine engine powered airplanes have been operating have runways that are substantially longer (partially due to takeoff distance requirements for long range operations) than the minimums required by the regulations for landing. For example, a typical runway length required under the present regulations for landing a fully loaded turbojet airplane is about 6,800 feet. Of the top 80 airports, based on the frequency of air carrier operations, approximately 50 have at least one runway available in excess of 7,800 feet.[2] Thus, even if the average operation into these airports was with a fully loaded airplane, there would be substantial excess runway over that required by the regulations. Most of the overruns have occurred on runways that were substantially (7 to 30 percent longer than required. This enabled the airplane to go off the end or the sides of the runway at a lower speed, thereby minimizing the potential damage. There have been no fatalities in turbojet overruns on wet runways, but one case resulted in serious injuries.

However, in the future, the number of turbojet airline operations into smaller cities with smaller (i.e., short range) airports is expected to increase, and unless the Agency takes regulatory action, it believes that the margins of safety which presently exist outside the requirements of the regulations will frequently disappear.

[1] "Analysis of Operational Landing Statistics of Turbine-Engine Airplanes"; ICAO Paper AIR C-WP/195, May 21, 1962.
"Photographic Measurements of Landings at London Airport," ICAO Paper AIR C-WP/163, Feb. 21, 1962.
"Photographic Measurements of Landings at Prestwick Airport," ICAO Paper AIR C-WP/187, Apr. 16 and July 10, 1962.

[2] FAA Air Traffic Activity, fiscal year 1964; Table 7, pp. 51-53.

Conclusion. Based on the above, the Agency concludes that an increase in the runway length required for landing on a wet or slippery runway is justified. From its study of the accident/incident record and the operational data, the Agency believes that an increase of 15 percent over the runway length required by the present regulations is adequate to cover those runway conditions that may frequently be expected and also reasonable variations in landing techniques. The Agency recognizes that to require runway length increases of the magnitude that would be necessary to prevent overruns when all the possible adverse conditions and extreme operating techniques are accumulated would be to impose economic burdens that have no relationship to the increased safety obtained. The Agency believes that compliance with the normal operating rules, such as sections 91.9, 121.551, and 121.553, is the proper means of preventing such incidents. The Agency believes that the economic burdens imposed by the increase adopted by this amendment are commensurate with the additional safety achieved thereby. These economic aspects will be discussed more fully hereafter.

Alternative operational method. Many of the comments received indicated that, in view of the advanced braking systems installed on many of the newer airplanes together with reverse thrust (not considered during type certification), any arbitrary increase would impose unjustified burdens on operations with some airplanes that are fully capable of landing even on wet or slippery runways within less than a 15-percent increase in the present required runway lengths. The Agency recognizes the validity of this comment and this amendment therefore provides an alternative whereby a particular type and model airplane may be approved for operations involving wet or slippery runways into airports with less than 115 percent of the normal required runway length upon obtaining approval from the Administrator. An advisory circular is being issued with this amendment that sets forth an acceptable means of compliance whereby this approval can be obtained. Basically, this advisory circular sets out criteria that require demonstration landings on wet or slippery runways at what the Agency considers normal operating conditions and giving credit for partial reverse thrust when available. To the average landing distance indicated by such demonstrations, an additional 15 percent margin is added to cover conditions that vary somewhat from the average. If the resulting figure is less than that which otherwise would be required by this amendment, it will be approved providing that in no event will the margin imposed by the present rule be decreased.

At the public hearing, the Air Transport Association of America proposed that a 10-percent increase in required landing runway length be made applicable to only the 707–120 type airplanes. The Agency considered this proposal, but it is not being adopted because the Agency believes that a 10-percent increase is not adequate for this type (with the original brake and thrust reversing systems) and that an increase for other types is also justified. Since many airplanes have been or may be altered with respect to brake and reversing systems, this rule permits all of these factors to be taken into account under the alternate operational method.

Economic aspects. The Agency recognizes that, notwithstanding the duty resting upon air carriers to perform their services with the highest possible degree of safety, the economic burden added by any new safety requirement is relevant to the justification for that requirement.

Many of the comments received contained economic data indicating the burden that the proposed rule would place on individual operations and on overall air carrier operations. The Agency found that much of the economic data submitted was difficult to evaluate, and even more difficult to cumulate if a total operational cost was to be determined. This resulted from the fact that some calculations were based on actual loads while others were based on assumed 100 percent loads. The Agency now believes that the economic burden imposed by this rule, when effective, is commensurate with the additional safety that will be provided. The Agency further believes that there are four possible ways in which the objectives sought by this regulation may be achieved. These are—

(1) Comply with the 115-percent requirement for wet or slippery runways making any necessary payload reductions.

(2) Utilize the alternate operational method to obtain approval for operations into airports with less margin than required by (1) above.

(3) Increase the length of runways at those airports into which operations would otherwise be substantially affected by this amendment.

(4) Install improved antiskid systems and/or automatic spoilers that would make it easier to make the necessary showing under (1) or (2) above.

The Agency believes that none of the above alternatives will place an undue economic burden on those affected by this regulation for operations with the present turbine engine powered fleet. A study of landing weight penalties at a number of critical airports indicated that a 15-percent increase in required runway length would result in about one-half the total penalty associated with the 20-percent increase proposed in Notice 63–28. Furthermore, the most likely solution is a combination of the above alternatives depending upon the economic and operational feasibility of each. Thus, as airports, brake systems, and thrust reversing systems are improved, any weight penalties imposed by this rule will decrease further. Furthermore, while it is impossible to estimate accurately an annual dollar savings from prevented overshoots, the Agency believes that such savings will be an offsetting factor to any economic burden resulting from this amendment.

For future operations for such airplanes as the B–727, DC–9, and BAC 1–11, the Agency realizes that it is more difficult to estimate the effect of this regulation since these airplanes are specifically designed for operation into airports with shorter runways than those being used by the present fleet. The Agency does have some data for the B–727 that would indicate that a showing can be made under the proposed operational method such that that airplane would not require any significant increase in runway length for wet or slippery conditions over that required by the present regulations. If a similar showing can be made with the DC–9 and BAC 1–11, this regulation would not impose any burden on operation of these aircraft. If such a showing cannot be made under the operational method for these aircraft for operations into wet or slippery runways, the 115-percent requirement must be met.

Critical airports. Much of the estimated economic burden of the proposed landing distance increase was indicated to be due to operations into six airports with critical length runways. These are Kansas City (Municipal), Newark, Dallas, Cleveland (Hopkins), Detroit (Willow Run), and Atlanta. Since the issue of the notice, several of these most critical situations have been alleviated. The ILS runway at Atlanta has now been extended to 8,800 feet. The ILS at Cleveland (Hopkins) has now been moved to the 9,000-foot runway. At Detroit (Willow Run) the longest runway is still the 7,521-foot runway, but Detroit is also served by Wayne Airport whose longest runway is 10,500 feet. At Kansas City Municipal Airport the longest runway is still the 7,000-foot runway, but the new Midcontinent Airport has a 9,000-foot runway that could presumably be used once the terminal building is constructed. At Newark the longest runway is still the 7,000-foot runway which would be adequate for all but the largest airplanes when heavily loaded which presumably could use John F. Kennedy International Airport. Accordingly, the Agency does not believe that this rule will cause a substantial economic burden even at those airports which can be termed the most critical for operation with large, heavily loaded turbojet airplanes.

Alternate airport requirements. Notice 63–28 proposed to increase the alternate airport landing distance requirements to provide a 40-percent runway margin beyond the type certification landing distance for all turbojet powered airplanes rather than the present 30-percent margin. The Agency's basis for this proposal was substantially the same as that for increasing the destination airport landing distance requirements. However, since operations into alternate airports are fairly infrequent, the Agency did not believe that it was worthwhile to propose this increase on the basis of the condition of the runway. While few comments were directly addressed to the proposed alternate airport landing distance increase, the Agency has assumed that most of the comments received were applicable alike to the alternate airport proposal. The Agency believes that, for the reasons stated above relating to destination airports and those stated in the notice, the proposed increase in the alternate airport landing distance requirement should be adopted and should apply to all turbojet landings thereat. Section 121.197 is

being amended accordingly, and a paragraph (e) is being added to § 121.195 consistent with the change to § 121.197.

Low weather minimum criteria. Notice 63-28 mentioned the relevance of the FAA policy (reflected in Advisory Circular 120-4) for approval of turbojet operations with 200-½ minimums. This advisory circular permits operations with landing minimums of 200-½ at certain approved airports provided additional operational requirements are met. One of these additional requirements is that there be 15 percent or 1,000 feet (whichever is greater) additional runway over that required by the present regulation. These operations are not affected since the 15-percent increase (for turbojet powered airplanes) in runway lengths for wet or slippery runways required by this amendment is not in addition to the 15-percent required for operations into approved airports with low minimums. However, the Agency is studying the effect of the combination of wet or slippery runway conditions and low weather minimums to determine whether the required 15 percent increase is adequate for such operations.

To allow time for affected persons to prepare and issue revised runway landing weight limitations and if possible to take steps toward alleviating possible payload penalties, this amendment is to become effective six months after the date of adoption.

In consideration of the foregoing, Part 121 of the Federal Aviation Regulations is amended, effective January 15, 1966, as follows:

a. Paragraph (b) of § 121.195 is amended by striking the words "paragraph (c)" and inserting the words "paragraphs (c), (d), or (e)" in place thereof.

b. Paragraph (c) of § 121.195 is amended by striking out the first word "An" and inserting the words "A turbopropeller powered" in place thereof.

c. Section 121.195 is amended by adding the following new paragraphs (d) and (e) at the end thereof:

§ 121.195 Transport category airplanes: turbine engine powered: landing limitations: destination airports.

* * * * *

(d) Unless, based on a showing of actual operating landing techniques on wet runways, a shorter landing distance (but never less than that required by paragraph (b) of this section) has been approved for a specific type and model airplane and included in the airplane flight manual, no person may takeoff a turbojet powered airplane when the appropriate weather reports and forecasts, or a combination thereof, indicate that the runways at the destination airport may be wet or slippery at the estimated time of arrival unless the effective runway length at the destination airport is at least 115 percent of the runway length required under paragraph (b) of this section.

(e) A turbojet powered airplane that would be prohibited from being taken off because it could not meet the requirements of paragraph (b)(2) of this section may be taken off if an alternate airport is specified that meets all the requirements of paragraph (b) of this section.

§ 121.197 [Amended]

d. Section 121.197 is amended by inserting the words "for turbopropeller powered airplanes and 60 percent of the effective length of the runway for turbojet powered airplanes," immediately after the words "length of the runway".

(Secs. 313(a), 601, 603, and 604, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1423, and 1424))

Issued in Washington, D.C., on June 29, 1965.

N. E. HALABY,
Administrator.

[F.R. Doc. 65-7062; Filed, July 6, 1965; 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 D—Food Additives Permitted in Food for Human Consumption

FATTY ACIDS

Since the issuance of § 121.1070, which prescribes a bioassay procedure described in the Journal of the Association of Official Agricultural Chemists, the bioassay procedure has been modified and the regulation as now promulgated does not include a reference to the modified bioassay method. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)), and under the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.90), § 121.1070(c) (1) and (2) is revised to read as follows:

§ 121.1070 Fatty acids.

* * * * *

(c) * * *

(1) Unsaponifiable matter shall be determined by the method described in the most recent edition of "Official Methods of Analysis of the Association of Official Agricultural Chemists."

(2) Chick-edema factor shall be determined by the bioassay method described in the Journal of the Association of Official Agricultural Chemists, Volume 44, page 146 (1961), as modified by the methods described in Volume 45, page 210 (1962), and Volume 46, page 162 (1963).

* * * * *

I find that notice and public procedure and delayed effective date are unnecessary in this instance, since the revision of the test methods involved reflect only editorial changes.

Dated: June 28, 1965.

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

[F.R. Doc. 65-7075; Filed, July 6, 1965; 8:46 a.m.]

PART 121—FOOD ADDITIVES

Subpart G—Radiation and Radiation Sources Intended for Use in the Production, Processing, and Handling of Food

ULTRAVIOLET RADIATION FOR PROCESSING AND TREATMENT OF FOOD

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition (FAP 5M1592) filed by Westinghouse Electric Corp., 3 Gateway Center, Pittsburgh, Pa., 15230, and other relevant material, has concluded that the food additive regulations should be amended to provide the conditions under which ultraviolet radiation may be safely used in the processing and treatment of food. 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), Part 121 is amended by adding to Subpart G the following new section:

§ 121.3006 Ultraviolet radiation for the processing and treatment of food.

Ultraviolet radiation for the processing and treatment of food may be safely used under the following conditions:

(a) The radiation sources consist of ultraviolet emission tubes designed to emit wavelengths within the range of 2200-3000 Angstrom units with 90 percent of the emission being the wavelength 2537 Angstrom units.

(b) The ultraviolet radiation is used or intended for use as follows:

Irradiated food	Limitations	Use
Food and food products.	Irradiated with 2,200-3,000 A. emissions, without ozone production; high fat-content food irradiated in vacuum or in an inert atmosphere; intensity of radiation, 1 watt (of 2537 A. radiation) per 5-10 sq. ft.	Surface microorganism control.
Potable water.	Irradiated with 2,200-3,000 A. emissions, without ozone production; coefficient of absorption, 0.19 per cm. or less; flow rate, 100 gal. per hr. per watt of 2,537 A. radiation; water depth, 1 cm. or less; lamp-operating temperature, 36°-46° C.	Sterilization of water used in food production.

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, D.C., 20201, written objections thereto, preferably in quintuplicate. 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.

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: June 29, 1965.

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

[F.R. Doc. 65-7091; Filed, July 6, 1965; 8:47 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6832]

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

Gain From Dispositions of Certain Depreciable Property

On August 6, 1964, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to conform the regulations to certain provisions of section 13 of the Revenue Act of 1962 (76 Stat. 1032) and section 203(d) of the Revenue Act of 1964 (78 Stat. 35), relating to gain from dispositions of certain depreciable property, was published in the FEDERAL REGISTER (29 F.R. 11366). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.751-1, as set forth in paragraph 11 of the notice of proposed rule making, is changed by revising paragraph (c)(6).

PAR. 2. Section 1.1245-1, as set forth in paragraph 12 of the notice of proposed rule making, is changed by adding subparagraphs (4) and (5) to paragraph (a), and by revising paragraph (e)(2), (3), and (4).

PAR. 3. Section 1.1245-2, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising paragraphs (a)(6)(i), (b), and (c)(6).

PAR. 4. Section 1.1245-3, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising so much of paragraph (c)(1) as precedes subdivision (i) thereof.

PAR. 5. Section 1.1245-4, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising paragraphs (c)(1) and (d)(4)(i).

PAR. 6. Section 1.1245-6, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising paragraph (f).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: June 29, 1965.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to certain provisions of section 13 of the Revenue Act of 1962 (76 Stat. 1032) and section 203(d) of the Revenue Act of 1964 (78 Stat. 35), such regulations are amended as follows:

PARAGRAPH 1. Section 1.167(e) is amended to read as follows:

§ 1.167(e) Statutory provisions; depreciation; change in method.

Sec. 167. *Depreciation.* * * *

(e) *Change in method*—(1) *Change from declining balance method.* In the absence of an agreement under subsection (d) containing a provision to the contrary, a taxpayer may at any time elect in accordance with regulations prescribed by the Secretary or his delegate to change from the method of depreciation described in subsection (b)(2) to the method described in subsection (b)(1).

(2) *Change with respect to section 1245 property.* A taxpayer may, on or before the last day prescribed by law (including extensions thereof) for filing his return for his first taxable year beginning after December 31, 1962, and in such manner as the Secretary or his delegate shall by regulations prescribe, elect to change his method of depreciation in respect of section 1245 property (as defined in section 1245(a)(3)) from any declining balance or sum of the years-digits method to the straight line method. An election may be made under this paragraph notwithstanding any provision to the contrary in an agreement under subsection (d).

[Sec. 167(e) as amended by sec. 13(b), Rev. Act 1962 (76 Stat. 1034)]

PAR. 2. Section 1.167(e)-1 is amended by revising paragraph (a) and by adding new paragraph (c). These revised and added provisions read as follows:

§ 1.167(e)-1 Change in method.

(a) *In general.* Any change in the method of computing the depreciation allowances with respect to a particular account is a change in method of accounting, and such a change will be permitted only with the consent of the Commissioner, except that certain changes to the straight line method shall be permitted without consent as provided in section 167(e)(1) and paragraph (b) of this section and as provided in section 167(e)(2) and paragraph (c) of this section. Except as provided in paragraph (c) of this section, a change in method of computing depreciation will be permitted only with respect to all the assets contained in a particular account as defined in § 1.167(a)-7. Any change in the percentage of the current straight line rate under the declining balance method, as for example, from 200 percent of the straight line rate to any other percent of the straight line rate, or any change in the interest factor used in connection with a compound interest or sinking fund method will constitute a change in method of depreciation and will require the consent of the Commissioner. Any request for a change in method of depreciation shall be made in accordance with section 446 and the regulations thereunder and shall state the character and location of the property, method of depreciation being used and the method proposed, the date of acquisition, the cost or other basis and adjustments thereto, amounts recovered through depreciation and other allowances, the estimated salvage value, the estimated remaining life of the property, and such other information as may be required. For rules covering the use of depreciation methods by acquiring corporations in the case of certain corporate acquisitions, see section 381(c)(6) and the regulations thereunder.

* * * * *

(c) *Change with respect to section 1245 property.* (1) In respect of his first taxable year beginning after December 31, 1962, a taxpayer may elect, without the consent of the Commissioner, to change the method of depreciation of section 1245 property (as defined in section 1245(a)(3)) from any declining balance method or sum of the years-digits method to the straight line method. With respect to any account (as defined in § 1.167(a)-7), this change may be made notwithstanding any provision to the contrary in an agreement under section 167(d), but such change shall constitute (as of the first day of such taxable year) a termination of such agreement as to all property in such account. With respect to any account, this change will be permitted only if applied to all the section 1245 property in the account. The election shall be made by a statement on, or attached to, the return for such taxable year filed on or before the last day prescribed by law, including any extensions thereof, for filing such return.

(2) When an election under this paragraph is made in respect of section 1245 property in an account, the unrecovered cost or other basis (less a reasonable estimate for salvage) of all the section 1245 property in the account shall be recovered through annual allowances over the estimated remaining useful life determined in accordance with the circumstances existing at that time. If there is other property in such account, the other property shall be placed in a separate account and depreciated by using the same method as was used before the change permitted by this paragraph, but the estimated useful life of such property shall be redetermined in accordance with § 1.167(b)-2 or 1.167(b)-3, whichever is applicable. The taxpayer shall maintain records which permit specific identification of the section 1245 property in the account with respect to which the election is made, and any other property in such account. The records shall also show for all the property in

the account the date of acquisition, cost or other basis, amounts recovered through depreciation and other allowances, the estimated salvage value, the character of the property, and the remaining useful life of the property. A change to the straight line method under this paragraph must be adhered to for the entire taxable year of the change and for all subsequent taxable years unless, with the consent of the Commissioner, a change to another method is permitted.

PAR. 3. Paragraph (c) of § 1.170–1 is amended by adding new subparagraph (3). This added provision reads as follows:

§ 1.170–1 Charitable, etc., contributions and gifts; allowance of deduction.

* * * * *

(c) *Contribution in property.* * * *

(3) *Reduction for section 1245 property.* (i) With respect to a charitable contribution of section 1245 property (as defined in section 1245(a)(3)), section 170(e) requires that the amount of the charitable contribution taken into account under section 170 shall be reduced by the amount which would have been treated (but was not actually treated) as gain to which section 1245(a)(1) (relating to gain from dispositions of certain depreciable property) applies if the property contributed had been sold at its fair market value (determined at the time of such contribution).

(ii) Section 170(e) applies to charitable contributions of section 1245 propetry in taxable years beginning after December 31, 1962, except that in respect of section 1245 property which is an elevator or escalator section 170(e) applies to charitable contributions after December 31, 1963.

(iii) The provisions of this subparagraph may be illustrated by the following example:

Example. Jones contributes to a charitable organization section 1245 property which has an adjusted basis of $10,000, a recomputed basis (as defined in section 1245(a)(2)) of $14,000, and a fair market value of $17,000. If Jones had instead sold the property at its fair market value, he would have recognized gain under section 1245(a)(1) of $4,000. See paragraph (b) of § 1.1245–1. Under section 170(e), the amount of the charitable contribution taken into account under section 170 is reduced by $4,000. Accordingly, the amount of the charitable contribution is $13,000 ($17,000 minus $4,000).

PAR. 4. Section 1.312 is amended by revising section 312(c)(3) and by adding a historical note. These amended and added provisions read as follows:

§ 1.312 Statutory provisions; effect on earnings and profits.

Sec. 312. *Effect on earnings and profits.* * * *

(c) *Adjustments for liabilities, etc.* * * *

(3) Any gain to the corporation recognized under subsection (b) or (c) of section 311 or under section 1245(a).

* * * * *

[Sec. 312 as amended by sec. 13(f)(3), Rev. Act 1962 (76 Stat. 1035)]

PAR. 5. Section 1.312–3 is amended to read as follows:

§ 1.312–3 Liabilities.

The amount of any reductions in earnings and profits described in section 312 (a) or (b) shall be (a) reduced by the amount of any liability to which the property distributed was subject and by the amount of any other liability of the corporation assumed by the shareholder in connection with such distribution, and (b) increased by the amount of gain recognized to the corporation under section 311 (b) or (c) or under section 1245(a).

PAR. 6. Section 1.453 is amended by revising section 453(d)(4) and the historical note to read as follows:

§ 1.453 Statutory provisions; installment method.

Sec. 453. *Installment method.* * * *

(d) *Gain or loss on disposition of installment obligations.* * * *

(4) *Effect of distribution in certain liquidations*—(A) *Liquidations to which section 332 applies.* If—

(i) An installment obligation is distributed by one corporation to another corporation in the course of a liquidation, and

(ii) Under section 332 (relating to complete liquidations of subsidiaries) no gain or loss with respect to the receipt of such obligation is recognized in the case of the recipient corporation,

then no gain or loss with respect to the distribution of such obligation shall be recognized in the case of the distributing corporation. If the basis of the property of the liquidating corporation in the hands of the distributee is determined under section 334(b)(2) then the preceding sentence shall not apply to the extent that under paragraph (1) gain to the distributing corporation would be considered as gain to which section 1245(a) applies.

(B) *Liquidations to which section 337 applies.* If—

(i) An installment obligation is distributed by a corporation in the course of a liquidation, and

(ii) Under section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) no gain or loss would have been recognized to the corporation if the corporation had sold or exchanged such installment obligation on the day of such distribution,

then no gain or loss shall be recognized to such corporation by reason of such distribution. The preceding sentence shall not apply to the extent that under paragraph (1) gain to the distributing corporation would be considered as gain to which section 1245(a) applies.

* * * * *

[Sec. 453 as amended by sec. 27, Technical Amendments Act 1958 (72 Stat. 1624); sec. 13(f)(5), Rev. Act 1962 (76 Stat. 1035)]

PAR. 7. Paragraph (c)(1) of § 1.453–9 is amended to read as follows:

§ 1.453–9 Gain or loss on disposition of installment obligations.

* * * * *

(c) *Disposition from which no gain or loss is recognized.* (1)(i) Under section 453(d)(4)(A), no gain or loss shall be recognized to a distributing corporation with respect to the distribution of installment obligations if the distribution is made, pursuant to a plan for the complete liquidation of a subsidiary meeting the requirements of section 332, to a corporation in the hands of which no gain or loss is recognized with respect to such distribution. However, if the basis of the property of the liquidating corporation in the hands of the distributee is determined under section 334(b)(2), then the preceding sentence shall not apply to the extent that under section 453(d)(1) gain to the distributing corporation would be considered as gain to which section 1245(a)(1) (relating to gain from dispositions of certain depreciable property) applies, computed under the principles of paragraph (d) of § 1.1245–6.

(ii) Under section 453(d)(4)(B), no gain or loss shall be recognized to a distributing corporation with respect to the distribution of installment obligations if the distribution is made, pursuant to a plan for the complete liquidation of a corporation which meets the requirements of section 337, under conditions whereby no gain or loss would have been recognized to the corporation had such installment obligations been sold or exchanged on the day of the distribution. The preceding sentence shall not apply to the extent that under section 453(d)(1) gain to the distributing corporation would be considered as gain to which section 1245(a)(1) applies, computed under the principles of paragraph (d) of § 1.1245–6.

* * * * *

PAR. 8. Paragraph (a)(1) of § 1.735–1 is amended to read as follows:

§ 1.735–1 Character of gain or loss on disposition of distributed property.

(a) *Sale or exchange of distributed property*—(1) *Unrealized receivables.* Any gain realized or loss sustained by a partner on a sale or exchange or other disposition of unrealized receivables (as defined in paragraph (c)(1) of § 1.751–1) received by him in a distribution from a partnership shall be considered gain or loss from the sale or exchange of property other than a capital asset.

* * * * *

PAR. 9. Paragraph (b)(7) of § 1.736–1 is amended by adding example (4). The amended provision reads as follows:

§ 1.736–1 Payments to a retiring partner or a deceased partner's successor in interest.

* * * * *

(b) *Payments for interest in partnership.* * * *

(7) * * *

Example (4). Assume the same facts as in example (1) of this subparagraph except that the capital and section 1231 assets consist of an item of section 1245 property (as defined in section 1245(a)(3)). Assume further that under paragraph (c)(4) of § 1.751–1 the section 1245 property is an unrealized receivable to the extent of $2,000. Therefore, the value of A's interest in section 736(b) partnership property is only $11,333 (one-third of $34,000, the sum of $13,000 cash and $21,000, the fair market value of section 1245 property to the extent not an unrealized receivable). From the disposition of his interest in partnership property, A will realize a capital gain of $333 ($11,333 minus $11,000, the basis of his interest). The remaining $18,667 ($30,000 minus $11,333) will constitute payments under section 736(a)(2) which are taxable to A as guaranteed payments under section 707(c).

* * * * *

PAR. 10. Section 1.751 is amended by revising section 751(c) and by adding a historical note. These amended and added provisions read as follows:

§ 1.751 Statutory provisions; unrealized receivables and inventory items.

SEC. 751. *Unrealized receivables and inventory items.* * * *

(c) *Unrealized receivables.* For purposes of this subchapter, the term "unrealized receivables" includes, to the extent not previously includible in income under the method of accounting used by the partnership, any rights (contractual or otherwise) to payment for—

(1) Goods delivered, or to be delivered, to the extent the proceeds therefrom would be treated as amounts received from the sale or exchange of property other than a capital asset, or

(2) Services rendered, or to be rendered.

For purposes of this section and sections 731, 736, and 741, such term also includes section 1245 property (as defined in section 1245(a)(3)), but only to the extent of the amount which would be treated as gain to which section 1245(a) would apply if (at the time of the transaction described in this section or section 731, 736, or 741, as the case may be) such property had been sold by the partnership at its fair market value.

* * * * *

[Sec. 751 as amended by sec. 13(f)(1), Rev. Act 1962 (76 Stat. 1035)]

PAR. 11. Section 1.751–1 is amended by revising subparagraph (3) of paragraph (c), by adding new subparagraphs (4), (5), and (6) to paragraph (c), and by adding a new example (6) to paragraph (g). These amended and added provisions read as follows:

§ 1.751–1 Unrealized receivables and inventory items.

* * * * *

(c) *Unrealized receivables.* * * *

(3) In determining the amount of the sale price attributable to such unrealized receivables, or their value in a distribution treated as a sale or exchange, any arm's length agreement between the buyer and the seller, or between the partnership and the distributee partner, will generally establish the amount or value. In the absence of such an agreement, full account shall be taken not only of the estimated cost of completing performance of the contract or agreement, but also of the time between the sale or distribution and the time of payment.

(4) With respect to any taxable year of a partnership beginning after December 31, 1962, the term "unrealized receivables", for purposes of this section and sections 731, 736, 741, and 751, also includes "potential section 1245 income". With respect to each item of partnership section 1245 property (as defined in section 1245(a)(3)), "potential section 1245 income" is the amount which would be treated as gain to which section 1245(a)(1) would apply if (at the time of the transaction described in sections 731, 736, 741, or 751, as the case may be) the item of section 1245 property were sold by the partnership at its fair market value. See paragraph (e)(1) of § 1.1245–1. For example, if a partnership would recognize under section 1245(a)(1) gain of $600 upon a sale of one item of section 1245 property and gain of $300 upon a sale of its only other item of such property, the potential section 1245 income of the partnership would be $900. For purposes of determining potential section 1245 income, any arm's length agreement between the buyer and seller, or between the partnership and distributee partner, will generally establish the fair market value of section 1245 property.

(5) For purposes of subtitle A of the Code, the basis of potential section 1245 income is zero.

(6)(i) If (at the time of the transaction referred to in subparagraph (4) of this paragraph) a partnership holds section 1245 property and if (*a*) a partner had a special basis adjustment under section 743(b) in respect of the property, or (*b*) the basis under section 732 of the property if distributed to him would reflect a special basis adjustment under section 732(d), or (*c*) on the date he acquired his partnership interest by way of a sale or exchange (or upon death of another partner) the partnership owned the property and an election under section 754 was in effect with respect to the partnership, then his share of the potential section 1245 income of the partnership in respect of the property shall be determined under subdivision (ii) of this subparagraph.

(ii) Such partner's share of the potential section 1245 income of the partnership in respect of the property to which this subdivision applies shall be that amount of gain which he would recognize under paragraph (e)(3) of § 1.1245–1 upon a sale of the property by the partnership, except that for purposes of this subparagraph (*a*) the items specified in paragraph (e)(3)(ii) of § 1.1245–1 shall be allocated to him in the same manner as his share of partnership property is determined, and (*b*) the amount of a special basis adjustment under section 732(d) shall be treated as if it were the amount of a special basis adjustment under section 743(b).

* * * * *

(g) *Examples.* * * *

Example (6). (a) *Facts.* Partnership ABC distributes to partner C, in liquidation of his entire one-third interest in the partnership, a machine which is section 1245 property with a recomputed basis (as defined in section 1245(a)(2)) of $18,000. At the time of the distribution, the balance sheet of the partnership is as follows:

ASSETS

	Adjusted basis per books	Market value
Cash	$3,000	$3,000
Machine (section 1245 property)	9,000	15,000
Land	18,000	27,000
Total	30,000	45,000

LIABILITIES AND CAPITAL

	Per books	Value
Liabilities	$0	$0
Capital:		
A	10,000	15,000
B	10,000	15,000
C	10,000	15,000
Total	30,000	45,000

(b) *Presence of section 751 property.* The section 1245 property is an unrealized receivable of the partnership to the extent of the potential section 1245 income in respect of the property. Since the fair market value of the property ($15,000) is lower than its recomputed basis ($18,000), the excess of the fair market value over its adjusted basis ($9,000), or $6,000, is the potential section 1245 income of the partnership in respect of the property. The partnership has no other section 751 property.

(c) *The properties exchanged.* In the distribution C received his share of section 751 property (potential section 1245 income of $2,000, i.e., ⅓ of $6,000) and his share of section 1245 property (other than potential section 1245 income) with a fair market value of $3,000, i.e., ⅓ of ($15,000 minus $6,000), and an adjusted basis of $3,000, i.e., ⅓ of $9,000. In addition he received $4,000 of section 751 property (consisting of $4,000 ($6,000 minus $2,000) of potential section 1245 income) and section 1245 property (other than potential section 1245 income) with a fair market value of $6,000 ($9,000 minus $3,000) and an adjusted basis of $6,000 ($9,000 minus $3,000). C relinquished his interest in $1,000 of cash and $9,000 of land. Assume that the partners agree that the $4,000 of section 751 property in excess of C's share was received by him in exchange for $4,000 of land.

(d) *Distributee partner's tax consequences.* C's tax consequences on the distributions are as follows:

(1) *The section 751(b) sale or exchange.* C is treated as if he received in a current distribution 4/9ths of his share of the land with a basis of $2,667 (18,000/27,000 × $4,000). Then C is considered as having sold his 4/9ths share of the land to the partnership for $4,000, realizing a gain of $1,333. C's basis for the remainder of his partnership interest after the current distribution is $7,333, i.e., the basis of his partnership interest before the current distribution ($10,000) minus the basis of the land treated as distributed to him ($2,667).

(2) *The part of the distribution not under section 751(b).* Of the $15,000 total distribution to C, $11,000 ($2,000 of potential section 1245 income and $9,000 section 1245 property other than potential section 1245 income) is not within section 751(b). Under section 732 (b) and (c), C's basis for his share of potential section 1245 income is zero (see paragraph (c)(3) of this section) and his basis for $9,000 of section 1245 property (other than potential section 1245 income) is $7,333, i.e., the amount of the remaining basis for his partnership interest ($7,333) reduced by the basis for his share of potential section 1245 income (zero). Thus C's total aggregate basis for the section 1245 property (fair market value of $15,000) distributed to him is $11,333 ($4,000 plus $7,333). For an illustration of the computation of his recomputed basis for the section 1245 property immediately after the distribution, see example (2) of paragraph (f)(3) of § 1.1245–4.

(e) *Partnership's tax consequences.* The tax consequences to the partnership on the distribution are as follows:

(1) *The section 751(b) sale or exchange.* Upon the sale of $4,000 potential section 1245 income, with a basis of zero, for 4/9ths of C's interest in the land, the partnership consisting of the remaining members has $4,000 ordinary income under sections 751(b) and 1245(a)(1). See section 1245(b)(3) and (6)(A). The partnership's new basis for the land is $19,333, i.e., $18,000, less the basis of the 4/9ths share considered as distributed to C ($2,667), plus the partnership purchase price for this share ($4,000).

(2) *The part of the distribution not under section 751(b).* The analysis under this subparagraph should be made in accordance with the principles illustrated in paragraph (e)(2) of examples (3), (4), and (5) of this paragraph.

PAR. 12. There are inserted immediately after § 1.1244(e)-1 the following new sections:

§ 1.1245 Statutory provisions; gain from dispositions of certain depreciable property.

SEC. 1245. *Gain from dispositions of certain depreciable property*—(a) *General rule*—(1) *Ordinary income.* Except as otherwise provided in this section, if section 1245 property is disposed of during a taxable year beginning after December 31, 1962, the amount by which the lower of—

(A) The recomputed basis of the property, or

(B) (i) In the case of a sale, exchange, or involuntary conversion, the amount realized, or

(ii) In the case of any other disposition, the fair market value of such property,

exceeds the adjusted basis of such property shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231. Such gain shall be recognized notwithstanding any other provision of this subtitle.

(2) *Recomputed basis.* For purposes of this section, the term "recomputed basis" means—

(A) With respect to any property referred to in paragraph (3) (A) or (B), its adjusted basis recomputed by adding thereto all adjustments, attributable to periods after December 31, 1961, or

(B) With respect to any property referred to in paragraph (3)(C), its adjusted basis recomputed by adding thereto all adjustments, attributable to periods after June 30, 1963,

reflected in such adjusted basis on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for depreciation, or for amortization under section 168. For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed for depreciation, or for amortization under section 168, for any period was less than the amount allowable, the amount added for such period shall be the amount allowed.

(3) *Section 1245 property.* For purposes of this section, the term "section 1245 property" means any property (other than livestock) which is or has been property of a character subject to the allowance for depreciation provided in section 167 and is either—

(A) Personal property, or

(B) Other property (not including a building or its structural components) but only if such other property is tangible and has an adjusted basis in which there are reflected adjustments described in paragraph (2) for a period in which such property (or other property)—

(i) Was used as an integral part of manufacturing, production, or extraction or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or

(ii) Constituted research or storage facilities used in connection with any of the activities referred to in clause (i), or

(C) An elevator or an escalator.

(b) *Exceptions and limitations*—(1) *Gifts.* Subsection (a) shall not apply to a disposition by gift.

(2) *Transfers at death.* Except as provided in section 691 (relating to income in respect of a decedent), subsection (a) shall not apply to a transfer at death.

(3) *Certain tax-free transactions.* If the basis of property in the hands of a transferee is determined by reference to its basis in the hands of the transferor by reason of the application of section 332, 351, 361, 371(a), 374(a), 721, or 731, then the amount of gain taken into account by the transferor under subsection (a)(1) shall not exceed the amount of gain recognized to the transferor on the transfer of such property (determined without regard to this section). This paragraph shall not apply to a disposition to an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by this chapter.

(4) *Like kind exchanges; involuntary conversions, etc.* If property is disposed of and gain (determined without regard to this section) is not recognized in whole or in part under section 1031 or 1033, then the amount of gain taken into account by the transferor under subsection (a)(1) shall not exceed the sum of—

(A) The amount of gain recognized on such disposition (determined without regard to this section), plus

(B) The fair market value of property acquired which is not section 1245 property and which is not taken into account under subparagraph (A).

(5) *Section 1071 and 1081 transactions.* Under regulations prescribed by the Secretary or his delegate, rules consistent with paragraphs (3) and (4) of this subsection shall apply in the case of transactions described in section 1071 (relating to gain from sale or exchange to effectuate policies of FCC) or section 1081 (relating to exchanges in obedience to SEC orders).

(6) *Property distributed by a partnership to a partner*—(A) *In general.* For purposes of this section, the basis of section 1245 property distributed by a partnership to a partner shall be deemed to be determined by reference to the adjusted basis of such property to the partnership.

(B) *Adjustments added back.* In the case of any property described in subparagraph (A), for purposes of computing the recomputed basis of such property the amount of the adjustments added back for periods before the distribution by the partnership shall be—

(i) The amount of the gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

(ii) The amount of such gain to which section 751(b) applied.

(c) *Adjustments to basis.* The Secretary or his delegate shall prescribe such regulations as he may deem necessary to provide for adjustments to the basis of property to reflect gain recognized under subsection (a).

(d) *Application of section.* This section shall apply notwithstanding any other provision of this subtitle.

[Sec. 1245 as added by sec. 13(a), Rev. Act 1962 (76 Stat. 1032); amended by section 203(d), Rev. Act 1964 (78 Stat. 35)]

§ 1.1245-1 General rule for treatment of gain from dispositions of certain depreciable property.

(a) *General.* (1) In general, section 1245(a)(1) provides that, upon a disposition of an item of section 1245 property, the amount by which the lower of (i) the "recomputed basis" of the property, or (ii) the amount realized on a sale, exchange, or involuntary conversion (or the fair market value of the property on any other disposition), exceeds the adjusted basis of the property shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231 (that is, shall be recognized as ordinary income). The amount of such gain shall be determined separately for each item of section 1245 property. In general, the term "recomputed basis" means the adjusted basis of property plus all adjustments reflected in such adjusted basis on account of depreciation allowed or allowable for all periods after December 31, 1961. See section 1245(a)(2) and § 1.1245-2. Generally, the ordinary income treatment applies even though in the absence of section 1245 no gain would be recognized under the Code. For example, if a corporation distributes section 1245 property as a dividend, gain may be recognized as ordinary income to the corporation even though, in the absence of section 1245, section 311(a) would preclude any recognition of gain to the corporation. For the definition of "section 1245 property", see section 1245(a)(3) and § 1.1245-3. For exceptions and limitations to the application of section 1245(a)(1), see section 1245(b) and § 1.1245-4.

(2) Section 1245(a)(1) applies to dispositions of section 1245 property in taxable years beginning after December 31, 1962, except that in respect of section 1245 property which is an elevator or escalator, section 1245(a)(1) applies to dispositions after December 31, 1963.

(3) For purposes of this section and §§ 1.1245-2 through 1.1245-6, the term "disposition" includes a sale in a sale-and-leaseback transaction and a transfer upon the foreclosure of a security interest, but such term does not include a mere transfer of title to a creditor upon creation of a security interest or to a debtor upon termination of a security interest. Thus, for example, a disposition occurs upon a sale of property pursuant to a conditional sales contract even though the seller retains legal title to the property for purposes of security but a disposition does not occur when the seller ultimately gives up his security interest following payment by the purchaser.

(4) For purposes of applying section 1245, the facts and circumstances of each disposition shall be considered in determining what is the appropriate item of section 1245 property. A taxpayer may treat any number of units of section 1245 property in any particular depreciation account (as defined in § 1.167(a)-7) as one item of section 1245 property as long as it is reasonably clear, from the best estimates obtainable on the basis of all the facts and circumstances, that the amount of gain to which section 1245(a)(1) applies is not less than the total of the gain under section 1245(a)(1) which would be computed separately for each unit. Thus, for example, if 50 units of section 1245 property X, 25 units of section 1245 property Y, and other property are accounted for in one depreciation account, and if each such unit is sold at a gain in one transaction in which the total gain realized on the sale exceeds the sum of the adjustments reflected in the adjusted basis (as defined in paragraph (a)(2) of § 1.1245-2) of each such unit on account of depreciation allowed or allowable for periods after December 31, 1961, all 75 units may be treated as one item of section 1245 property. If, however, 5 such units of section 1245 property Y were sold at a loss, then only 70 of such units (50 of X

plus the 20 of Y sold at a gain) may be treated as one item of section 1245 property.

(5) In case of a sale, exchange, or involuntary conversion of section 1245 and nonsection 1245 property in one transaction, the total amount realized upon the disposition shall be allocated between the section 1245 property and the nonsection 1245 property in proportion to their respective fair market values. In general, if a buyer and seller have adverse interests as to the allocation of the amount realized between the section 1245 property and the nonsection 1245 property, any arm's length agreement between the buyer and the seller will establish the allocation. In the absence of such an agreement, the allocation shall be made by taking into account the appropriate facts and circumstances. Some of the facts and circumstances which shall be taken into account to the extent appropriate include, but are not limited to, a comparison between the section 1245 property and all the property disposed of in such transaction of (i) the original cost and reproduction cost of construction, erection, or production, (ii) the remaining economic useful life, (iii) state of obsolescence, and (iv) anticipated expenditures to maintain, renovate, or to modernize.

(b) *Sale, exchange, or involuntary conversion.* (1) In the case of a sale, exchange, or involuntary conversion of section 1245 property, the gain to which section 1245(a)(1) applies is the amount by which (i) the lower of the amount realized upon the disposition of the property or the recomputed basis of the property, exceeds (ii) the adjusted basis of the property.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). On January 1, 1964, Brown purchases section 1245 property for use in his manufacturing business. The property has a basis for depreciation of $3,300. After taking depreciation deductions of $1,300 (the amount allowable), Brown realizes after selling expenses the amount of $2,900 upon sale of the property on January 1, 1969. Brown's gain is $900 ($2,900 amount realized minus $2,000 adjusted basis). Since the amount realized upon disposition of the property ($2,900) is lower than its recomputed basis ($3,300, i.e., $2,000 adjusted basis plus $1,300 in depreciation deductions), the entire gain is treated as ordinary income under section 1245(a)(1) and not as gain from the sale or exchange of property described in section 1231.

Example (2). Assume the same facts as in example (1) except that Brown exchanges the section 1245 property for land which has a fair market value of $3,700, thereby realizing a gain of $1,700 ($3,700 amount realized minus $2,000 adjusted basis). Since the recomputed basis of the property ($3,300) is lower than the amount realized upon its disposition ($3,700), the excess of recomputed basis over adjusted basis, or $1,300, is treated as ordinary income under section 1245(a)(1). The remaining $400 of the gain may be treated as gain from the sale or exchange of property described in section 1231.

(c) *Other dispositions.* (1) In the case of a disposition of section 1245 property other than by way of a sale, exchange, or involuntary conversion, the gain to which section 1245(a)(1) applies is the amount by which (i) the lower of the fair market value of the property on the date of disposition or the recomputed basis of the property, exceeds (ii) the adjusted basis of the property.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). X Corporation distributes section 1245 property to its shareholders as a dividend. The property has an adjusted basis of $2,000 to the corporation, a recomputed basis of $3,300, and a fair market value of $3,100. Since the fair market value of the property ($3,100) is lower than its recomputed basis ($3,300), the excess of fair market value over adjusted basis, or $1,100, is treated under section 1245(a)(1) as ordinary income to the corporation even though, in the absence of section 1245, section 311(a) would preclude recognition of gain to the corporation.

Example (2). Assume the same facts as in example (1) except that X Corporation distributes the section 1245 property to its shareholders in complete liquidation of the corporation. Assume further that section 1245(b)(3) does not apply and that the fair market value of the property is $3,800 at the time of the distribution. Since the recomputed basis of the property ($3,300) is lower than its fair market value ($3,800), the excess of recomputed basis over adjusted basis, or $1,300, is treated under section 1245(a)(1) as ordinary income to the corporation even though, in the absence of section 1245, section 336 would preclude recognition of gain to the corporation.

(d) *Losses.* Section 1245(a)(1) does not apply to losses. Thus, section 1245(a)(1) does not apply if a loss is realized upon a sale, exchange, or involuntary conversion of property, all of which is considered section 1245 property, nor does the section apply to a disposition of such property other than by way of sale, exchange, or involuntary conversion if at the time of the disposition the fair market value of such property is not greater than its adjusted basis.

(e) *Treatment of partnership and partners.* (1) The manner of determining the amount of gain recognized under section 1245(a)(1) to a partnership may be illustrated by the following example:

Example. A partnership sells for $63 section 1245 property which has an adjusted basis to the partnership of $30 and a recomputed basis to the partnership of $60. The partnership recognizes under section 1245(a)(1) gain of $30, i.e., the lower of the amount realized ($63) or recomputed basis ($60), minus adjusted basis ($30). This result would not be changed if one or more partners had, in respect of the property, a special basis adjustment described in section 743(b) or had taken depreciation deductions in respect of such special basis adjustment.

(2) Unless subparagraph (3) of this paragraph applies, each partner's distributive share of gain recognized under section 1245(a)(1) by the partnership shall, in general, be determined in accordance with the provisions of section 704. If a partnership agreement under section 704 provides for the allocation of the total gain from the disposition of property, but does not provide for the allocation of gain recognized under section 1245(a)(1) from such disposition, then the gain recognized under section 1245(a)(1) shall be allocated to the partners in the same proportion as the total gain is allocated. For limitation on the amount of gain recognized under section 1245(a)(1) in respect of a partnership, see section 1245(b)(3) and (6). For treatment of section 1245 property as an unrealized receivable, see section 751(c).

(3)(i) If (*a*) a partner had a special basis adjustment under section 743(b) in respect of section 1245 property, or (*b*) on the date he acquired his partnership interest by way of a sale or exchange (or upon death of another partner) the partnership owned section 1245 property and an election under section 754 (relating to optional adjustment to basis of partnership property) was in effect with respect to the partnership, then the amount of gain recognized under section 1245(a)(1) by him upon a disposition by the partnership of such property shall be determined under this subparagraph.

(ii) There shall be allocated to such partner, in the same proportion as the partnership's total gain is allocated to him as his distributive share under section 704, a portion of (*a*) the common partnership adjusted basis for the property, and (*b*) the amount realized by the partnership upon the disposition, or, if nothing is realized, the fair market value of the property. There shall also be allocated to him, in the same proportion as the partnership's gain recognized under section 1245(a)(1) is allocated under subparagraph (2) of this paragraph as his distributive share of such gain, a portion of "the adjustments reflected in the adjusted basis" (as defined in paragraph (a)(2) of § 1.1245–2) of such property. If on the date he acquired his partnership interest by way of a sale or exchange the partnership owned such property and an election under section 754 was in effect, then for purposes of the preceding sentence the amount of the adjustments reflected in the adjusted basis of such property on such date shall be deemed to be zero. For special rules relating to the amount of adjustments reflected in the adjusted basis of property after partnership transactions, see paragraph (c)(6) of § 1.1245–2.

(iii) The partner's adjusted basis in respect of the property shall be deemed to be (*a*) the portion of the partnership's adjusted basis for the property allocated to the partner under subdivision (ii) of this subparagraph, (*b*) increased by the amount of any special basis adjustment described in section 743(b)(1) (or decreased by the amount of any special basis adjustment described in section 743(b)(2) which the partner may have in respect of the property on the date the partnership disposed of the property.

(iv) The partner's recomputed basis in respect of the property shall be deemed to be (*a*) the sum of the partner's adjusted basis for the property, as determined in subdivision (iii) of this subparagraph, plus the amount of "the adjustments reflected in the adjusted basis" (as defined in paragraph (a)(2) of § 1.1245–2) for the property allocated to the partner under subdivision (ii) of this subparagraph, (*b*) increased by the amount by which any special basis ad-

justment described in section 743(b)(1) (or decreased by the amount by which any special basis adjustment described in section 743(b)(2)) in respect of the property was reduced, but only to the extent such amount was applied to adjust the amount of the deductions allowed or allowable to the partner for depreciation or amortization of section 1245 property attributable to periods referred to in paragraph (a)(2) of § 1.1245–2. The terms "allowed or allowable," "depreciation or amortization," and "attributable to periods" shall have the meanings assigned to these terms in paragraph (a) of § 1.1245–2.

(4) The application of subparagraph (3) of this paragraph may be illustrated by the following example:

Example. A, B, and C each hold a one-third interest in calendar year partnership ABC. On December 31, 1962, the firm holds section 1245 property which has an adjusted basis of $30,000 and a recomputed basis of $33,000. Depreciation deductions in respect of the property for 1962 were $3,000. On January 1, 1963, when D purchases C's partnership interest, the election under section 754 is in effect and a $5,000 special basis adjustment is made in respect of D to his one-third share of the common partnership adjusted basis for the property. For 1963 and 1964 the partnership deducts $6,000 as depreciation in respect of the property, thereby reducing its adjusted basis to $24,000, and D deducts $2,800, i.e., his distributive share of partnership depreciation ($2,000) plus depreciation in respect of his special basis adjustment ($800). On March 15, 1965, the partnership sells the property for $48,000. Since the partnership's recomputed basis for the property ($33,000, i.e., $24,000 adjusted basis plus $9,000 in depreciation deductions) is lower than the amount realized upon the sale ($48,000), the excess of recomputed basis over adjusted basis, or $9,000, is treated as partnership gain under section 1245(a)(1). D's distributive share of such gain is $3,000 (⅓ of $9,000). However, the amount of gain recognized by D under section 1245(a)(1) is only $2,800, determined as follows:

(1) Adjusted basis:		
D's portion of partnership adjusted basis (⅓ of $24,000)	$8,000	
D's special basis adjustment as of December 31, 1964 ($5,000 minus $800)	4,200	
D's adjusted basis		$12,200
(2) Recomputed basis:		
D's adjusted basis	12,200	
D's portion of partnership depreciation for 1963 and 1964, i.e., for periods after he acquired his partnership interest (⅓ of $6,000)	2,000	
Depreciation for 1963 and 1964 in respect of D's special basis adjustment	800	
D's recomputed basis		15,000
(3) D's portion of amount realized by partnership (⅓ of $48,000)		16,000
(4) Gain recognized to D under section 1245(a)(1), i.e., the lower of (2) or (3), minus (1)		2,800

§ 1.1245–2 Definition of recomputed basis.

(a) *General rule*—(1) *Recomputed basis defined.* The term "recomputed basis" means, with respect to any property, an amount equal to the sum of—

(i) The adjusted basis of the property, as defined in section 1011, plus

(ii) The amount of the adjustments reflected in the adjusted basis.

(2) *Definition of adjustments reflected in adjusted basis.* The term "adjustments reflected in the adjusted basis" means—

(i) With respect to any property other than an elevator or escalator, the amount of the adjustments attributable to periods after December 31, 1961, or

(ii) With respect to an elevator or escalator, the amount of the adjustments attributable to periods after June 30, 1963,

which are reflected in the adjusted basis of such property on account of deductions allowed or allowable for depreciation or amortization (within the meaning of subparagraph (3) of this paragraph). For cases where the taxpayer can establish that the amount allowed for any period was less than the amount allowable, see subparagraph (7) of this paragraph. For determination of adjusted basis of property in a multiple asset account, see paragraph (c)(3) of § 1.167(a)–8.

(3) *Meaning of "depreciation or amortization".* (i) For purposes of subparagraph (2) of this paragraph, the term "depreciation or amortization" includes allowances (and amounts treated as allowances) for depreciation (or amortization in lieu thereof), and deductions for amortization of emergency facilities under section 168. Thus, for example, such term includes a reasonable allowance for exhaustion, wear and tear (including a reasonable allowance for obsolescence) under section 167, an additional first-year depreciation allowance for small business under section 179, an expenditure treated as an amount allowed under section 167 by reason of the application of section 182(d)(2)(B) (relating to expenditures by farmers for clearing land), and a deduction for depreciation of improvements under section 611 (relating to depletion). For further examples, the term "depreciation or amortization" includes periodic deductions referred to in § 1.162–11 in respect of a specified sum paid for the acquisition of a leasehold and in respect of the cost to a lessee of improvements on property of which he is the lessee. However, such term does not include deductions for the periodic payment of rent.

(ii) The provisions of this subparagraph may be illustrated by the following example:

Example. On January 1, 1966, Smith purchases for $1,000, and places in service, an item of property described in section 1245(a)(3)(A). Smith deducts an additional first-year allowance for depreciation under section 179 of $200. Accordingly, the basis of the property for purposes of depreciation is $800 on January 1, 1966. Between that date and January 1, 1974, Smith deducts $640 in depreciation (the amount allowable) with respect to the property, thereby reducing its adjusted basis to $160. Since this adjusted basis reflects deductions for depreciation and amortization (within the meaning of this subparagraph) amounting to $840 ($200 plus $640), the recomputed basis of the property is $1,000 ($160 plus $840).

(4) *Adjustments of other taxpayers or in respect of other property.* (i) For purposes of subparagraph (2) of this paragraph, the adjustments reflected in adjusted basis on account of depreciation or amortization which must be taken into account in determining recomputed basis are not limited to those adjustments on account of depreciation or amortization with respect to the property disposed of, nor are such adjustments limited to those on account of depreciation or amortization allowed or allowable to the taxpayer disposing of such property. Except as provided in subparagraph (7) of this paragraph, all such adjustments are taken into account, whether the deductions were allowed or allowable in respect of the same or other property and whether to the taxpayer or to any other person. For manner of determining the amount of adjustments reflected in the adjusted basis of property immediately after certain dispositions, see paragraph (c) of this section.

(ii) The provisions of this subparagraph may be illustrated by the following example:

Example. On January 1, 1966, Jones purchases machine X for use in his trade or business. The machine, which is section 1245 property, has a basis for depreciation of $10,000. After taking depreciation deductions of $2,000 (the amount allowable), Jones transfers the machine to his son as a gift on January 1, 1968. Since the exception for gifts in section 1245(b)(1) applies, Jones does not recognize gain under section 1245(a)(1). The son's adjusted basis for the machine is $8,000. On January 1, 1969, after taking a depreciation deduction of $1,000 (the amount allowable), the son exchanges machine X for machine Y in a like kind exchange described in section 1031. Since the exception for like kind exchanges in section 1245(b)(4) applies, the son does not recognize gain under section 1245(a)(1). The son's adjusted basis for machine Y is $7,000. In 1969, the son takes a depreciation deduction of $1,000 (the amount allowable) in respect of machine Y. The son sells machine Y on June 30, 1970. No depreciation was allowed or allowable for 1970, the year of the sale. The recomputed basis of machine Y on June 30, 1970, is determined in the following manner:

Adjusted basis		$6,000
Adjustments reflected in the adjusted basis:		
Depreciation deducted by Jones for 1966 and 1967 on machine X	$2,000	
Depreciation deducted by son for 1968 on machine X	1,000	
Depreciation deducted by son for 1969 on machine Y	1,000	
Total adjustments reflected in the adjusted basis		4,000
Recomputed basis		$10,000

(5) *Adjustments reflected in adjusted basis of property described in section 1245(a)(3)(B).* For purposes of subparagraph (2) of this paragraph, the adjustments reflected in the adjusted basis of property described in section 1245(a)(3)(B), on account of depreciation or amortization which must be taken into account in determining recomputed basis, may include deductions attrib-

utable to periods during which the property is not used as an integral part of an activity, or does not constitute a facility, specified in section 1245(a)(3)(B) (i) or (ii). Thus, for example, if depreciation deductions taken with respect to such property after December 31, 1961, amount to $10,000 (the amount allowable), of which $6,000 is attributable to periods during which the property is used as an integral part of a specified activity or constitutes a specified facility, then the entire $10,000 of depreciation deductions are adjustments reflected in the adjusted basis for purposes of determining recomputed basis. Moreover, if the property was never so used but was acquired in a transaction to which section 1245(b)(4) (relating to like kind exchanges and involuntary conversions) applies, and if by reason of the application of paragraph (d)(3) of § 1.1245–4 the property is considered as section 1245 property described in section 1245(a)(3)(B), then the entire $10,000 of depreciation deductions would also be adjustments reflected in the adjusted basis for purposes of determining recomputed basis.

(6) *Allocation of adjustments attributable to periods after December 31, 1961, or after June 30, 1963.* (i) For purposes of determining recomputed basis, the amount of adjustments reflected in the adjusted basis of property other than an elevator or escalator are limited to adjustments attributable to periods after December 31, 1961. Accordingly, if depreciation deducted with respect to such property of a calendar year taxpayer is $1,000 a year (the amount allowable) for each of 10 years beginning with 1956, only the depreciation deducted in 1962 and succeeding years shall be treated as reflected in the adjusted basis for purposes of determining recomputed basis. With respect to a taxable year beginning in 1961 and ending in 1962, the deduction for depreciation or amortization shall be ascertained by applying the principles stated in paragraph (c)(3) of § 1.167(a)–8 (relating to determination of adjusted basis of retired asset). The amount of the deduction, determined in such manner, shall be allocated on a daily basis in order to determine the portion thereof which is attributable to a period after December 31, 1961. Thus, for example, if a taxpayer, whose fiscal year ends on May 31, 1962, acquires section 1245 property on November 12, 1961, and the deduction for depreciation attributable to the property for such fiscal year is ascertained (under the principles of paragraph (c)(3) of § 1.167(a)–8) to be $400, then the portion thereof attributable to a period after December 31, 1961, is $302 (151/200 of $400). If, however, the property were acquired by such taxpayer after December 31, 1961, the entire deduction for depreciation attributable to the property for such fiscal year would be allocable to a period after December 31, 1961. For treatment of certain normal retirements described in paragraph (e)(2) of § 1.167(a)–8, see paragraph (c) of § 1.1245–6. For principles of determining the amount of adjustments for depreciation or amortization reflected in the adjusted basis of property upon an abnormal retirement of property in a multiple asset account, see paragraph (c)(3) of § 1.167(a)–8.

(ii) For purposes of determining recomputed basis, the amount of adjustments reflected in the adjusted basis of an elevator or escalator are limited to adjustments attributable to periods after June 30, 1963.

(7) *Depreciation or amortization allowed or allowable.* For purposes of determining recomputed basis, generally all adjustments (for periods after December 31, 1961, or June 30, 1963, as the case may be) attributable to allowed or allowable depreciation or amortization must be taken into account. See section 1016(a)(2) and the regulations thereunder for the meaning of "allowed" and "allowable". However, if a taxpayer can establish by adequate records or other sufficient evidence that the amount allowed for depreciation or amortization for any period was less than the amount allowable for such period, the amount to be taken into account for such period shall be the amount allowed. See paragraph (b) of this section (relating to records to be kept and information to be filed). For example, assume that in the year 1967 it becomes necessary to determine the recomputed basis of property, the $500 adjusted basis of which reflects adjustments of $1,000 with respect to depreciation deductions allowable for periods after December 31, 1961. If the taxpayer can establish by adequate records or other sufficient evidence that he had been allowed deductions amounting to only $800 for the period, then in determining recomputed basis the amount added to adjusted basis with respect to the $1,000 adjustments to basis for the period will be only $800.

(b) *Records to be kept.* In any case in which it is necessary to determine recomputed basis of an item of section 1245 property, the taxpayer shall have available permanent records of all the facts necessary to determine with reasonable accuracy the amount of such recomputed basis, including the following—

(1) The date, and the manner in which, the property was acquired,

(2) The taxpayer's basis on the date the property was acquired and the manner in which the basis was determined,

(3) The amount and date of all adjustments to the basis of the property allowed or allowable to the taxpayer for depreciation or amortization and the amount and date of any other adjustments by the taxpayer to the basis of the property,

(4) In the case of section 1245 property which has an adjusted basis reflecting adjustments for depreciation or amortization taken by the taxpayer with respect to other property, or by another taxpayer with respect to the same or other property, the information described in subparagraphs (1), (2), and (3) of this paragraph with respect to such other property or such other taxpayer.

(c) *Adjustments reflected in adjusted basis immediately after certain acquisitions*—(1) *Zero.* (i) If on the date a person acquires property his basis for the property is determined solely by reference to its cost (within the meaning of section 1012), then on such date the amount of the adjustments reflected in his adjusted basis for the property is zero.

(ii) If on the date a person acquires property his basis for the property is determined solely by reason of the application of section 301(d) (relating to basis of property received in corporate distribution) or section 334(a) (relating to basis of property received in a liquidation in which gain or loss is recognized), then on such date the amount of the adjustments reflected in his adjusted basis for the property is zero.

(iii) If on the date a person acquires property his basis for the property is determined solely under the rules of section 334 (b)(2) or (c) relating to basis of property received in certain corporate liquidations), then on such date the amount of the adjustments reflected in his adjusted basis for the property is zero.

(iv) If as of the date a person acquires property from a decedent such person's basis is determined, by reason of the application of section 1014(a), solely by reference to the fair market value of the property on the date of the decedent's death or on the applicable date provided in section 2032 (relating to alternate valuation date), then on such date the amount of the adjustments reflected in his adjusted basis for the property is zero.

(2) *Gifts and certain tax-free transactions.* (i) If property is disposed of in a transaction described in subdivision (ii) of this subparagraph, then the amount of the adjustments reflected in the adjusted basis of the property in the hands of a transferee immediately after the disposition shall be an amount equal to—

(*a*) The amount of the adjustments reflected in the adjusted basis of the property in the hands of the transferor immediately before the disposition, minus

(*b*) The amount of any gain taken into account under section 1245(a)(1) by the transferor upon the disposition.

(ii) The transactions referred to in subdivision (i) of this subparagraph are—

(*a*) A disposition which is in part a sale or exchange and in part a gift (see paragraph (a)(3) of § 1.1245–4),

(*b*) A disposition (other than a disposition to which section 1245(b)(6)(A) applies) which is described in section 1245(b)(3) (relating to certain tax-free transactions), or

(*c*) An exchange described in paragraph (e)(2) of § 1.1245–4 (relating to transfers described in section 1081(d)(1)(A)).

(iii) The provisions of this subparagraph may be illustrated by the following example:

Example. Jones transfers section 1245 property to a corporation in exchange for stock of the corporation and $1,000 cash in a transaction which qualifies under section 351 (relating to transfer to a corporation controlled by transferor). Before the ex-

change the amount of the adjustments reflected in the adjusted basis of the property is $3,000. Upon the exchange $1,000 gain is recognized under section 1245(a)(1). Immediately after the exchange, the amount of the adjustments reflected in the adjusted basis of the property in the hands of the corporation is $2,000 (that is, $3,000 minus $1,000).

(3) *Certain transfers at death.* (i) If property is acquired in a transfer at death to which section 1245(b)(2) applies, the amount of the adjustments reflected in the adjusted basis of property in the hands of the transferee immediately after the transfer shall be the amount (if any) of depreciation or amortization deductions allowed the transferee before the decedent's death, to the extent that the basis of the property (determined under section 1014(a)) is required to be reduced under the second sentence of section 1014(b)(9) (relating to adjustments to basis where property is acquired from a decedent prior to his death).

(ii) The provisions of this subparagraph may be illustrated by the following example:

Example. H purchases section 1245 property in 1965 which he immediately conveys to himself and W, his wife, as tenants by the entirety. Under local law each spouse is entitled to one-half the income from the property. H and W file joint income tax returns for calendar years 1965, 1966, and 1967. Over the 3 years, depreciation deductions amounting to $4,000 (the amount allowable) are allowed in respect of the property of which one-half thereof, or $2,000, is allocable to W. On January 1, 1968, H dies and the entire value of the property at the date of death is included in H's gross estate. Since W's basis for the property (determined under section 1014(a)) is reduced (under the second sentence of section 1014(b)(9)) by the $2,000 depreciation deductions allowed W before H's death, the adjustments reflected in the adjusted basis of the property in the hands of W immediately after H's death amount to $2,000.

(4) *Property received in a like kind exchange, involuntary conversion, or F.C.C. transaction.* (i) If property is acquired in a transaction described in subdivision (ii) of this subparagraph, then immediately after the acquisition (and before applying subparagraph (5) of this paragraph, if applicable) the amount of the adjustments reflected in the adjusted basis of the property acquired shall be an amount equal to—

(*a*) The amount of the adjustments reflected in the adjusted basis of the property disposed of immediately before the disposition, minus

(*b*) The sum of (*1*) the amount of any gain recognized under section 1245(a)(1) upon the disposition, plus (2) the amount of gain (if any) referred to in subparagraph (5)(ii) of this paragraph.

(ii) The transactions referred to in subdivision (i) of this subparagraph are—

(*a*) A disposition which is a like kind exchange or an involuntary conversion to which section 1245(b)(4) applies, or

(*b*) A disposition to which the provisions of section 1071 and paragraph (e)(1) of § 1.1245–4 apply.

(iii) The provisions of subdivisions (i) and (ii) of this subparagraph may be illustrated by the following examples:

Example (1). Smith exchanges machine A for machine B and $1,000 cash in a like kind exchange. Gain of $1,000 is recognized under section 1245(a)(1). If before the exchange the amount of the adjustments reflected in the adjusted basis of machine A was $5,000, the amount of adjustments reflected in the adjusted basis of machine B after the exchange is $4,000 (that is, $5,000 minus $1,000).

Example (2). Assume the same facts as in example (1) except that machine A is destroyed by fire, that $5,000 in insurance proceeds are received of which $4,000 is used to purchase machine B, and that Smith properly elects under section 1033(a)(3)(A) to limit recognition of gain. The result is the same as in example (1), that is, the amount of adjustments reflected in the adjusted basis of machine B is $4,000 ($5,000 minus $1,000).

(iv) If more than one item of section 1245 property is acquired in a transaction referred to in subdivision (i) of this subparagraph, the total amount of the adjustments reflected in the adjusted bases of the items acquired shall be allocated to such items in proportion to their respective adjusted bases.

(5) *Property after a reduction in basis pursuant to election under section 1071 or application of section 1082(a)(2).* If the basis of section 1245 property is reduced pursuant to an election under section 1071 (relating to gain from sale or exchange to effectuate policies of F.C.C.), or the application of section 1082(a)(2) (relating to sale or exchange in obedience to order of S.E.C.), then immediately after the basis reduction the amount of the adjustments reflected in the adjusted basis of the property shall be the sum of—

(i) The amount of the adjustments reflected in the adjusted basis of the property immediately before the basis reduction (but after applying subparagraph (4) of this paragraph, if applicable), plus

(ii) The amount of gain which was not recognized under section 1245(a)(1) by reason of the reduction in the basis of the property. See paragraph (e)(1) of § 1.1245–4.

(6) *Partnership property after certain transactions.* (i) For the amount of adjustments reflected in the adjusted basis of property immediately after certain distributions of the property by a partnership to a partner, see section 1245(b)(6)(B).

(ii) If under paragraph (b)(3) of § 1.751–1 (relating to certain distributions of partnership property other than section 751 property treated as sales or exchanges) a partnership is treated as purchasing section 1245 property (or a portion thereof) from a distributee who relinquishes his interest in such property (or portion), then on the date of such purchase the amount of adjustments reflected in the adjusted basis of such purchased property (or portion) shall be zero.

(iii) See paragraph (e)(3)(ii) of § 1.1245–1 for the amount of adjustments reflected in the adjusted basis of partnership property in respect of a partner who acquired his partnership interest in certain transactions when an election under section 754 (relating to optional adjustments to basis of partnership property) was in effect.

§ 1.1245–3 Definition of section 1245 property.

(a) *In general.* (1) The term "section 1245 property" means any property (other than livestock) which is or has been property of a character subject to the allowance for depreciation provided in section 167 and which is either—

(i) Personal property (within the meaning of paragraph (b) of this section),

(ii) Property described in section 1245(a)(3)(B) (see paragraph (c) of this section), or

(iii) An elevator or an escalator within the meaning of subparagraph (C) of section 48(a)(1) (relating to the definition of "section 38 property" for purposes of the investment credit), but without regard to the limitations in such subparagraph (C).

(2) If property is section 1245 property under a subdivision of subparagraph (1) of this paragraph, a leasehold of such property is also section 1245 property under such subdivision. Thus, for example, if A owns personal property which is section 1245 property under subparagraph (1)(i) of this paragraph, and if A leases the personal property to B, B's leasehold is also section 1245 property under such provision. For a further example, if C owns and leases to D for a single lump-sum payment of $100,000 property consisting of land and a fully equipped factory building thereon, and if 40 percent of the fair market value of such property is properly allocable to section 1245 property, then 40 percent of D's leasehold is also section 1245 property. A leasehold of land is not section 1245 property.

(3) Even though property may not be of a character subject to the allowance for depreciation in the hands of the taxpayer, such property may nevertheless be section 1245 property if the taxpayer's basis for the property is determined by reference to its basis in the hands of a prior owner of the property and such property was of a character subject to the allowance for depreciation in the hands of such prior owner, or if the taxpayer's basis for the property is determined by reference to the basis of other property which in the hands of the taxpayer was property of a character subject to the allowance for depreciation. Thus, for example, if a father uses an automobile in his trade or business during a period after December 31, 1961, and then gives the automobile to his son as a gift for the son's personal use, the automobile is section 1245 property in the hands of the son.

(4) For purposes of subparagraph (1) of this paragraph, the term "livestock" includes horses, cattle, hogs, sheep, goats, and mink and other furbearing animals, irrespective of the use to which they are put or the purpose for which they are held.

(b) *Personal property defined.* The term "personal property" means—

(1) Tangible personal property (as defined in paragraph (c) of § 1.48–1, relating to the definition of "section 38 property" for purposes of the investment credit), and

(2) Intangible personal property.

(c) *Property described in section 1245 (a)(3)(B).* (1) The term "property described in section 1245(a)(3)(B)" means tangible property of the requisite depreciable character other than personal property (and other than a building and its structural components), but only if there are adjustments reflected in the adjusted basis of the property (within the meaning of paragraph (a)(2) of § 1.1245–2) for a period during which such property (or other property)—

(i) Was used as an integral part of manufacturing, production, or extraction, or as an integral part of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services by a person engaged in a trade or business of furnishing any such service, or

(ii) Constituted a research or storage facility used in connection with any of the foregoing activities.

Thus, even though during the period immediately preceding its disposition the property is not used as an integral part of an activity specified in subdivision (i) of this subparagraph and does not constitute a facility specified in subdivision (ii) of this subparagraph, such property is nevertheless property described in section 1245(a)(3)(B) if, for example, there are adjustments reflected in the adjusted basis of the property for a period during which the property was used as an integral part of manufacturing by the taxpayer or another taxpayer, or for a period during which other property (which was involuntarily converted into, or exchanged in a like kind exchange for, the property) was so used by the taxpayer or another taxpayer. For rules applicable to involuntary conversions and like kind exchanges, see paragraph (d)(3) of § 1.1245–4.

(2) The language used in subparagraph (1) (i) and (ii) of this paragraph shall have the same meaning as when used in paragraph (a) of § 1.48–1, and the terms "building" and "structural components" shall have the meanings assigned to those terms in paragraph (e) of § 1.48–1.

§ 1.1245–4 Exceptions and limitations.

(a) *Exception for gifts*—(1) *General rule.* Section 1245(b)(1) provides that no gain shall be recognized under section 1245(a)(1) upon a disposition by gift. For purposes of this paragraph, the term "gift" means, except to the extent that subparagraph (3) of this paragraph applies, a transfer of property which, in the hands of the transferee, has a basis determined under the provisions of section 1015 (a) or (d) (relating to basis of property acquired by gifts). For reduction in amount of charitable contribution in case of a gift of section 1245 property, see section 170(e) and paragraph (c)(3) of § 1.170–1.

(2) *Examples.* The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). A places section 1245 property in trust to pay the income from the property to B for his life, and after B's death to distribute the property to C. If the basis of the property to the fiduciary and to C is determined under the uniform basis rules prescribed in paragraph (b) of § 1.1015–1, and under paragraph (c) of § 1.1015–1 the time the fiduciary and C acquire their interests in the property is the time the donor relinquished dominion over the property, then section 1245(a)(1) does not apply to the transfer by A to the trust or to the distribution to C.

Example (2). Assume the same facts as in example (1), except that the fiduciary sells the section 1245 property and reinvests the proceeds in other section 1245 property which is distributed to C upon B's death. Assume further that under paragraph (f) of § 1.1015–1 C's basis for the distributed property is the cost or other basis to the fiduciary. Section 1245(a)(1) applies to the sale but not to the distribution.

(3) *Disposition in part a sale or exchange and in part a gift.* Where a disposition of property is in part a sale or exchange and in part a gift, the gain to which section 1245(a)(1) applies is the amount by which (i) the lower of the amount realized upon the disposition of the property or the recomputed basis of the property, exceeds (ii) the adjusted basis of the property. For determination of the recomputed basis of the property in the hands of the transferee, see paragraph (c)(2) of § 1.1245–2.

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

Example. (i) Smith transfers section 1245 property, which he has held in excess of 6 months, to his son for $60,000. Immediately before the transfer the property in the hands of Smith has an adjusted basis of $30,000, a fair market value of $90,000, and a recomputed basis of $110,000. Since the amount realized upon disposition of the property ($60,000) is lower than its recomputed basis ($110,000), the excess of the amount realized over adjusted basis, or $30,000, is treated as ordinary income under section 1245(a)(1) and not as gain from the sale or exchange of property described in section 1231. Smith has made a gift of $30,000 ($90,000 fair market value minus $60,000 amount realized) to which section 1245(a)(1) does not apply.

(ii) Immediately before the transfer, the amount of adjustments reflected in the adjusted basis of the property was $80,000. Under paragraph (c)(2) of § 1.1245–2, $50,000 of adjustments are reflected in the adjusted basis of the property immediately after the transfer, that is, $80,000 of such adjustments immediately before the transfer, minus $30,000 gain taken into account under section 1245(a)(1) upon the transfer. Thus, the recomputed basis of the property in the hands of the son is $110,000.

(b) *Exception for transfers at death*—(1) *General rule.* Section 1245(b)(2) provides that, except as provided in section 691 (relating to income in respect of a decedent), no gain shall be recognized under section 1245(a)(1) upon a transfer at death. For purposes of this paragraph, the term "transfer at death" means a transfer of property which, in the hands of the transferee, has a basis determined under the provisions of section 1014(a) (relating to basis of property acquired from a decedent) because of the death of the transferor. For recomputed basis of property acquired in a transfer at death, see paragraph (c)(1)(iv) of § 1.1245–2.

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

Example (1). Smith owns section 1245 property which, upon Smith's death, is inherited by his son. Since the property is described in section 1014(b)(1), its basis in the hands of the son is determined under the provisions of section 1014(a). Therefore, section 1245(a)(1) does not apply to the transfer at Smith's death.

Example (2). H purchases section 1245 property which he conveys to himself and W, his wife, as tenants by the entirety. Upon H's death in 1970 the property (including W's share) is included in his gross estate. Since the entire property is described in section 1014(b)(1) and (9), its basis in the hands of W is determined under the provisions of section 1014(a). Therefore, section 1245(a)(1) does not apply to the transfer at H's death. For determination of the recomputed basis of the property in the hands of W, see paragraph (c)(3) of § 1.1245–2.

Example (3). Green's will provides for the bequest of section 1245 property to trustees to pay the income from the property to his wife for her lifetime, and upon her death to distribute the property to his son. If under paragraph (a)(2) of § 1.1014–4 the son's unadjusted basis for the property is its fair market value at the time the decedent died, section 1245(a)(1) does not apply to the distribution of the property to the son.

Example (4). The trustee of a trust created by will transfers section 1245 property to a beneficiary in satisfaction of a specific bequest of $10,000. If under the principles of paragraph (a)(3) of § 1.1014–4 the trust realizes a taxable gain upon the transfer, section 1245(a)(1) applies to the transfer.

(c) *Limitation for certain tax-free transactions*—(1) *Limitation on amount of gain.* Section 1245(b)(3) provides that upon a transfer of property described in subparagraph (2) of this paragraph, the amount of gain taken into account by the transferor under section 1245(a)(1) shall not exceed the amount of gain recognized to the transferor on the transfer (determined without regard to section 1245). For purposes of this subparagraph, in case of a transfer of both section 1245 property and non-section 1245 property in one transaction, the amount realized from the disposition of the section 1245 property (as determined under paragraph (a)(5) of § 1.1245–1) shall be deemed to consist of that portion of the fair market value of each property acquired which bears the same ratio to the fair market value of such acquired property as the amount realized from the disposition of the section 1245 property bears to the total amount realized. The preceding sentence shall be applied solely for purposes of computing the portion of the total gain (determined without regard to section 1245) which shall be recognized as ordinary income under section 1245(a)(1). For determination of the recomputed basis of the section 1245 property in the hands of the transferee, see paragraph (c)(2) of § 1.1245–2. Section 1245(b)(3) does not apply to a disposition of property to an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by chapter 1 of the Code.

(2) *Transfers covered.* The transfers referred to in subparagraph (1) of this paragraph are transfers of property in which the basis of the property in the hands of the transferee is determined by reference to its basis in the hands of the transferor by reason of the appli-

cation of any of the following provisions:

(i) Section 332 (relating to distributions in complete liquidation of an 80-percent-or-more controlled subsidiary corporation). See subparagraph (3) of this paragraph.

(ii) Section 351 (relating to transfer to a corporation controlled by transferor).

(iii) Section 361 (relating to exchanges pursuant to certain corporate reorganizations).

(iv) Section 371(a) (relating to exchanges pursuant to certain receivership and bankruptcy proceedings).

(v) Section 374(a) (relating to exchanges pursuant to certain railroad reorganizations).

(vi) Section 721 (relating to transfers to a partnership in exchange for a partnership interest).

(vii) Section 731 (relating to distributions by a partnership to a partner). For special carryover basis rule, see section 1245(b)(6)(A) and paragraph (f)(1) of this section.

(3) *Complete liquidation of subsidiary.* In the case of a distribution in complete liquidation of an 80-percent-or-more controlled subsidiary to which section 332 applies, the limitation provided in section 1245(b)(3) is confined to instances in which the basis of the property in the hands of the transferee is determined, under section 334(b)(1), by reference to its basis in the hands of the transferor. Thus, for example, the limitation of section 1245(b)(3) may apply in respect of a liquidating distribution of section 1245 property by an 80-percent-or-more controlled corporation to the parent corporation, but does not apply in respect of a liquidating distribution of section 1245 property to a minority shareholder. Section 1245(b)(3) does not apply to a liquidating distribution of property by an 80-percent-or-more controlled subsidiary to its parent if the parent's basis for the property is determined, under section 334(b)(2), by reference to its basis for the stock of the subsidiary.

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

Example (1). Section 1245 property, which is owned by Smith, has a fair market value of $10,000, a recomputed basis of $8,000, and an adjusted basis of $4,000. Smith transfers the property to a corporation in exchange for stock in the corporation worth $9,000 plus $1,000 in cash in a transaction qualifying under section 351. Without regard to section 1245, Smith would recognize $1,000 gain under section 351(b), and the corporation's basis for the property would be determined under section 362(a) by reference to its basis in the hands of Smith. Since the recomputed basis of the property disposed of ($8,000) is lower than the amount realized ($10,000), the excess of recomputed basis over adjusted basis ($4,000), or $4,000, would be treated as ordinary income under section 1245(a)(1) if the provisions of section 1245(b)(3) did not apply. However, section 1245(b)(3) limits the gain taken into account by Smith under section 1245(a)(1) to $1,000. If, instead, Smith transferred the property to the corporation solely in exchange for stock of the corporation worth $10,000, then, because of the application of section 1245(b)(3), Smith would not take any gain into account under section 1245(a)(1). If, however, Smith transferred the property to the corporation for stock worth $5,000 and $5,000 cash, only $4,000 of the $5,000 gain under section 351(b) would be treated as ordinary income under section 1245(a)(1).

Example (2). Assume the same facts as in example (1) except that Smith contributes the property to a new partnership in which he has a one-half interest. Since, without regard to section 1245, no gain would be recognized to Smith under section 721, and by reason of the application of section 721 the partnership's basis for the property would be determined under section 723 by reference to its basis in the hands of Smith, the application of section 1245(b)(3) results in no gain being taken into account by Smith under section 1245(a)(1).

Example (3). Assume the same facts as in example (2) except that the property is subject to a $9,000 mortgage. Since under section 752(b) (relating to decrease in partner's liabilities) Smith is treated as receiving a distribution in money of $4,500 (one-half of liability assumed by partnership), and since the basis of Smith's partnership interest is $4,000 (the adjusted basis of the contributed property), the $4,500 distribution results in his realizing $500 gain under section 731(a) (relating to distributions by a partnership), determined without regard to section 1245. Accordingly, the application of section 1245(b)(3) limits the gain taken into account by Smith under section 1245(a)(1) to $500.

(d) *Limitation for like kind exchanges and involuntary conversions*—(1) *General rule.* Section 1245(b)(4) provides that if property is disposed of and gain (determined without regard to section 1245) is not recognized in whole or in part under section 1031 (relating to like kind exchanges) or section 1033 (relating to involuntary conversions), then the amount of gain taken into account by the transferor under section 1245(a)(1) shall not exceed the sum of—

(i) The amount of gain recognized on such disposition (determined without regard to section 1245), plus

(ii) The fair market value of property acquired which is not section 1245 property and which is not taken into account under subdivision (i) of this subparagraph (that is, the fair market value of non-section 1245 property acquired which is qualifying property under section 1031 or 1033, as the case may be).

(2) *Examples.* The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). Smith exchanges machine A for machine B in a like kind exchange as to which no gain is recognized under section 1031(a). Both machines are section 1245 property. No gain is recognized under section 1245(a)(1) because of the limitation contained in section 1245(b)(4). The result would be the same if machine A were involuntarily converted into machine B in a transaction as to which no gain is recognized under section 1033(a)(1).

Example (2). Jones owns property A, which is section 1245 property, with an adjusted basis of $100,000 and a recomputed basis of $116,000. The property is destroyed by fire and Jones receives $117,000 of insurance proceeds. Thus, the amount of gain under section 1245(a)(1), determined without regard to section 1245(b)(4), would be $16,000. He uses $105,000 of the proceeds to purchase section 1245 property similar or related in service or use to property A, and $9,000 of the proceeds to purchase stock in the acquisition of control of a corporation owning property similar or related in service or use to property A. Both acquisitions qualify under section 1033(a)(3)(A). Jones properly elects under section 1033(a)(3)(A) and the regulations thereunder to limit recognition of gain to the amount by which the amount realized from the conversion exceeds the cost of the stock and other property acquired to replace the converted property. Since $3,000 of the gain is recognized (without regard to section 1245) under section 1033(a)(3) (that is, $117,000 minus $114,000), and since the stock purchased for $9,000 is not section 1245 property and was not taken into account in determining the gain under section 1033, section 1245(b)(4) limits the amount of the gain taken into account under section 1245(a)(1) to $12,000 (that is, $3,000 plus $9,000). If, instead of purchasing $9,000 in stock, Jones purchases $9,000 worth of property which is section 1245 property similar or related in use to the destroyed property, section 1245(b)(4) would limit the amount of gain taken into account under section 1245(a)(1) to $3,000.

(3) *Certain tangible property.* If—

(i) A person disposes of section 1245 property in a transaction to which section 1245(b)(4) applies,

(ii) Adjustments are reflected in the adjusted basis (within the meaning of paragraph (a)(2) of § 1.1245–2) of such property which are attributable to the use of such property (or other property) as an integral part of an activity, or as a facility, specified in section 1245(a)(3)(B) (i) or (ii), and

(iii) Property is acquired in the transaction which would be considered as section 1245 property described in section 1245(a)(3)(B) if such person used the acquired property as an integral part of such an activity, or as such a facility,

then (regardless of the use of the acquired property) the acquired property shall be considered as section 1245 property described in section 1245(a)(3)(B). For definition of property described in section 1245(a)(3)(B), see paragraph (c) of § 1.1245–3. Thus, for example, if a person's section 1245 property (which is personal property) is involuntarily converted into property A which would qualify as section 1245 property only if it were devoted to a specified use, and if the person had so devoted the section 1245 property disposed of, then the acquired property is considered as section 1245 property described in section 1245(a)(3)(B) and therefore its fair market value is not taken into account under subparagraph (1)(ii) of this paragraph. For recomputed basis of property A, see paragraph (a)(5) of § 1.1245–2. Moreover, if property A is not devoted to a specified use and is subsequently involuntarily converted into property B which would qualify as section 1245 property only if it were so devoted, then property B is also considered as section 1245 property described in section 1245(a)(3)(B).

(4) *Application to disposition of section 1245 property and non-section 1245 property in one transaction.* For purposes of this paragraph, if both section 1245 property and non-section 1245 property are acquired as the result of one disposition in which both section 1245 property and non-section 1245 property are disposed of—

(i) The total amount realized upon the disposition shall be allocated (in a manner consistent with the principles of paragraph (a)(5) of § 1.1245–1) between the section 1245 property and the non-section 1245 property disposed of in proportion to their respective fair market values.

(ii) The amount realized upon the disposition of the section 1245 property shall be deemed to consist of so much of the fair market value of the section 1245 property acquired as is not in excess of the amount realized from the section 1245 property disposed of, and the remaining portion (if any) of the amount realized upon the disposition of the section 1245 property shall be deemed to consist of so much of the fair market value of the non-section 1245 property acquired as is not in excess of the amount of such remaining portion, and

(iii) The amount realized upon the disposition of the non-section 1245 property shall be deemed to consist of so much of the fair market value of all the property acquired which was not taken into account in subdivision (ii) of this subparagraph.

(5) *Example.* The provisions of subparagraph (4) of this paragraph may be illustrated by the following example:

Example. (i) Smith owns section 1245 property A with a fair market value of $30,000, and non-section 1245 property X with a fair market value of $20,000. Properties A and X are destroyed by fire and Smith receives insurance proceeds of $40,000. He uses all the proceeds, plus additional cash of $10,000, to purchase in a single transaction properties B and Y which qualify under section 1033(a)(3)(A), and he properly elects under section 1033(a)(3)(A) and the regulations thereunder to limit recognition of gain to the excess of the amount realized from the conversion over the costs of the qualifying properties acquired. Thus no gain would be recognized (without regard to section 1245) under section 1033(a)(3)(A). Property B is section 1245 property with a fair market value of $15,000, and property Y is non-section 1245 property with a fair market value of $35,000.

(ii) The amount realized upon the disposition of A and X ($40,000) is allocated between A and X in proportion to their respective fair market values. Thus, the amount considered realized in respect of A is $24,000 (that is, 30/50 of $40,000). (The amount considered realized in respect of X is $16,000 (that is, 20/50 of $40,000).)

(iii) The $24,000 realized upon the disposition of A is deemed to consist of the fair market value of B ($15,000) and $9,000 of the fair market value of Y. (The $16,000 realized upon the disposition of X is deemed to consist of $16,000 of the fair market value of Y. Also, $10,000 of the fair market value of Y is attributable to the additional cash of $10,000.)

(iv) Assume that A has an adjusted basis of $5,000, and a recomputed basis of $40,000. Since the amount considered realized upon the disposition of A ($24,000) is lower than its recomputed basis ($40,000), the amount of gain which would be recognized under section 1245(a)(1), determined without regard to section 1245(b)(4), is $19,000, that is, the amount realized ($24,000), minus the adjusted basis ($5,000). Since no gain is recognized (without regard to section 1245) under section 1033(a)(3), and since $9,000 of the property acquired in exchange for section 1245 property A is non-section 1245 property Y, section 1245(b)(4) limits the amount of gain taken into account under section 1245(a)(1) to $9,000.

(6) *Cross references.* For the manner of determining the recomputed basis of property acquired in a transaction to which section 1245(b)(4) applies, see paragraph (c)(4) of § 1.1245–2. For the manner of determining the basis of such property, see paragraph (a) of § 1.1245–5.

(e) *Limitation for section 1071 and 1081 transactions*—(1) *Section 1071 and 1081(b) transactions.* If property is disposed of and gain (determined without regard to section 1245) is not recognized in whole or in part because of the application of section 1071 (relating to gain from sale or exchange to effectuate policies of F.C.C.) or section 1081(b) (relating to gain from sale or exchange in obedience to order of S.E.C.), then the amount of gain taken into account by the transferor under section 1245(a)(1) shall not exceed the sum of—

(i) The amount of gain recognized on such disposition (determined without regard to section 1245),

(ii) In the case of a transaction to which section 1071 applies, the fair market value of property acquired which is not section 1245 property and which is not taken into account under subdivision (i) of this subparagraph, plus

(iii) The amount by which the basis of property, other than section 1245 property, is reduced (pursuant to an election under section 1071 or pursuant to the application of section 1082(a)(2)), and which is not taken into account under subdivision (i) or (ii) of this subparagraph.

(2) *Section 1081(d)(1)(A) transaction.* No gain shall be recognized under section 1245(a)(1) upon an exchange of property as to which gain would not be recognized (without regard to section 1245) because of the application of section 1081(d)(1)(A) (relating to transfers within system group). For recomputed basis of property acquired in a transaction referred to in this subparagraph, see paragraph (c)(2) of § 1.1245–2.

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

Example (1). Corporation X elects under section 1071 to treat a sale of section 1245 property for $100,000 as an involuntary conversion subject to the provisions of section 1033, but does not elect to reduce the basis of depreciable property pursuant to an election under section 1071. The corporation uses $35,000 of the proceeds to purchase section 1245 property and $40,000 to purchase other property. Both properties qualify as replacement property under section 1033. Assuming that the amount of gain under section 1245(a)(1) (determined without regard to this paragraph) would be $70,000, and that $25,000 of gain would be recognized (without regard to section 1245) upon the application of section 1071, the amount of gain taken into account under section 1245(a)(1) is $65,000 ($25,000 plus $40,000).

Example (2). (i) Assume the same facts as in example (1) except that the corporation elects under section 1071 to reduce its basis for property of a character subject to the allowance for depreciation under section 167 by the amount of gain which would be recognized without regard to the aplication of section 1245, that is, by $25,000. Assume further that under section 1071 the corporation may reduce the basis of depreciable property consisting of property A, which is section 1245 property with an adjusted basis of $30,000, and property B, which is property other than section 1245 property with an adjusted basis of $20,000. Under paragraph (a)(2) of § 1.1071–3, the $25,000 of unrecognized gain is applied to reduce the basis of property A by $15,000 (30,000/50,000 of $25,000) and the basis of property B by $10,000 (20,000/50,000 of $25,000).

(ii) The amount of gain which would be recognized (determined without regard to section 1245) under section 1071 is zero, i.e., the amount determined in example (1) ($25,000), minus the amount of the reduction in basis of depreciable property pursuant to the election ($25,000). The amount of gain taken into account under section 1245(a)(1) is $50,000, i.e., the sum of (*a*) the gain which would be recognized without regard to section 1245 (zero), (*b*) the cost of property acquired which is not section 1245 property ($40,000), plus (*c*) the amount by which the basis of property B is reduced ($10,000). For method of increasing basis of property B, see paragraph (b)(2) of § 1.1245–5, and for recomputed basis of property A, see paragraph (c)(5) of § 1.1245–2.

(f) *Limitation for property distributed by a partnership*—(1) *In general.* For purposes of section 1245(b)(3) (relating to certain tax-free transactions), the basis of section 1245 property distributed by a partnership to partner shall be deemed to be determined by reference to the adjusted basis of such property to the partnership.

(2) *Adjustments reflected in the adjusted basis.* If section 1245 property is distributed by a partnership to a partner, then, for purposes of determining the recomputed basis of the property in the hands of the distributee, the amount of the adjustments reflected in the adjusted basis of the property immediately after the distribution shall be an amount equal to—

(i) The potential section 1245 income (as defined in paragraph (c)(4) of § 1.751–1) of the partnership in respect of the property immediately before the distribution, reduced by

(ii) The portion of such potential section 1245 income which is recognized as ordinary income to the partnership under paragraph (b)(2)(ii) of § 1.751–1.

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

Example (1). (i) A machine, which is section 1245 property owned by partnership ABC, has an adjusted basis of $9,000, a recomputed basis of $18,000, and a fair market value of $15,000. Since the fair market value of the machine is lower than its recomputed basis, the potential section 1245 income in respect of the machine is the excess of fair market value over adjusted basis, or $6,000. The partnership distributes the machine to C in a complete liquidation of his partnership interest to which section 736(a) does not apply. C, who had originally contributed the machine to the partnership, has a basis for his partnership interest of $10,000. Since section 751(b)(2)(A) provides that section 751(b)(1) does not apply to a distribution of property to the partner who contributed the property, no gain would be recognized to the partnership under section 731(b) (without regard to the application of section 1245). By reason of the application of section 731, C's basis for

the property would, under section 732(b), be equal to his basis for his interest in the partnership, or $10,000.

(ii) Since section 731 applies to the distribution, and since subparagraph (1) of this paragraph provides that, for purposes of section 1245(b)(3), C's basis for the property is deemed to be determined by reference to the adjusted basis of the property to the partnership, the gain taken into account under section 1245(a)(1) by the partnership is limited by section 1245(b)(3) so as not to exceed the amount of gain which would be recognized to the partnership if section 1245 did not apply. Accordingly, the partnership does not recognize any gain under section 1245(a)(1) upon the distribution.

(iii) Immediately after the distribution, the amount of the adjustments reflected in the adjusted basis of the property is equal to $6,000 (that is, the potential section 1245 income of the partnership in respect of the property before the distribution, $6,000, minus the gain recognized by the partnership under section 751(b), zero). Accordingly, C's recomputed basis for the property is $16,000 (that is, adjusted basis, $10,000, plus adjustments reflected in the adjusted basis, $6,000).

Example (2). Assume the same facts as in example (1) except that the machine had been purchased by the partnership. Assume further that upon the distribution, the partnership recognizes $4,000 gain as ordinary income under section 751(b). Under section 1245(b)(3), gain to be taken into account under section 1245(a)(1) by the partnership is limited to $4,000. Immediately after the distribution, the amount of adjustments reflected in the adjusted basis of the property is $2,000 (that is, potential section 1245 income of the partnership, $6,000, minus gain recognized to the partnership under section 751(b), $4,000). Thus, if the adjusted basis of the machine in the hands of C were $11,333 (see, for example, the computation in paragraph (d)(2) of example (6) of paragraph (g) of § 1.751-1), the recomputed basis of the machine would be $13,333 ($11,333 plus $2,000).

§ 1.1245-5 Adjustments to basis.

In order to reflect gain recognized under section 1245(a)(1), the following adjustments to the basis of property shall be made:

(a) *Property acquired in like kind exchange or involuntary conversion.* (1) If property is acquired in a transaction to which section 1245(b)(4) applies, its basis shall be determined under the rules of section 1031(d) or 1033(c).

(2) The provisions of this paragraph may be illustrated by the following example:

Example. Jones exchanges property A, which is section 1245 property with an adjusted basis of $10,000, for property B, which has a fair market value of $9,000, and property C, which has a fair market value of $3,500, in a like kind exchange as to which no gain would be recognized under section 1031(a). Upon the exchange $2,500 gain is recognized under section 1245(a)(1), since property C is not section 1245 property. See section 1245(b)(4). Under the rules of section 1031(d), the basis of the properties received in the exchange is $12,500 (i.e., the basis of property transferred, $10,000, plus the amount of gain recognized, $2,500), of which the amount allocated to property C is $3,500 (the fair market value thereof), and the residue, $9,000, is allocated to property B.

(b) *Section 1071 and 1081 transactions.* (1) If property is acquired in a transaction to which section 1071 and paragraph (e)(1) of § 1.1245-4 (relating to limitation for section 1071 transactions, etc.) apply, its basis shall be determined in accordance with the principles of paragraph (a) of this section.

(2) If the basis of property, other than section 1245 property, is reduced pursuant to either an election under section 1071 or the application of section 1082(a)(2), then the basis of the property shall be increased to the extent of the gain recognized under section 1245(a)(1) by reason of the application of paragraph (e)(1)(iii) of § 1.1245-4.

§ 1.1245-6 Relation of section 1245 to other sections.

(a) *General.* The provisions of section 1245 apply notwithstanding any other provision of subtitle A of the Code. Thus, unless an exception or limitation under section 1245(b) applies, gain under section 1245(a)(1) is recognized notwithstanding any contrary nonrecognition provision or income characterizing provision. For example, since section 1245 overrides section 1231 (relating to property used in the trade or business), the gain recognized under section 1245(a)(1) upon a disposition will be treated as ordinary income and only the remaining gain, if any, from the disposition may be considered as gain from the sale or exchange of a capital asset if section 1231 is applicable. See example (2) of paragraph (b)(2) of § 1.1245-1. For effect of section 1245 on basis provisions of the Code, see § 1.1245-5.

(b) *Nonrecognition sections overridden.* The nonrecognition provisions of subtitle A of the Code which section 1245 overrides include, but are not limited to, sections 267(d), 311(a), 336, 337, and 512(b)(5). See section 1245(b) for the extent to which section 1245(a)(1) overrides sections 332, 351, 361, 371(a), 374(a), 721, 731, 1031, 1033, 1071, and 1081 (b)(1) and (d)(1)(A).

(c) *Normal retirement of asset in multiple asset account.* Section 1245(a)(1) does not require recognition of gain upon normal retirements of section 1245 property in a multiple asset account as long as the taxpayer's method of accounting, as described in paragraph (e)(2) of § 1.167(a)-8 (relating to accounting treatment of asset retirements), does not require recognition of such gain.

(d) *Installment method.* (1) Gain from a disposition to which section 1245(a)(1) applies may be reported under the installment method if such method is otherwise available under section 453 of the Code. In such case, the income (other than interest) on each installment payment shall be deemed to consist of gain to which section 1245(a)(1) applies until all such gain has been reported, and the remaining portion (if any) of such income shall be deemed to consist of gain to which section 1245(a)(1) does not apply. For treatment of amounts as interest on certain deferred payments, see section 483.

(2) The provisions of this paragraph may be illustrated by the following example:

Example. Jones contracts to sell an item of section 1245 property for $10,000 to be paid in 10 equal payments of $1,000 each, plus a sufficient amount of interest so that section 483 does not apply. He properly elects under section 453 to report under the installment method gain of $2,000 to which section 1245(a)(1) applies and gain of $1,000 to which section 1231 applies. Accordingly, $300 of each of the first 6 installment payments and $200 of the seventh installment payment is ordinary income under section 1245(a)(1), and $100 of the seventh installment payment and $300 of each of the last 3 installment payments is gain under section 1231.

(e) *Exempt income.* The fact that section 1245 provides for recognition of gain as ordinary income does not change into taxable income any income which is exempt, for example, under section 115 (relating to income of states, etc.), 892 (relating to income of foreign governments), or 894 (relating to income exempt under treaties), or under subchapter F, chapter 1 of the Code (relating to exempt organizations).

(f) *Treatment of gain not recognized under section 1245.* Section 1245 does not prevent gain which is not recognized under section 1245 from being considered as gain under another provision of the Code, such as, for example, section 311(c) (relating to liability in excess of basis), section 341(f) (relating to collapsible corporations), section 357(c) (relating to liabilities in excess of basis), section 1238 (relating to amortization in excess of depreciation), or section 1239 (relating to gain from sale of depreciable property between certain related persons. Thus, for example, if section 1245 property, which has an adjusted basis of $1,000 and a recomputed basis of $1,500, is sold for $1,750 in a transaction to which section 1239 applies, $500 of the gain would be recognized under section 1245(a)(1) and the remaining $250 of the gain would be treated as ordinary income under section 1239.

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

[F.R. Doc. 65-7021; Filed, July 6, 1965; 8:45 a.m.]

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 6833]

PART 301—PROCEDURE AND ADMINISTRATION

Authority To Prescribe or Modify Seals

In order to conform the Regulations on Procedure and Administration (26 CFR Part 301) under section 7514 of the Internal Revenue Code of 1954, relating to authority to prescribe or modify seals, to Treasury Department Order No. 150-59, dated February 11, 1964, as amended by Treasury Department Order No. 150-65, dated January 4, 1965, and in order to prescribe or modify, as the case may be, seals of office for regional commissioners of internal revenue and directors of internal revenue service centers, such regulations are amended as follows:

Paragraph (a) of § 301.7514-1 is amended by revising subparagraphs (4) and (5), and by deleting subparagraphs (6) and (7). Subparagraphs (4) and (5) as revised read as follows:

§ 301.7514–1 Seals of office.

(a) *Establishment of seals.* * * *

(4) *Regional commissioners of internal revenue.* (i) There is hereby established an official seal in and for each of the offices of regional commissioner of internal revenue listed in subdivision (ii) of this subparagraph. The seal is described as follows, and one such seal is illustrated below: A circle within which shall appear that part of the seal of the Treasury Department represented by the shield and side wreaths. Exterior to this circle and within a circumscribed circle in the form of a rope shall appear in the upper part the words "Regional Commissioner of Internal Revenue" and in the lower part the title of the region for which the seal is established.

(ii) The offices of the regional commissioner of internal revenue for which seals are established in subdivision (i) of this subparagraph are as follows:

Regional Commissioner of Internal Revenue, Central Region.
Regional Commissioner of Internal Revenue, Mid-Atlantic Region.
Regional Commissioner of Internal Revenue, Midwest Region.
Regional Commissioner of Internal Revenue, North-Atlantic Region.
Regional Commissioner of Internal Revenue, Southeast Region.
Regional Commissioner of Internal Revenue, Southwest Region.
Regional Commissioner of Internal Revenue, Western Region.

(5) *Directors of internal revenue service centers.* (i) There is hereby established an official seal in and for each of the offices of director of internal revenue service center listed in subdivision (ii) of this subparagraph. The seal is described as follows, and one such seal is illustrated below: A circle within which shall appear that part of the seal of the Treasury Department represented by the shield and side wreaths. Exterior to this circle and within a circumscribed circle in the form of a rope shall appear in the upper part the words "Director, Internal Revenue Service Center" and in the lower part the name of the region and the name of the principal city in or near which the service center is located.

(ii) The offices of director of internal revenue service center for which seals are established in subdivision (i) of this subparagraph are as follows:

Director, Internal Revenue Service Center, Central Region, Cincinnati, Ohio.
Director, Internal Revenue Service Center, Mid-Atlantic Region, Philadelphia, Pa.
Director, Internal Revenue Service Center, Midwest Region, Kansas City, Mo.
Director, Internal Revenue Service Center, North-Atlantic Region, Lawrence, Mass.
Director, Internal Revenue Service Center, Southeast Region, Chamblee, Ga.
Director, Internal Revenue Service Center, Southwest Region, Austin, Tex.
Director, Internal Revenue Service Center, Western Region, Ogden, Utah.

Because this Treasury decision relates to regulations which constitute a general statement of policy and establishes rules of departmental practice and procedure, it is hereby found unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

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

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: July 1, 1965.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 65-7008; Filed, July 6, 1965; 8:48 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 516—RECORDS TO BE KEPT BY EMPLOYERS

PART 551—LOCAL DELIVERY DRIVERS AND HELPERS; WAGE PAYMENT PLANS

Miscellaneous Amendments

On June 4, 1964, a notice proposing to amend Chapter V of Title 29 of the Code of Federal Regulations by establishing a new Part 551 and by revising section 516.14 of Part 516 was published in the FEDERAL REGISTER (29 F.R. 7289). Interested persons were invited to, and did, submit written data, views, and argument concerning the proposals. After considering all relevant matter submitted, I hereby adopt the proposals, effective August 6, 1965, subject to the following changes:

1. A blanket citation of authority is added at the end of the table of contents.
2. Additional material is added to the end of 29 CFR 551.2(c).
3. The last sentence of 29 CFR 551.3 is amended.
4. Paragraph (f) of 29 CFR 551.8 is amended.

Signed at Washington, D.C., this 29th day of June 1965.

CLARENCE T. LUNDQUIST,
Administrator.

1. The new 29 CFR Part 551 reads as follows:

PART 551—LOCAL DELIVERY DRIVERS AND HELPERS; WAGE PAYMENT PLANS

Sec.
551.1 Statutory provision.
551.2 Findings authorized by this part.
551.3 Petition for a finding.
551.4 Requirements for petition.
551.5 Information to be submitted.
551.6 Action on petition.
551.7 Finding.
551.8 Definitions.
551.9 Recordkeeping requirements.

AUTHORITY: The provisions of this Part 551 issued under sec. 9, 75 Stat. 74; 29 U.S.C. 213(b).

§ 551.1 Statutory provision.

The following provision for exemption from the overtime pay provisions is contained in section 13(b) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 213(b)):

(b) The provisions of section 7 shall not apply with respect to—

* * * * *

(11) any employee employed as a driver or driver's helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under section 7(a).

Under this provision, an employee employed and compensated as described in the quoted paragraph (11) may be employed without payment of overtime compensation for a workweek longer than the maximum workweek applicable to him under section 7(a) of the Act, but only if it is established by a finding of the Secretary that the employee is compensated for his employment as a driver or driver's helper making local deliveries on the basis of trip rates or other delivery payment plan that has the general purpose and effect stated in section 13(b)(11). Such a finding is prescribed by the statute as one of the "explicit pre-

requisites to exemption". (See Arnold v. Kanowsky, 361 U.S. 388, 392.)

§ 551.2 Findings authorized by this part.

(a) The Administrator, pursuant to the authority vested in him by the Secretary of Labor, will make and apply findings under section 13(b)(11) of the Act as provided in this part. Such findings shall be made only upon petitions meeting the requirements of this part, and only as authorized in this section.

(b) For the purpose of establishing whether a wage payment plan has the purpose and effect required by section 13(b)(11) for an exemption from the overtime provisions of the Act, the Administrator shall have authority, upon a proper showing and in accordance with the provisions of this part, to make a finding as to the general purpose and effect of any specific plan of compensation on the basis of trip rates or other delivery payment plan, with respect to the reduction of the length of the workweeks worked by the employees of any specific employer who are compensated in accordance with such plan for their employment by such employer as drivers or drivers' helpers making local deliveries.

(c) Any finding made as to the purpose and effect of such a wage payment plan pursuant to a petition therefor will be based upon a consideration of all relevant facts shown or represented to exist with respect to such plan that are made available to the Administrator. A finding that such plan has the general effect of reducing the hours worked by drivers or drivers' helpers compensated thereunder to, or below, the maximum workweek applicable to them under section 7(a) of the Act is not authorized under this part unless the Administrator finds that during the most recently completed representative period of one year (based on the experience of the employer in question, or if such employer has not previously used such plan, on the experience of another employer using such plan under substantially the same conditions, all as defined in § 551.8(g)(1)), the average weekly hours, taken in the aggregate, of all full-time employees covered by the plan are not in excess of the maximum workweek applicable to such employees under section 7(a), or unless the Administrator makes an interim finding with respect to such plan that, notwithstanding a lack of experience under it for a representative period of 1 year, its provisions and manner of operation, together with the other available information concerning the plan, indicate clearly that by the end of such first representative year the effect of the plan will have been to reduce the average weekly hours worked by the employees covered by the plan in such first year of operation to, or below, such maximum applicable workweek.

§ 551.3 Petition for a finding.

Any employer desiring to establish an exemption from the overtime pay requirements of the Act with respect to employees whose employment and compensation may be considered to qualify therefor under section 13(b)(11) may petition the Administrator, in writing, for a finding under such section and this part. If the wage payment plan with respect to which the finding is sought has been the subject of collective bargaining with representatives of employees covered by the plan, the employer shall provide timely notice of such petition, in writing, to the authorized representative or representatives of such employees and shall submit a copy of such notice to the Administrator.

§ 551.4 Requirements for petition.

A petition for a finding under section 13(b)(11) of the Act and this part shall include in such detail as the Administrator may deem necessary for evaluation under the standards provided by the statute and this part, all the information required by § 551.5. Such information may be presented in any form convenient to the petitioner; no particular form is prescribed for the petition. The petition shall also include, by attachment, a copy of any collective bargaining agreement or other document governing the method of payment for the work of employees covered by the wage payment plan with respect to which a finding is requested. The petition, together with any such documents, shall be filed with the Administrator, Wage and Hour and Public Contracts Divisions, United States Department of Labor, Washington, D.C., 20210.

§ 551.5 Information to be submitted.

Every petition filed under §§ 551.3 and 551.4 shall contain the following information:

(a) A full statement of the facts relied upon by the petitioner to establish, under the applicable definitions in § 551.8, that the wage payment plan submitted for consideration (1) applies to employees employed (i) as drivers or drivers' helpers, or both, (ii) in "making local deliveries", and (2) determines, "on the basis of trip rates or other delivery payment plan", the compensation which such employees receive for such employment; and

(b) A complete description of the wage payment plan and full information concerning its application showing, among other things, (1) the method of compensation which it provides and the types of payments made to employees covered by the plan, together with such information as may be necessary to show how these payments are computed and how and to what extent they are actually used in determining the total compensation received by employees covered by the plan, (2) a full description of all duties performed by the employees compensated under the plan, including information as to the types of goods delivered, their points of origin and destination and the purposes for and geographical area within which they are transported by the employees, the relationship of the employer to the consignor and consignee, and the numbers (minimum, maximum, and average or typical) of round trips made by such employees in transporting such goods during the workday and of deliveries made during each such trip, and (3) other relevant information concerning the employees compensated under the plan including the total number of such employees employed full-time as drivers or drivers' helpers making local deliveries under the provisions of the plan during the most recent representative annual period as defined in § 551.8(g)(1), the weekly hours worked and the average workweek of such employees during such period and, if there are any significant variations in the number of such employees so employed in the particular workweeks within the period, a full statement of the facts concerning such variations, information as to any workweeks in which any employees compensated under the plan devote less than eighty percent of their worktime to duties as drivers or drivers' helpers making local deliveries; and

(c) A statement of the facts and reasons based on the history and application of the plan which are relied upon to support a finding that the plan has the general purpose and effect of reducing the hours worked by drivers or drivers' helpers covered by its provisions to, or below, the statutory maximum workweek applicable to them under the Act.

§ 551.6 Action on petition.

(a) Upon the filing of a petition as provided in this part, the Administrator will give consideration thereto, and make any further inquiry into the facts that he may deem necessary. The Administrator may require, before taking further action thereon, that notice of the petition be given to affected employees in such manner as he shall determine to be appropriate to afford them an opportunity to submit any facts or reasons supporting or opposing the finding prayed for in the petition. If the Administrator determines that the petition fails to satisfy any of the requirements of this part, he shall deny the request for a finding or, in his discretion, advise petitioners that further consideration will be given to the submission if the deficiencies are remedied within a specified time. No further consideration will be given, however, to a request for a finding if the Administrator determines that the factual situation as described in the petition is not one in which authority to make the finding is provided by section 13(b)(11) and this part.

(b) If the Administrator determines that a petition meets all requirements of this part and if he is satisfied from consideration of all relevant facts and information available to him that the wage payment plan submitted has, within the meaning of section 13(b)(11) of the Act and this part, the general purpose and effect with respect to drivers or drivers' helpers making local deliveries, who are employed pursuant to its provisions on the basis of trip rates or other delivery payment plan, of reducing the hours worked by such employees to, or below, the maximum workweek applicable to them under section 7(a) of the Act, the Administrator will make an appropriate finding to this effect, and notify the pe-

titioner; otherwise the request for such a finding will be denied.

§ 551.7 Finding.

(a) A finding by the Administrator under paragraph (b) of § 551.6 that a wage payment plan has the purpose and effect required for exemption of employees under section 13(b)(11) and this part shall be effective in accordance with its terms upon notification to petitioners as provided in § 551.6(b). The finding shall include such terms and conditions and such limitations with respect to its application as the Administrator shall deem necessary to ensure that no exemption will be based thereon in the event of any significant change in any of the essential supporting facts.

(b) A finding made pursuant to this part may be amended or revoked by the Administrator at any time upon his own motion or upon written request of any interested person setting forth reasonable grounds therefor. Before taking such action, the Administrator shall afford opportunity to interested persons to present their views and shall give consideration to any relevant information that they may present.

§ 551.8 Definitions.

As used in this part—

(a) "Secretary" means the Secretary of Labor.

(b) "Administrator" means the Administrator of the Wage and Hour and Public Contracts Divisions, United States Department of Labor.

(c) "Finding" means a finding made pursuant to section 13(b)(11) of the Fair Labor Standards Act as provided in this part.

(d) "Making local deliveries" includes the activities customarily and regularly performed in the physical transfer, to customers of a business establishment situated within the rural or urban community or metropolitan area in which the establishment is located, of goods sold or otherwise disposed of to such local customers by such establishment. Included are activities performed by the driver or driver's helper as an incident to or in conjunction with making such deliveries, such as picking up and returning the delivery vehicle at the beginning and end of the workday, cleaning the vehicle, checking it to see that it is in operating condition, loading and unloading or assisting in loading or unloading the goods, and picking up empty containers or other goods from customers for return to the establishment. Not included in the making of local deliveries are such transportation as the carriage of passengers; the transportation of any load of goods that would normally require a round trip longer than a single workday for delivery and return to the starting point; any movement of goods which does not accomplish a transfer of possession from one person to another; transportation of goods as a part of a process of production; and transportation of goods within a local community or metropolitan area as an integral part of a carriage of such goods from a point outside such community or area to a destination within it, rather than as a part of the activities customarily performed in making local deliveries, as defined in this section, in the same manner as deliveries of goods held locally for local disposition.

(e) "Employee employed as a driver or driver's helper making local deliveries" includes any employee who is employed in any workweek—

(1) To drive a delivery vehicle used in making local deliveries, or

(2) To assist the driver of such a vehicle in making such deliveries, being required to ride on the vehicle to perform such work,

and whose work in making local deliveries, as defined in paragraph (d) of this section, accounts for at least 80 percent of his hours of work in such workweek. In making and applying any finding as provided in this part, no employee shall be considered to be employed as a driver or driver's helper making local deliveries in any workweek when more than 20 percent of his hours of work results from the performance of duties other than those included in making such local deliveries.

(f) A plan of compensation "on the basis of trip rates or other delivery payment plan" means any plan whereby employees employed as drivers or drivers' helpers making local deliveries are compensated for their employment on a basis such that the amount of payment which they receive is governed in substantial part by a system of wage payments based on units of work measurement such as numbers of trips taken, miles driven, stops made, or units of goods delivered (but not including any plan based solely on the number of hours worked) so that there is a substantial inducement to employees to minimize the number of hours worked.

(g) For purposes of determining whether and to what extent a plan of compensation on the basis of trip rates or other delivery payment plan has the effect of reducing the weekly hours worked by employees employed by an employer as drivers or drivers' helpers making local deliveries pursuant to such plan—

(1) The "most recently completed representative period of one year" (§ 551.2(c)) or "most recent representative annual period" (§ 551.5(b)(3)) shall mean a one-year period within which such employees were so employed on a regular full-time basis by such employer (or, if such employer has not previously used such plan, by another employer using the plan under substantially the same conditions), which period shall include a calendar or fiscal quarter-year ending not more than four months prior to the date as of which the effect of such plan is to be considered, together with the three quarter-year periods immediately preceding such recently completed quarter-year; and

(2) The "average weekly hours" or "average workweek" of the full-time employees so employed during such annual period shall mean the number of hours obtained by the following computation: (i) All the hours worked during such annual period by all the full-time employees regularly employed under the plan shall be totaled; (ii) the number of workweeks worked by each such employee during such annual period under such plan shall be computed, and the totals added together; and (iii) the average weekly hours, taken in the aggregate, of all such employees shall be computed by dividing the sum resulting from computation (i) by the sum resulting from computation (ii).

§ 551.9 Recordkeeping requirements.

The records which must be kept and the computations which must be made with respect to employees for whom the overtime pay exemption under section 13(b)(11) is taken are specified in 29 CFR 516.14.

2. As revised 29 CFR 516.14 reads as follows:

§ 516.14 Employees totally exempt from overtime pay requirements pursuant to section (c) and sections 13(b) (1), (2), (3), (4), (5), (7), (8), (9), (10), and (11) of the act—items required.

Every employer operating under the complete exemption from the overtime pay requirements of section 7(a) of the act as provided in sections 7(c), 13(b)(1), (2), (3), (4), (5), (7), (8), (9), (10), and (11) of the act, shall maintain and preserve payroll or other records, with respect to each and every employee to whom section 6 of the act applies but to whom neither section 7(a) nor 7(b) applies, containing all the information and data required by § 516.2(a) except subparagraphs (6) and (9) thereof and, in addition thereto, containing information and data regarding the basis on which wages are paid (such as "$1.30 hr."; "$10 day"; "$50 wk."; "$50 wk. plus 5 percent commission on sales over $300 wk."; "trip rate (Town X to Town Y and return) $17.16"; "$50 week plus 3% commission on all cases delivered and 4¢ per case of empties returned"). With respect to employees employed as drivers or drivers' helpers making local deliveries to whom section 13(b)(11) of the act is applicable such records shall contain the following information: (a) A copy of the Administrator's finding under 29 CFR Part 551 with respect to the plan under which such employees are compensated; (b) a statement or description of any changes made in the trip rate or other delivery payment plan of compensation for such employees since its submission for such finding; (c) identification of each employee employed pursuant to such plan and his work assignments and duties; and (d) a computation for each quarter-year of the average weekly hours of full-time employees employed under the plan during the most recent representative annual period as described in 29 CFR 551.8(g)(1) and (2).

(Sec. 11, 52 Stat. 1066 as amended; 29 U.S.C. 211)

[F.R. Doc. 65-7099; Filed, July 6, 1965; 8:48 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 22—SECOND CLASS

Rates, Supplements; Correction

Federal Register Document 65-6736 published at page 8224 in the issue dated Saturday, June 26, 1965, is corrected as follows: In § 22.4(d)(3) add the following: "may not be inserted as supplements." As so corrected, § 22.4(d)(3) should read as follows:

§ 22.4 What may be mailed at second-class rates.

* * * * *

(d) *Supplements.* * * *

(3) Publications which are distinct from and independent of the regular issue, such as catalogs, circulars, handbills, posters, and other special advertisements, and which are, therefore, not germane to the issue, may not be inserted as supplements.

* * * * *

LOUIS J. DOYLE,
General Counsel.

[F.R. Doc. 65-7079; Filed, July 6, 1965; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Docket No. 3666; Order 66A]

PARTS 71-79—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Miscellaneous Amendments

At a session of the Interstate Commerce Commission, Safety and Service Board No. 2—Explosives and Other Dangerous Articles Board, held at Washington, D.C., on the 25th day of June 1965.

Upon further consideration of Note 1 following the bracketed paragraphs after Parts 73 and 77 Indexes and immediately preceding §§ 73.1 and 77.800 of the amendment to the Regulations for the Transportation of Explosives and Other Dangerous Articles, as adopted by Order No. 66 in Docket 3666 (30 F.R. 5742), dated April 9, 1965, and good cause appearing:

It is ordered, That the effective date of the cancellation of the above referred-to Notes is hereby postponed until October 31, 1965, and, that in the meantime, the former provisions of those Notes shall remain in effect.

It is further ordered, That copies of this order be served upon all parties of record herein, and that notice shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

(62 Stat. 738, 74 Stat. 808; 18 U.S.C. 834)

By the Commission, Safety and Service Board No. 2—Explosives and Other Dangerous Articles Board.

[SEAL] BERTHA F. ARMES,
Acting Secretary.

[F.R. Doc. 65-7085; Filed, July 6, 1965; 8:47 a.m.]

[Docket No. 3666; Order 68]

PARTS 71-79—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Specification Containers Prescribed

At a session of the Interstate Commerce Commission, Safety and Service Board No. 2—Explosives and Other Dangerous Articles Board, held at Washington, D.C., on the 25th day of June 1965.

The matter of certain regulations governing the transportation of explosives and other dangerous articles, formulated and published by the Commission, being under consideration, and

It appearing, that due to reorganization of certain bureaus of the Commission, it is deemed necessary to amend the aforesaid regulations:

It is ordered, That the aforesaid regulations governing the transportation of explosives and other dangerous articles be, and they are hereby, amended as follows:

In § 73.22 amend paragraph (a)(1) (29 F.R. 18672, Dec. 29, 1964) to read as follows:

§ 73.22 Specification containers prescribed.

(a) * * *

(1) Because of the present emergency and until further order of the Commission, containers approved for emergency or experimental shipments may be authorized in the discretion of, and upon special permit to be issued by the Director or Acting Director, Bureau of Operations and Compliance, Washington, D.C.

* * * * *

It is further ordered, That this order shall become effective July 1, 1965, and shall remain in effect until further order of the Commission;

It is further ordered, That compliance with the herein prescribed and amended regulations is hereby authorized on and after the date of service of this order;

And it is further ordered, That copies of this order be served upon all parties of record herein, and that notice shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

(62 Stat. 738, 74 Stat. 808; 18 U.S.C. 834)

By the Commission, Safety and Service Board No. 2—Explosives and Other Dangerous Articles Board.

[SEAL] BERTHA F. ARMES,
Acting Secretary.

[F.R. Doc. 65-7086; Filed, July 6, 1965; 8:47 a.m.]

Proposed Rule Making

FEDERAL AVIATION AGENCY

[14 CFR Part 71]

[Airspace Docket No. 65-WE-34]

CONTROL ZONE, CONTROL AREA EXTENSION, AND TRANSITION AREAS

Proposed Alteration, Revocation, and Designation

The Federal Aviation Agency is considering amendments to Part 71 of the Federal Aviation Regulations which would alter the controlled airspace within the Marysville, Beale AFB and Chico, Calif., terminal areas.

The FAA has completed a comprehensive review of the terminal airspace structure requirements in the Marysville, Beale AFB and Chico, Calif., terminal areas, including studies attendant to the implementation of the provisions of CAR Amendments 60-21/60-29 and is considering the following airspace actions:

1. Redesignate the Beale AFB control zone as that airspace within a 5-mile radius of Beale AFB (latitude 39°08'10'' N., longitude 121°26'05'' W.), within 2 miles each side of the Beale VOR 162° radial, extending from the 5-mile radius zone to 4 miles S of the VOR, and within 2 miles each side of the Beale TACAN 347° radial, extending from the 5-mile radius zone to 8 miles N of the TACAN.

2. Revoke the presently designated Marysville control area extension.

3. Designate the Marysville transition area as that airspace extending upward from 700 feet above the surface within a 10-mile radius of Beale AFB (latitude 39°08'10'' N., longitude 121°26'05'' W.); within an 8-mile radius of Yuba County Airport, Marysville, Calif. (latitude 39°-05'50'' N., longitude 121°34'00'' W.), within 8 miles W and 5 miles E of the Beale VOR 162° and 342° radials, extending from the Beale 10-mile radius area to 6.5 miles N of the VOR; within 8 miles W and 5 miles E of the Marysville VOR 343° radial, extending from the Yuba County 8-mile radius area to 12 miles N of the VOR, and within 8 miles SW and 5 miles NE of the Marysville VOR 153° radial, extending from the Yuba County 8-mile radius area to 12 miles SE of the VOR; that airspace extending upward from 1,200 feet above the surface bounded on the E by a line extending from latitude 40°00'00''N., longitude 120°30'00'' W., to latitude 39°30'00'' N., longitude 120°30'00'' W., to latitude 39°30'00'' N., longitude 120°55'00'' W., to latitude 39°00'00'' N., longitude 120°55'-00'' W., on the S by latitude 39°00'00'' N., on the W by the W boundary of V-23, on the NW by the Red Bluff, Calif., transition area, and on the N by latitude 40°-00'00'' N.; that airspace extending upward from 8,500 feet m.s.l., bounded on the S by latitude 40°00'00'' N., on the W by the Red Bluff, Calif., transition area, on the N by latitude 40°45'00'' N., and on the E by a line extending from latitude 40°45'00'' N., longitude 121°39'00'' W., to latitude 40°23'00'' N., longitude 121°39'-00'' W., to latitude 40°23'00'' N., longitude 121°25'00'' W., to latitude 40°00'00'' N., longitude 121°25'00'' W.; that airspace extending upward from 10,500 feet m.s.l. bounded on the E by longitude 120°19'00'' W., on the S by a line extending from latitude 39°30'00'' N., longitude 120°19'00'' W., to latitude 39°30'00'' N., longitude 120°30'00'' W., to latitude 40°-00'00'' N., longitude 120°30'00'' W., to latitude 40°00'00'' N., longitude 121°-25'00'' W., on the W by longitude 121°25'00'' W., and on the N by latitude 40°45'00'' N.; that airspace extending upward from 12,500 feet m.s.l. bounded on the E by longitude 121°25'00'' W., on the S by latitude 40°23'00'' N., on the W by longitude 121°39'00'' W., and on the N by latitude 40°45'00'' N.

4. Designate the Chico, Calif., transition area as that airspace extending upward from 700 feet above the surface within a 5-mile radius of Chico Airport (latitude 39°47'45'' N., longitude 121°-51'25'' W.), and within 2 miles each side of the Chico VOR 308° radial, extending from the 5-mile radius area to 8 miles NW of the VOR, excluding the portion within a 1-mile radius of Ranchero Airport (latitude 39°43'10'' N., longitude 121°52'10'' W.

The Chico VOR referred to in the above proposal will be commissioned on or about September 16, 1965. The actions proposed herein would, in part, reduce the size of the Beale AFB control zone by reducing the length of the control zone extension.

The Chico transition area is required to provide protection for aircraft executing prescribed instrument procedures during the period the control zone is not effective. (Control zone proposed for designation in Airspace Docket 65-WE-3, effective Sept. 16, 1965.)

The Marysville transition area is required to protect procedure turn areas, transition routes, radar vectoring areas, holding patterns, standard instrument departures and missed approach procedures within the Marysville, Chico, and Beale AFB terminal areas.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif., 90009. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Agency, 5651 West Manchester Avenue, Los Angeles, Calif., 90045.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on June 25, 1965.

JOSEPH H. TIPPETS,
Director, Western Region.

[F.R. Doc. 65-7063; Filed, July 6, 1965; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65-SO-11]

FEDERAL AIRWAY SEGMENTS

Proposed Revocation

The Federal Aviation Agency is considering amendments to Part 71 of the Federal Aviation Regulations that would revoke the east and west alternates of VOR Federal airway No. 45 from Greensboro, N.C., to Raleigh-Durham, N.C.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, Post Office Box 20636, Atlanta, Ga., 30320. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An 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., 20553. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

These airway segments, as proposed above for revocation, are no longer required for air traffic control purposes. Insufficient use of these airway segments between Greensboro and Raleigh-Durham indicates that they can no longer be justified as assignments of airspace and should be revoked.

These amendments are proposed under the authority of section 307(a) of the

Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on June 29, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-7064; Filed, July 6, 1965; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65-SO-12]

FEDERAL AIRWAY SEGMENT

Proposed Revocation

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations that would revoke the segment of VOR Federal airway No. 194 north alternate from Raleigh-Durham, N.C., to Rocky Mount, N.C.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, Post Office Box 20636, Atlanta, Ga., 30320. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An 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., 20553. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

The V-194 north alternate from Raleigh-Durham to Rocky Mount is no longer required for air traffic control purposes and the lack of aircraft movements on this airway segment indicates that its designation as controlled airspace can no longer be justified.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on June 29, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-7065; Filed, July 6, 1965; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65-SO-13]

FEDERAL AIRWAY SEGMENT

Proposed Revocation

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations that would revoke the segment of VOR Federal airway No. 157 from Wilmington, N.C., to Kinston, N.C.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, Post Office Box 20636, Atlanta, Ga., 30320. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An 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., 20553. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

Insufficient aircraft movement on the segment of V-157 between Wilmington and Kinston indicates that it can no longer be justified as an assignment of airspace. Since this segment of V-157 is codesignated with V-1, operations could still be conducted between Wilmington and Kinston, via a Federal airway.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on June 29, 1965.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-7066; Filed, July 6, 1965; 8:45 a.m.]

[14 CFR Part 73]

[Airspace Docket No. 65-WE-57]

RESTRICTED AREA

Proposed Alteration

The Federal Aviation Agency is considering an amendment to Part 73 of the Federal Aviation Regulations that would change the time of designation for Restricted Area R-4810 at Desert Mountains, Nev., from "one hour prior to sunrise to one hour after sunset, Monday through Friday" to "continuous, Monday through Saturday."

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif., 90009. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An 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., 20553. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

The U.S. Navy has requested an increase in the time of designation for R-4810 due to emphasis being placed upon the programing of night conventional delivery training exercises. Emphasis on these exercises has established a requirement for greater flexibility in target assignment and increased target time.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on June 29, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-7067; Filed, July 6, 1965; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 21, 74, 91]

[Docket No. 15971]

DISTRIBUTION OF TELEVISION BROADCAST SIGNALS BY COMMUNITY ANTENNA TELEVISION SYSTEMS

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of parts 21, 74 (proposed Subpart J), and 91 to adopt rules and regulations relating to the distribution of television broadcast signals by community antenna television systems, and related matters; Docket No. 15971; RM Nos. 636, 672, 742, 755, and 766.

1. In a notice of inquiry and notice of proposed rule making (FCC 65-334) released in this proceeding on April 23, 1965 (30 F.R. 6078, Apr. 29, 1965), which was divided into two parts, the Commission invited comments and reply comments on Part I and paragraph 50 by June 25 and July 26, 1965, respectively, and on Part II by August 27 and October 25, 1965, respectively.

2. In response to a request by the National Association of Broadcasters (NAB), the Commission in an order (Mimeo 69756) released June 16, 1965 (30 F.R. 8009, June 22, 1965), extended the time for filing comments and reply comments on Part I and paragraph 50 to July 9 and August 6, 1965, respectively.

3. Presently under consideration are three requests for extension of time for filing comments and reply comments on

Part I and paragraph 50, and on Part II. These were filed by the National Community Television Association, Inc. (NCTA), Jerrold Electronics Corp. (Jerrold), and the law firm of Smith & Pepper (S&P), during June 1965. Also under consideration is a statement in support of the NCTA request filed June 17, 1965, by American Television Relay, Inc.

4. The dates for comments (C) and reply comments (RC) as set forth in the notice and order, and the dates to which extensions are requested appear below:

	Notice (FCC 65-334)	Order (mimeo 09756)	NCTA request	Jerrold request	S&P request
Part I and Part 50	C 6-25-65	7- 9-65	7-26-65	7-26-65	7-25-65
	RC 7-26-65	8- 6-65	8-26-65	8-26-65	9-27-65
Part II	C 8-27-65		9-27-65	9-27-65	9-27-65
	RC 10-25-65		11-29-65	11-29-65	11-29-65

5. As reasons for the requested extension, the parties variously state that they have been occupied in presenting testimony in hearings before the Subcommittee on Communications and Power of the Committee on Interstate and Foreign Commerce of the House of Representatives on H.R. 7715, a bill concerning community antenna television systems, and that they are still gathering data requested in connection with those hearings; that they are preparing testimony to present before the Committee on the Judiciary, Subcommittee No. 3, of the House of Representatives with regard to revision of the Copyright Act; that they are engaged in preparing comments for Docket No. 15586, another proceeding pending before the Commission on the matter of CATV's; that they are engaged in copyright litigation in Federal court pertaining to CATV systems; and that they are engaged in a number of hearings before the Commission.

6. Because of the importance of this proceeding to the public and the broadcasting and CATV industries, the Commission wishes to afford ample time for the filing of comments that will aid it in arriving at decisions herein. However, and also because of the importance of the matters involved, it is necessary that decisions be reached expeditiously. In view of the foregoing, and because the parties have shown adequate cause for extending time for filing comments and reply comments, the dates for filing are being extended as indicated below. No further extensions will be granted.

7. *Accordingly, it is ordered*, This 30th day of June 1965, that the time for filing comments and reply comments on Part I and Par. 50 of this proceeding are extended to July 26, 1965, and September 17, 1965, respectively.

8. *It is further ordered*, That the time for filing comments and reply comments on Part II of this proceeding is extended to September 27, 1965, and November 29, 1965, respectively.

9. *It is further ordered*, That the "Request for Extension of Time Within Which To File Comments," filed by the National Community Television Association, Inc., on June 16, 1965; the "Request for Extension of Time Within Which To File Comments," filed by Jerrold Electronics Corp. on June 17, 1965; and the "Request for Extension of Time Within Which To File Comments," filed by the law firm of Smith & Pepper on June 18, 1965, are granted insofar as they are consistent with the action taken herein, and in all other respects are denied.

10. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Released: June 30, 1965.

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

[F.R. Doc. 65-7111; Filed, July 6, 1965; 8:49 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Idaho 016388]

IDAHO

Notice of Proposed Withdrawal and Reservation of Lands

JUNE 29, 1965.

The U.S. Army Corps of Engineers has filed an application, Serial Number Idaho 016388, for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the general mining laws.

The applicant desires the land for the proposed Dworshak Dam and Reservoir Project.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Post Office Box 2237, Boise, Idaho, 83701.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Corps of Engineers.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

BOISE MERIDIAN, IDAHO

T. 37 N., R. 1 E.,
Sec. 1, lot 1.
T. 37 N., R. 2 E.,
Sec. 6, lots 6 and 11;
Sec. 7, lots 4, 5, 10, and 11, NW¼SE¼ and SE¼SE¼;
Sec. 18, lots 1, 2, 5, 6, and 11.
T. 38 N., R. 1 E.,
Sec. 24, lot 7;
Sec. 25, lots 5 and 7 and NW¼NE¼.
T. 38 N., R. 2 E.,
Sec. 19, lots 9 and 14;
Sec. 20, lots 1, 4, 6, 7, and 8;
Sec. 21, lots 4, 5, and 7 and NW¼SE¼;
Sec. 25, lots 3, 4, and 5, NW¼NW¼, NW¼SW¼, and NE¼SW¼SW¼;
Sec. 26, lots 1, 3 to 8, inclusive, NE¼NE¼, NW¼SW¼, N½SW¼SE¼, SW¼SW¼SE¼, and NW¼SE¼SE¼;
Sec. 27, lots 2 and 3 and NW¼SW¼;
Sec. 28, lots 1 to 5, inclusive, SW¼NE¼, N½NE¼SE¼, and NE¼NW¼SE¼;
Sec. 29, SE¼NE¼;
Sec. 31, lot 6.
T. 38 N., R. 3 E.,
Sec. 11, S½SE¼SE¼;
Sec. 12, lots 1, 5, and 6, SW¼NE¼, E½SE¼NW¼, E½NE¼SW¼, E½SW¼SW¼, and SW¼SW¼SW¼;
Sec. 13, lots 2 and 3;
Sec. 14, lots 2, 3, 5, 6, and 7, NE¼NW¼;
Sec. 22, lot 6;
Sec. 23, lot 2;
Sec. 28, lots 5, 6, 7, and 8, N½N½S½ and SE¼NE¼SW¼.
T. 38 N., R. 4 E.,
Sec. 7, lot 4;
Sec. 18, S½ of lot 2, except all that portion described as beginning at corner No. 4, Mineral Survey 2901, Coral Lode, thence N. 0°01'30" W., 660 feet; thence E to the E boundary of original lot 2, Sec. 18, T. 38 N., R. 4 E.; thence S. 0°05' E., 660 feet, more or less, to the point 4 center W ⅛s section corner; thence W to the point of beginning.
Also the SW¼SE¼NW¼ and NE¼SW¼.
T. 39 N., R. 2 E.,
Sec. 29, N½SE¼, N½SW¼SE¼, SE¼SW¼SE¼, SE¼NE¼SW¼, and NE¼SE¼SW¼;
Sec. 32, S½NW¼NE¼, W½E½SE¼, and SE¼SE¼SE¼;
Sec. 33, N½S½NE¼ and N½SE¼NW¼.
T. 39 N., R. 3 E.,
Sec. 24, lot 5.
T. 39 N., R. 4 E.,
Sec. 4, lot 9;
Sec. 7, S½SE¼SE¼;
Sec. 8, lots 1, 2, 3, and 8;
Sec. 9, lot 2;
Sec. 17, lot 2;
Sec. 18, lots 2, 9, and 11;
Sec. 19, lot 2.
T. 40 N., R. 4 E.,
Sec. 2, SE¼NE¼ and NE¼SE¼;
Sec. 12, lot 1, S½NW¼NW¼ and NW¼NW¼NW¼;
Sec. 14, lots 2 and 3;
Sec. 22, lot 2;
Sec. 28, lots 1 and 2;
Sec. 33, lots 6, 7, and 8.
T. 40 N., R. 5 E.,
Sec. 6, lots 8, 9, and 10 and NW¼SE¼.
T. 41 N., R. 6 E.,
Sec. 26, lots 1 and 2 and SE¼SW¼SW¼;
Sec. 27, lots 1 to 6, inclusive, S½SW¼NW¼, N½SW¼SW¼, and SW¼SE¼SE¼;
Sec. 28, lots 1 to 9, inclusive, N½SW¼SW¼ and NW¼SE¼SW¼;
Sec. 29, lots 1 to 10, inclusive, SE¼SW¼, N½S½SE¼, SW¼SW¼SE¼, and S½NE¼NE¼;
Sec. 30, lots 3 to 11, inclusive;
Sec. 31, lot 1, N½NE¼, SE¼NE¼, and N½NE¼NW¼;
Sec. 32, N½NW¼, W½NW¼NE¼, SW¼NW¼, N½NW¼SW¼, and SW¼NW¼SW¼;
Sec. 34, lots 1 to 5, inclusive, and NE¼SW¼NE¼;
Sec. 35, lots 2, 3, and 4 and NW¼SW¼NW¼.

The areas described aggregate 5,002.08 acres, more or less, in Clearwater County, Idaho.

EUGENE E. BABIN,
Acting Manager, Land Office.

[F.R. Doc. 65-7082; Filed, July 6, 1965; 8:46 a.m.]

Geological Survey

[Idaho 21]

IDAHO

Phosphate Land Classification Order

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563 of May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

BOISE MERIDIAN, IDAHO

Phosphate lands. T. 4 N., R. 46 E.,
Sec. 17, lots 1 to 4, inclusive, NE¼NW¼, S½NW¼, SW¼;
Sec. 20, lots 1 to 4, inclusive, N½NW¼, SE¼NW¼, E½SW¼;
Sec. 29, lots 1 and 2, SW¼SW¼;
Sec. 30, lots 4, 8, and 9, E½SW¼, W½SE¼;
Sec. 31, lots 1, 2, and 4 to 7, inclusive, SW¼NE¼, E½NW¼;
Sec. 32, W½NW¼.
Nonphosphate lands. T. 4 N., R. 46 E.,
Sec. 5;
Sec. 8;
Sec. 17, NW¼NW¼;
Sec. 19;
Sec. 20, SW¼NW¼, W½SW¼;
Sec. 29, lots 3 to 6, inclusive, S½NW¼, N½SW¼, SE¼SW¼;
Sec. 30, lots 1 to 3 and 5 to 7, inclusive, SW¼NE¼, E½NW¼;
Sec. 31, lots 3, 8, and 9, E½SW¼, W½SE¼;
Sec. 32, lots 1 to 4, inclusive, E½NW¼, SW¼.

The area described aggregates 4,840 acres, more or less, of which about 1,645 acres are classified as phosphate lands and about 3,195 acres are classified as nonphosphate lands.

THOMAS B. NOLAN,
Director.

JUNE 23, 1965.

[F.R. Doc. 65-7092; Filed, July 6, 1965; 8:47 a.m.]

[Idaho 22]

IDAHO

Phosphate Land Classification Order

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563 of May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

BOISE MERIDIAN, IDAHO

Phosphate Lands. T. 3 N., R. 45 E.,
Sec. 7, lots 1–4, inclusive, E½W½;
Sec. 26, SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 27, lots 1 and 2, S½NE¼, E½SE¼;
Sec. 35, NE¼, N½NW¼, NE¼SE¼;
Sec. 36, SW¼NW¼, N½SW¼, SE¼SW¼, S½SE¼.

Reclassified Phosphate Lands from Nonphosphate Lands. Prior classification of the following lands as nonphosphate is hereby revoked and the lands are reclassified as phosphate lands: T. 3 N., R. 45 E.,
Sec. 1, SE¼SE¼;
Sec. 12, NE¼, SE¼NW¼;
Sec. 22, lots 2 and 4, SW¼SE¼;
H.E.S. 252.

Nonphosphate Lands. T. 3 N., R. 45 E.,
Sec. 7, E½;
Secs. 17–21, inclusive, excluding H.E.S. 252;
Sec. 25, lots 3 and 4, S½NW¼, S½;
Sec. 26, lots 1–4, inclusive, S½NE¼, SE¼NW¼, NE¼SW¼, SE¼;
Sec. 27, lots 3 and 4, S½NW¼, SW¼, W½SE¼;
Secs. 28–34, inclusive;
Sec. 35, S½NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 36, NE¼, N½NW¼, SE¼NW¼, SW¼SW¼, N½SE¼.

The area described aggregates 11,914 acres, more or less, of which about 1,256 acres are classified as phosphate lands, about 417 acres are reclassified as phosphate lands that were formerly classified nonphosphate lands, and about 10,241 acres are classified as nonphosphate lands.

THOMAS B. NOLAN,
Director.

JUNE 23, 1965.

[F.R. Doc. 65–7093; Filed, July 6, 1965; 8:47 a.m.]

[Idaho 23]

IDAHO

Phosphate Land Classification Order

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563 of May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

BOISE MERIDIAN, IDAHO

Phosphate lands. T. 2 N., R. 46 E.,
Sec. 5, SW¼, SW¼SE¼;
Sec. 6, lots 1, 2, and 3, N½SE¼, SE¼SE¼;
Sec. 8, NE¼, NE¼NW¼;
Sec. 9, lots 2 and 3, SW¼NW¼, NW¼SW¼;
Sec. 31, SW¼SW¼.

Nonphosphate lands. T. 2 N., R. 46 E.,
Sec. 5, lots 1 to 4, inclusive, N½SE¼, SE¼SE¼;
Sec. 6, lot 4, SW¼, SW¼SE¼;
Sec. 7;
Sec. 8, NW¼NW¼, S½NW¼, S½;
Secs. 17 to 20, inclusive;
Secs. 29 and 30;
Sec. 31, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 32.

The total area of lands classified as phosphate lands by this action aggregates 794 acres, more or less, and the area classified as nonphosphate lands aggregates 6,687 acres, more or less.

THOMAS B. NOLAN,
Director.

JUNE 23, 1965.

[F.R. Doc. 65–7094; Filed, July 6, 1965; 8:47 a.m.]

[Idaho 24]

IDAHO

Phosphate Land Classification Order

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563 of May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

BOISE MERIDIAN, IDAHO

Phosphate lands. T. 2 N., R. 45 E.,
Sec. 7, lots 1, 2, and 3, SW¼NE¼, E½W½, SE¼;
Sec. 8, S½SW¼, SW¼SE¼;
Sec. 16, S½NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 17, N½, N½SE¼, SE¼SE¼;
Sec. 18, lot 1, NE¼NE¼, NE¼NW¼, S½SE¼;
Sec. 19, lot 1, E½NE¼, SW¼NE¼, SE¼NW¼, NE¼SE¼;
Sec. 20, S½NE¼, N½NW¼, N½SW¼, SE¼;
Sec. 21, NE¼NE¼, NE¼NW¼, SW¼, S½SE¼;
Sec. 22, S½NE¼, NW¼NW¼, S½NW¼, E½SE¼;
Sec. 23, SW¼SW¼;
Sec. 26, SW¼NE¼, W½, SE¼;
Sec. 27, S½NE¼, NW¼, NE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 28, NE¼, NE¼NW¼, N½SE¼;
Sec. 34, N½NE¼, SE¼NE¼;
Sec. 35, NE¼NE¼;
Sec. 36, NW¼NW¼, S½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼.

Nonphosphate lands. T. 2 N., R. 45 E.,
Secs. 1 to 6, inclusive;
Sec. 7, lot 4, N½NE¼, SE¼NE¼;
Sec. 8, N½, N½S½, SE¼SE¼;
Secs. 9 to 15, inclusive;
Sec. 16, NE¼, N½NW¼, NE¼SE¼;
Sec. 17, SW¼, SW¼SE¼;
Sec. 18, lots 2, 3, and 4, NW¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, N½SE¼;
Sec. 19, lots 2, 3, and 4, NW¼NE¼, NE¼NW¼, E½SW¼, NW¼SE¼, S½SE¼;
Sec. 20, N½NE¼, S½NW¼, S½SW¼;
Sec. 21, NW¼NE¼, S½NE¼, NW¼NW¼, S½NW¼, N½SE¼;
Sec. 22, N½NE¼, NE¼NW¼, SW¼, W½SE¼;
Sec. 23, N½, N½SW¼, SE¼SW¼, SE¼;
Secs. 24 and 25;
Sec. 26, N½NE¼, SE¼NE¼;
Sec. 27, N½NE¼, NW¼SW¼, S½SW¼, SE¼SE¼;
Sec. 28, NW¼NW¼, S½NW¼, SW¼, S½SE¼;
Sec. 29;
Sec. 33;
Sec. 34, SW¼NE¼, W½, SE¼;
Sec. 35, NW¼NE¼, S½NE¼, W½, SE¼;
Sec. 36, NE¼, NE¼NW¼, NW¼SW¼, S½SW¼, SW¼SE¼.

The area described aggregates 20,004 acres, more or less, of which about 4,474 acres are classified as phosphate lands and about 15,530 acres are classified as nonphosphate lands.

THOMAS B. NOLAN,
Director.

JUNE 23, 1965.

[F.R. Doc. 65–7095; Filed, July 6, 1965; 8:48 a.m.]

[Idaho 25]

IDAHO

Phosphate Land Classification Order

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563 of May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

BOISE MERIDIAN, IDAHO

Phosphate Lands. T. 2 N., R. 44 E.,
Sec. 11, E½SW¼, W½SE¼, SE¼SE¼;
Sec. 12, NE¼, NE¼SE¼;
Sec. 13, W½NE¼, NW¼, N½SW¼, SE¼SW¼, SW¼SE¼.

Reclassified Phosphate Lands from Nonphosphate Lands. Prior classification of the following lands as nonphosphate is hereby revoked and the lands are reclassified as phosphate lands: T. 2 N., R. 44 E.,
Sec. 14, NE¼, E½NW¼, NE¼SE¼;
Sec. 24, N½NE¼.

Nonphosphate Lands. T. 2 N., R. 44 E.,
Secs. 1 to 4, inclusive;
Sec. 10;
Sec. 11, N½, W½SW¼, NE¼SE¼;
Sec. 12, W½, W½SE¼, SE¼SE¼;
Sec. 13, E½NE¼, SW¼SW¼, N½SE¼, SE¼SE¼.

The area described aggregates 4,822 acres, more or less, of which about 800 acres are classified as phosphate lands, about 360 acres are reclassified as phosphate lands that were formerly classified nonphosphate lands, and about 3,662 acres are classified as nonphosphate lands.

THOMAS B. NOLAN,
Director.

JUNE 23, 1965.

[F.R. Doc. 65–7096; Filed, July 6, 1965; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

DAVIS LIVESTOCK AUCTION ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), on the respective dates specified below it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, and notice was given to the owners and to the public by posting notice at the stockyards as required by said section 302.

Name, location of Stockyard, and date of posting
IDAHO
Davis Livestock Auction, Caldwell, June 10, 1965.
KANSAS
Flint Hills Livestock Auction, Eskridge, June 15, 1965.
MICHIGAN
Hillsdale Co. Auction Sales, Corp., Jonesville, June 9, 1965.
MISSOURI
Concordia Livestock Auction, Concordia, May 12, 1965.
NEBRASKA
Nebraska City Sale Barn, Inc., Nebraska City, June 12, 1965.
WASHINGTON
Century Sales Service, Mt. Vernon, May 6, 1965.

Done at Washington, D.C., this 1st day of July 1965.

K. A. POTTER,
Acting Chief, Rates and Registrations Branch, Packers and Stockyards Division, Consumer and Marketing Service.

[F.R. Doc. 65-7108; Filed, July 6, 1965; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

MARGARINE DEVIATING FROM IDENTITY STANDARD

Notice of Issuance of Temporary Permit for Market Testing

Pursuant to § 10.5(j), Title 21, Code of Federal Regulations, concerning temporary permits to facilitate market testing of foods deviating from the requirements of standards of identity, notice is given that a temporary permit has been issued to Swift & Co., Chicago, Ill., for market-testing margarine (21 CFR 45.1). The margarine to be market tested is in liquid form, but conforms in all other respects to the requirements of the standard. The standard of identity provides that margarine is a plastic food. The label names the food as "Pourable Liquid Margarine," lists all the ingredients, and includes directions to keep the product refrigerated.

This permit expires June 30, 1966.

(Secs. 401, 701, 52 Stat. 1046 as amended; 21 U.S.C. 341, 371)

Dated: June 28, 1965.

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

[F.R. Doc. 65-7076; Filed, July 6, 1965; 8:46 a.m.]

NORDEN LABORATORIES, INC.

Notice of Filing of Petition for Food Additive Sulfamethazine

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 5D1770) has been filed by Norden Laboratories, Inc., 227 North Ninth Street, Lincoln, Nebr., proposing the issuance of a regulation to provide for the safe use of sulfamethazine sustained release tablets for oral administration to nonlactating cattle. The petition proposes a 22.5-gram dose for treatment of infections in which the causative organism is sensitive to sulfamethazine, with the restrictions that treated animals are not to be slaughtered for food within 21 days after treatment.

Dated: June 29, 1965.

MALCOLM R. STEPHENS,
Assistant Commissioner for Regulations.

[F.R. Doc. 65-7077; Filed, July 6, 1965; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 7531; Order E-22393]

FALL RIVER, MASS.

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of June 1965.

On November 30, 1955, the city of Fall River, Mass. filed with the Board a complaint alleging that Northeast Airlines, Inc. has failed to provide the city with adequate air service within the meaning of section 404(a) of the Federal Aviation Act, and requesting that the carrier be required to provide the city, at its own airport, with a minimum of three daily round trips to New York City.

By Order E-21565, December 7, 1964, the Board tentatively found and concluded that the complaint does not state facts warranting the institution of an adequacy of service investigation. Therefore, the city of Fall River was directed to show cause no later than December 23, 1964, why its complaint should not now be dismissed.

No objections to the Board's order have been received.

Accordingly, it is ordered:

1. That the tentative findings and conclusions in Order E-21565 be and they are hereby made final; and

2. That the complaint of Fall River in Docket 7531 be and it hereby is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 65-7100; Filed, July 6, 1965; 8:48 a.m.]

[Docket No. 16233]

MARK IV AIR FREIGHT, INC., ET AL.

Notice of Proposed Approval

Application of Mark IV Air Freight, Inc., Bernard Fernandes, and Bunji Hayata for approval of control and interlocking relationships pursuant to sections 408 and 409 of the Federal Aviation Act of 1958, as amended, Docket 16233.

Notice is hereby given, pursuant to the statutory requirements of section 408(b), that the undersigned intends to issue the attached order under delegated authority. Interested parties are hereby afforded a period of 15 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., July 1, 1965.

[SEAL] J. W. ROSENTHAL,
Chief, Routes and Agreements Section, Bureau of Economic Regulation.

ORDER APPROVING CONTROL AND INTERLOCKING RELATIONSHIPS

By joint application filed June 11, 1965, Mark IV Air Freight, Inc. (Freight), Bernard Fernandes, and Bunji Hayata request the Board to approve, pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act), the common control by Mr. Fernandes of Freight and Mark IV Messenger Service, Inc. (Messenger). In addition, they request approval under section 409 of the Act of the following interlocking relationships:

Individual	Company and position	
	Freight	Messenger
Bernard Fernandes.	President, treasurer, director.	President, director.
Bunji Hayata.....	Secretary, director.	Secretary, treasurer, director.

Freight is an applicant for authorization as a domestic air freight forwarder and for the purposes of this proceeding is considered to be an air carrier. Messenger is an intrastate surface carrier by motor vehicle and will be exclusive pickup and delivery agent in the Los Angeles area for Freight.[1] Mr. Fernandes owns 70 percent of all the outstanding shares of stock of Messenger, and 100 percent of all the stock to be originally issued by Freight. The applicants contend that the relationship of Freight and Messenger inures to the benefit of both such parties, is not adverse to the public interest, and that the Board has in the past approved such relationships between an air freight forwarder and an intrastate surface carrier by motor vehicle.

No comments relative to the joint application or requests for a hearing have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of joint application it is concluded that Messenger is a common carrier within the meaning of section 408 of

[1] The application discloses that Messenger has hitherto served in Los Angeles as exclusive pickup and delivery agent and as general agent for Pacific Air Freight, Inc. (Pacific), a domestic and international air freight forwarder, but that as of July 19, 1965, all business, financial, and other relationships between Messenger and/or Fernandes, on the one hand, and Pacific, on the other hand, will have terminated.

the Act and that the common control of Freight and Messenger by Mr. Fernandes is subject to that section.

However, it has been further concluded that such control relationships do not affect a carrier directly engaged in the operation of aircraft in air transportation, do not result in creating a monopoly, and do not restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing and it is found that the public interest does not require a hearing. The control relationships are similiar to others which have been approved by the Board and essentially do not present any new substantive issues.[3] It therefore appears that approval of the control relationships would not be inconsistent with the public interest. However, should Messenger's intrastate drayage services be expanded, new issues would be raised which could only be resolved upon the filing of a further application for prior approval by the Board. Accordingly, approval of the instant relationships will be conditioned so that such approval shall be effective only as long as the operation of motor vehicles by Messenger is limited to the State of California.

It is also found that interlocking relationships within the scope of section 409 of the Act will result from the holding by the individual applicants of the positions set forth above. However, it is concluded that a due showing has been made in the form and manner prescribed by Part 251 of the Board's Economic Regulations that the interlocking relationships will not adversely affect the public interest.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.13, it is found that the foregoing control relationships should be approved under section 408(b) of the Act without a hearing, and that the interlocking relationships should be approved under section 409.

Accordingly, it is ordered:

1. That the control relationships resulting from the common control by Mr. Fernandes of Freight and Messenger be and they hereby are approved;

2. That, subject to the provisions of Part 251 of the Board's Economic Regulations, as now in effect or as hereafter amended, the interlocking relationships among Freight and Messenger resulting from the positions held by Messrs. Fernandes and Hayata, as set forth above, be and they hereby are approved; and

3. That the approvals herein shall be effective only so long as the operation of motor vehicles by Messenger is limited to the State of California.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 5 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

By J. W. ROSENTHAL,
Chief, Routes and Agreements Division, Bureau of Economic Regulation.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 65-7101; Filed, July 6, 1965; 8:48 a.m.]

[3] See, for example, Trans-Pacific Air Cargo, et al., Docket 16029, Order E-22158, May 13, 1965.

[Docket No. 16248]

TRANS WORLD AIRLINES, INC.

Rate Matter; Notice of Prehearing Conference

Proposed reduced rates on phonograph records proposed by Trans World Airlines, Inc.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on July 13, 1965, at 10 a.m., e.d.s.t., in Room 607, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Milton H. Shapiro.

Dated at Washington, D.C., July 1, 1965.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 65-7102; Filed, July 6, 1965; 8:48 a.m.]

CIVIL SERVICE COMMISSION

GENERAL HEALTH SCIENCE SERIES

Minimum Educational Requirements for Positions

In accordance with section 5 of the Veterans' Preference Act of 1944, as amended, the Civil Service Commission has decided that minimum educational requirements are necessary for positions in the General Health Science Series, GS-601. These requirements, the duties of the positions, and the reasons for the Commission's decision that these requirements are necessary are set forth below.

GENERAL HEALTH SCIENCE SERIES, GS-601
(ALL GRADES)

Minimum educational requirements. For all positions, applicants for all grades must have successfully completed a full course of study leading to a bachelor's or higher degree from an accredited college or university, with major study in an academic field relating to the health sciences or allied sciences.

Duties. The duties of these positions involve advising on, administering, supervising, or performing research or other professional and scientific work which is specifically health-oriented in character. The work may be of generalized, specialized, or miscellaneous nature, requiring a background of knowledges, skills, and techniques gained from professional training in a health science or allied scientific field, but having no paramount, rigid or continuing requirement for the knowledges, skills, and techniques characterizing any of the established professional series. Such work may cut across and require understanding of scientific methods and techniques common to several recognized professional fields in the health, medical, or allied sciences (e.g., work in the field of health research administration requiring knowledge of research methodology common to a number of different scientific fields); and/or the work may represent a new, emerging or miscellaneous professional occupational area of health science not readily identifiable with established series.

Reasons for establishing requirements. The duties of these positions cannot be performed successfully without, at the minimum, formalized training in an appropriate academic discipline which provides fundamental professional and scientific knowledges applicable or adaptable to the professional health or health-related occupations covered by this series.

Applicants must have the ability to apply their professional and scientific knowledges to their work in order to advise on or solve specific problems, interpret and apply the results of research in appropriate fields, or promote, direct, or do further research in health-oriented work assignments. These knowledges can be acquired only through successful completion of a directed course of study in an accredited college or university which provides adequate library and laboratory facilities, and thoroughly trained instructors who can give specific guidance and evaluate the progress of the professional training competently.

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

[F.R. Doc. 65-7083; Filed, July 6, 1965; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 16020—16022; FCC 65M-852]

FIDELITY RADIO, INC., ET AL.

Order Continuing Hearing

In re applications of Fidelity Radio, Inc., Louisville, Ky., Docket No. 16020, File No. BPH-3981; Producers, Inc., Louisville, Ky., Docket No. 16021, File No. BPH-4396; WHAS, Inc., Louisville, Ky., Docket No. 16022, File No. BPH-4630; for construction permits.

Pursuant to agreement of counsel arrived at during the prehearing conference in the above-styled proceeding held on this date, *it is ordered*, This 29th day of June 1965, that the hearing presently scheduled to commence on July 16, 1965, be and the same is hereby continued to September 21, 1965, at 10 a.m., in Washington, D.C.

Released: June 30, 1965.

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

[F.R. Doc. 65-7112; Filed, July 6, 1965; 8:49 a.m.]

[Docket Nos. 16001–16003; FCC 65M–854]

TELEVISION BROADCASTERS, INC. (KBMT) AND TEXAS GOLDCOAST TELEVISION, INC. (KPAC–TV)

Memorandum Opinion and Order Continuing Hearing

In re applications of Television Broadcasters, Inc. (KBMT), Beaumont, Tex., Docket No. 16001, File No. BPCT–3266; for construction permit; Television Broadcasters, Inc. (KBMT), Beaumont, Tex., Docket No. 16003, File No. BRCT–560; Texas Goldcoast Television, Inc. (KPAC–TV), Port Arthur, Tex., Docket No. 16002, File No. BRCT–389; for renewal of licenses.

1. Counsel for Texas Goldcoast Television, Inc. (KPAC–AV), has requested that the hearing now scheduled at Beaumont, Tex., for July 20, 1965, be continued for a period of aproximately 60 days. The reason for the request is predicated upon the illness of Carl Levy, Secretary of KPAC–TV, a witness in this proceeding.

2. The Commission in its Memorandum Opinion and Order (FCC 65–379) released May 10, 1965, designating this proceeding for a consolidated hearing specified that the Hearing Examiner should expedite the matter. Perhearing conferences were held in June 4 and June 10, 1965, and the hearing is now scheduled to commence in Washington, D.C., on July 12, 1965, to consider certain matters as set out in an order (FCC 65M–751) released June 10, 1965, and then to be resumed in Beaumont, Tex., on July 20, 1965.

3. In view of the request for continuance of the Beaumont hearing, a prehearing conference was held on June 28, 1965. Counsel for KPAC–TV stated on the record that Mr. Levy was presently seriously ill and had recently been in the Columbia Presbyterian Medical Center in New York City for observation. Counsel also tendered for consideration an affidavit of Earl H. Rafes, M.D., dated June 25, 1965, which is now a part of the record [Tr. 26–29]. In the affidavit, Dr. Rafes stated he had first examined Mr. Levy on December 6, 1955, and recited a brief history of the illness of his patient. Dr. Rafes' ultimate conclusion was that:

> Mr. Levy is in no physical or mental state to appear at a public hearing on July 20, 1965, because he will either be awaiting his surgical procedure, in the midst of the surgical procedure or in the postoperative state. None of these situations is conducive to a satisfactory appearance, an appearance which very certainly would be prejudicial and detrimental to his physical and mental health.

4. Counsel for both Television Broadcasters, Inc. and the Broadcast Bureau have concurred in the request that the Beaumont hearing be postponed approximately 60 days. Levy was described as a "pivotal witness" by Broadcast Bureau counsel. Counsel for KPAC–TV stated at the prehearing conference on June 28, 1965, that if a continuance was granted to September, "* * * we will know what the state of Mr. Levy's health is and we can meet whatever problems occur at that time, such as if we have to go forward without him, or with him from a hospital. I hope he is physically all right just to come to a hearing room and testify" [Tr.31].

5. While there was filed, by the applicants on June 28, 1965, a joint petition requesting reconsideration and grant addressed to the Commission, it is pointed out here that that pleading is not accorded any weight by the Hearing Examiner as a basis for considering the request to reschedule the Beaumont hearing. The sole consideration in light of the Commission's admonition to expedite the hearing now is the condition of Mr. Levy's "physical and mental health" as set out by the Rafes affidavit and presented by KPAC–TV counsel.

6. In the light of the foregoing, it is concluded that good cause exists why the Beaumont hearing should be continued, but the hearing now scheduled in Washington, D.C., for July 12, 1965, 10 a.m., should be held as contemplated in the order referred to in paragraph 2, supra. [See also Tr. 37–38.]

Accordingly, it is ordered, This 1st day of July 1965, that the request of counsel for the applicant, Texas Goldcoast Television, Inc., is granted and the hearing now scheduled for July 20, 1965, at Beaumont, Tex., be and the same is hereby rescheduled for September 21, 1965, 10 a.m., Beaumont, Tex., at a place to be hereinafter announced.

It is further ordered, That the hearing now scheduled for July 12, 1965, 10 a.m., Washington, D.C., will be held in accordance with the order referred to in paragraph 2, supra. [See also Tr. 37–38.]

Released: July 1, 1965.

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

[F.R. Doc. 65–7113; Filed, July 6, 1965; 8:49 a.m.]

[Docket No. 14040; FCC 65M–851]

UNITED STATES OF AMERICA ET AL.

Order Continuing Hearing

United States of America by the Administrator of General Services, Washington, D.C., complainant, v. American Telephone and Telegraph Co. et al., defendants; Docket No. 14040.

The Examiner having under consideration the prehearing conference held on June 30, 1965;

It is ordered, This 30th day of June 1965, that the parties to this proceeding endeavor to work out a stipulation of facts to the extent possible and prepare briefs on the legal questions appertaining hereto, particularly, but without limitation, with respect to the law applicable to the construction of tariffs strictly against the issuing carrier and in favor of the users; and

It is further ordered, That on or before September 1, 1965, the parties shall file their respective legal briefs and either report to the Examiner their inability to achieve a stipulation on the facts, or file with the Examiner whatever stipulation has been agreed upon; and

It is further ordered, That the hearing presently scheduled for July 27, 1965, is postponed to September 8, 1965, at the time and place heretofore specified.

Released: June 30, 1965.

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

[F.R. Doc. 65–7114; Filed, July 6, 1965; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

CHRISTI FORWARDING CO., INC.

Revocation of License

Whereas, by letter dated April 29, 1965, the Commission notified Christi Forwarding Co., Inc., 1217 Prairie Avenue, Houston, Tex., of its intent to revoke Independent Ocean Freight Forwarder License No. 749 because Christi Forwarding Co., Inc. (1) has ceased to operate as an independent ocean freight forwarder; (2) is not financially fit to remain licensed; and (3) has failed to maintain an effective surety bond on file with the Commission as required by section 44(c), Shipping Act, 1916 (46 U.S.C. 1245); and

Whereas, Christi Forwarding Co., Inc., failed to request a hearing on the intended denial.

It is ordered, Pursuant to section 44 (c and d), Shipping Act, 1916 (46 U.S.C. 1245) that the independent ocean freight forwarder license of Christi Forwarding Co., Inc., be and is hereby revoked effective, 12:01 a.m., July 6, 1965.

It is further ordered, That Christi Forwarding Co., Inc., return Independent Ocean Freight Forwarder License No. 749 to the Commission for cancellation.

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 65–7103; Filed, July 6, 1965; 8:48 a.m.]

COPHRESI SHIPPING CO., INC.

Revocation of License

Whereas, by letter dated May 18, 1965, the Commission notified Cophresi Shipping Co., Inc., 165 Attorney Street, New York, N.Y., of its intent to revoke Independent Ocean Freight Forwarder License No. 1017 because Cophresi Shipping Co., Inc., had failed to maintain an effective surety bond on file with the Commission as required by section 44(c), Shipping Act, 1916 (46 U.S.C. 1245), and

Whereas, Cophresi Shipping Co., Inc., has failed to request a hearing on the intended revocation

It is ordered, Pursuant to section 44 (c and d), Shipping Act, 1916 (46 U.S.C. 1245), that the independent ocean freight forwarder license of Cophresi Shipping Co., Inc., be and is hereby revoked effective 12:01 a.m., July 6, 1965.

It is further ordered, That Cophresi Shipping Co., Inc., return Independent Ocean Freight Forwarder License No. 1017 to the Commission for revocation.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] THOMAS LISI, *Secretary.*

[F.R. Doc. 65-7104; Filed, July 6, 1965; 8:48 a.m.]

M. FARRIS & CO., INC., ET AL.

Independent Ocean Freight Forwarder Applications

Notice is hereby given of the revocation of the following independent ocean freight forwarder license.

M. Farris & Co., Inc., 8 Bridge Street, New York, N.Y.; License No. 837, canceled May 6, 1965.

Notice is hereby given of changes in the following applications for independent ocean freight forwarder licenses filed pursuant to section 44, Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

GRANDFATHER APPLICANTS

Zenith Overseas, Inc., 140 Nassau Street, New York, N.Y.; Application No. 838, withdrawn May 20, 1965.

T. M. T. Trailer Ferry, Inc., 1721 Northeast Miami Court, Miami, Fla.; Application No. 405, withdrawn May 21, 1965.

Mr. Thomas J. Campbell, doing business as Thomas J. Campbell & Associates, 409 Washington Street, Post Office Box 2475, San Francisco, Calif.; Application No. 875, denied May 25, 1965.

River Plate & Brazil Shipping Co., Inc., 608 Fifth Avenue, New York, N.Y.; Application No. 363.

NON-GRANDFATHER APPLICANTS

Consular Documents, Inc., 17 Battery Place, New York, N.Y.; Application, withdrawn May 12, 1965.

Mr. Carmen Torres, doing business as Puerto Rico Transfer, 760 North Ogden Avenue, Chicago, Ill.; Application, withdrawn May 19, 1965.

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission, applications for licenses as independent ocean freight forwarders, pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C., 20573. Protests received within 60 days from the date of publication of this notice in the FEDERAL REGISTER will be considered.

Speed-Freight Inc., 24-26 East 13th Street, Fourth Floor, New York, N.Y.; Nicholas Stecopoulos, president, treasurer; Eugene V. Pagano, first vice president; Octavio Romero assistant treasurer; Palma R. Pirrello, secretary.

Joe Goynias, doing business as Mira-Mar Shipping Co., 17 West 9th Street, Brooklyn 31, N.Y.; Joe Goynias, owner.

Puerto Rico Consolidators, 4339 Fruitland Avenue, Los Angeles, Calif.; Ralph S. Newcomer, president, director; Thomas F. Newcomer, vice president; Rhoda Nicol, secretary, director; Mabel L. Greene, director.

George G. Gregory, doing business as Enterprise Shipping Co., 25 California Street, San Francisco, Calif.; George G. Gregory, owner.

William A. Rogers, 327 South La Salle Street, Chicago, Ill.; William A. Rogers, owner, general manager.

Hermann Ludwig of America, Inc., 233 Broadway, New York, N.Y.; Herman Ludwig, president, Herbert W. Abbe, vice president, treasurer; Dietrich Kamm, secretary.

Eugene M. Malone, doing business as E. M. Malone & Co., 135 South Cove Boulevard, Panama City, Fla.; Eugene M. Malone, owner.

P. E. McLendon, doing business as McLendon Forwarding Co., 1217 Prairie Avenue, Post Office Box 2245, Houston, Tex.; P. E. McLendon, proprietor.

CHANGE OF OFFICERS

The Hipage Co., Inc., Citizens Bank Building, Norfolk, Va.; R. R. Ballard, assistant to the president; M. D. Rhodes, secretary.

Ebasco Service, Inc., 2 Rector Street, New York, N.Y.; Wm. Henry Colquhoun, president, chief executive officer and director; Albert F. Everman, controller, assistant secretary; Frederick C. Gardner, director; Lester Ginsberg, director; John T. Kimball, chairman of board, director; Herbert L. Klein, vice president; Howard W. McCall, vice president; Robert S. Quig, vice president; Kemp W. Reece, vice chairman, director; Leonard F. Reichle, vice president; Carl H. Reker, vice president, director; Tony G. Seal, vice president, director; Roger J. Sherman, vice president; John F. Thibodeau, secretary, treasurer; George G. Walker, director.

CHANGE OF NAME

Art H. Hanebrink, doing business as Koeller Struss Co., to Hanebrink Co., Inc., 812 Oline Street, St. Louis, Mo.; Milo L. Larso, doing business as Duty Drawback Service Co., to Acme International, Inc., 10 South La Salle Street, Chicago, Ill.

Person & Weidhorn to Person & Weidhorn, Inc., 38 Pearl Street, New York, N.Y.; Edward M. Hilton, doing business as Hilton & Son to Hilton & Son, Inc., 15 Moore Street, New York, N.Y.

Dated: July 1, 1965.

THOMAS LISI, *Secretary.*

[F.R. Doc. 65-7105; Filed, July 6, 1965; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP64-184]

EL PASO NATURAL GAS CO.

Notice of Petition To Amend

JUNE 29, 1965.

Take notice that on June 22, 1965, El Paso Natural Gas Co. (Petitioner), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP64-184 a petition to amend the certificate of public convenience and necessity issued in said docket on April 20, 1964, and amended on March 29, 1965, which authorized Petitioner to construct and operate certain facilities and to sell and deliver natural gas for resale by use of such facilities.

By the instant filing, Petitioner seeks to have the following facilities and appurtenances, and the sale and delivery of natural gas previously proposed by use of such facilities, eliminated from its project:

Customer	Facilities	Location
California-Pacific Utilities Co.	Richard E. Markillie Tap No. 1.	Douglas County, Oreg.
	Kenneth R. Bare Tap.	Do.
	Sladen O. Stingart Tap.	Do.
Northwest Natural Gas Co.	Sher Khan Tap.	Lane County, Oreg.
	Clifford Pickuel Tap.	Do.
	Glenn Weeldreyer Tap.	Do.
	M. C. Helms Tap.	Do.

The petition states that the reason for the requested deletion of the facilities and service from the program is that the facilities have not been constructed and are not now proposed to be constructed since the distributor customers involved have not gone forward with the initiation of natural gas service.

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) and the regulations under the Natural Gas Act (157.10) on or before July 26, 1965.

J. H. GUTRIDE, *Secretary.*

[F.R. Doc. 65-7068; Filed, July 6, 1965; 8:46 a.m.]

[Docket No. CP65-412]

EL PASO NATURAL GAS CO.

Notice of Application

JUNE 29, 1965.

Take notice that on June 22, 1965, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex., 79999, filed in Docket No. CP65-412 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 certain natural gas facilities and the sale and delivery of natural gas to Black Mountain Gas Co. (Black Mountain) for transportation to and resale and general distribution in the unincorporated communities of Carefree and Cave Creek, Ariz., and their respective environs and rural areas of Maricopa County, Ariz., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant would construct and operate a measuring and regulating station and appurtenances at a point adjacent to its 20-inch San Juan-Maricopa pipeline in Maricopa County, Ariz. Black Mountain will construct approximately 18.2 miles of 3½-inch transmission pipeline and the distribution facilities required for the proposed service.

Black Mountain estimates that during the 5-year prospective period its annual and maximum daily requirements for natural gas will aggregate 67,329 Mcf and 616 Mcf, respectively.

The total estimated cost of the facilities to be constructed by Applicant is $6,050, which will be financed from currently available working funds.

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) and the regulations under the Natural Gas Act (157.10) on or before July 23, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, and the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if 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.

J. H. GUTRIDE,
Secretary.

[F.R. Doc. 65-7069; Filed, July 6, 1965; 8:46 a.m.]

[Docket No. RP65-43]

KANSAS-NEBRASKA NATURAL GAS CO., INC., AND COLORADO INTERSTATE GAS CO.

Notice of Proposed Changes in Rate Schedules

JUNE 28, 1965.

Kansas-Nebraska Natural Gas Co., Inc., Complainant, v. Colorado Interstate Gas Co., Defendant; Docket No. RP65-43.

Take notice that on June 16, 1965, Colorado Interstate Gas Co. (Colorado Interstate) tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, subject to the provisions of section 4 of the Natural Gas Act, to become effective on July 1, 1965. The proposed changes include a new Partial Requirements (PR-1) rate schedule, superseding Rate Schedule P-2 (General Service—Pipeline Companies) and modify Rate Schedule IS-2 (Interruptible Service—Special Surplus Gas), so as to make it available to a buyer purchasing gas under Rate Schedule PR-1 in addition to its being available to buyers under Rate Schedules G-1, SG-1, and P-1.

Copies of the proposed rate changes have been served upon all customers and interested State commissions. Comments may be filed with the Commission on or before July 12, 1965.

J. H. GUTRIDE,
Secretary.

[F.R. Doc. 65-7070; Filed, July 6, 1965; 8:46 a.m.]

[Docket No. RP65-60]

MANUFACTURERS LIGHT & HEAT CO.

Notice of Proposed Changes in Rates and Charges

JUNE 29, 1965.

Take notice that on June 18, 1965, the Manufacturers Light & Heat Co. (Manufacturers) tendered for filing proposed changes in its FPC Gas Tariff, Fourth Revised Volume No. 1, to become effective as of January 1, 1965. The proposed changes reflect decreases in rates and charges in Manufacturer's Rate Schedules CDS-1, CDS-PR, AOS-1, and SGS-1.

The annual decrease in rate level is approximately $779,725 based upon sales for the 12-month period ended December 31, 1964, and reflects the reduction in the Federal income tax rate for corporations from 50 percent to 48 percent and also the reduction in cost of gas purchased from United Fuel Gas Co. and Atlantic Seaboard Corp. in Docket Nos. RP65-39 and RP65-40, respectively.

Copies of the proposed rate changes have been served by Manufacturers upon all customers and interested State commissions. Comments may be filed with the Commission on or before July 16, 1965.

J. H. GUTRIDE,
Secretary.

[F.R. Doc. 65-7071; Filed, July 6, 1965; 8:46 a.m.]

[Docket No. CP64-92]

TENNESSEE GAS TRANSMISSION CO. AND UNITED GAS PIPE LINE CO.

Notice of Petition To Amend

JUNE 30, 1965.

Take notice that on June 22, 1965, Tennessee Gas Transmission Co. (Tennessee), Post Office Box 2511, Houston, Tex., and United Gas Pipe Line Co. (United), 1525 Fairfield Avenue, Shreveport, La., filed in Docket No. CP64-92 a petition to amend the certificate of public convenience and necessity issued in said docket on December 19, 1963, which authorized the construction and operation of certain facilities and the transportation and delivery of natural gas by Tennessee for United.

By the instant filing, Tennessee and United propose an additional point of delivery of gas by United to Tennessee for transportation. The new delivery point would be on Tennessee's existing 24-inch Muskrat Line in Vermilion Parish, La., near the North Leroy and Ridge Fields. The transportation service now being rendered by Tennessee under its Rate Schedule T-6 would remain unchanged as to volume, term, and charge.

United would construct approximately 0.15 mile of 8-inch pipeline and an orifice meter station and appurtenances extending from a point on the North Leroy Gathering System and extending in a southerly direction to Tennessee's pipeline, at an estimated cost of $60,218. Tennessee would install a tap valve and 6-inch side valve on its 24-inch line, at an estimated cost of $5,700.

In addition, to provide greater flexibility, Tennessee and United seek approval to construct one additional point of interconnection between their existing facilities if such interconnection is found to be desirable so long as the total expenditure of both parties does not exceed $100,000.

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) and the regulations under the Natural Gas Act (157.10) on or before July 26, 1965.

J. H. GUTRIDE,
Secretary.

[F.R. Doc. 65-7072; Filed, July 6, 1965; 8:46 a.m.]

[Docket No. CP65-413]

UNITED GAS PIPE LINE CO.

Notice of Application

JUNE 29, 1965.

Take notice that on June 23, 1965, United Gas Pipe Line Co. (Applicant), Post Office Box 1407, Shreveport, La., 71102, filed in Docket No. CP65-413 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests permission and approval to abandon the following described facilities which were used to serve the customers indicated:

1. Scurlock Oil Co., Bean (Fowler) Pump Station, consisting of a positive meter and regulator station, located in Claiborne Parish, La.

2. Pittsburgh Plate Glass Co., Chemical Division, consisting of approximately 0.3 mile of 2-inch line and positive meter and regulator station, in Santa Rosa County, Fla.

3. Service Pipe Line Co., Willis Smith Pump Station, consisting of a positive meter station, located in Gregg County, Tex.

4. Bluff Creek Industries, consisting of a positive meter, regulator, and 25 feet of 2-inch pipe located in Jackson County, Miss.

Applicant states that the respective service agreements between it and the customers have been canceled by mutual agreement and the facilities are no longer required. Applicant states that service to its remaining customers will not be affected.

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) and the regulations under the Natural Gas Act (157.10) on or before July 26, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, and the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if 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.

J. H. GUTRIDE,
Secretary.

[F.R. Doc. 65-7073; Filed, July 6, 1965; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

VIRGINIA COMMONWEALTH CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(2)), by Virginia Commonwealth Corp., a registered bank holding company located in Richmond, Va., for the Board's prior approval of the acquisition by the Applicant of more than 80 percent of the voting shares of The Peoples Bank of Stafford, Falmouth, Va.

In determining whether to approve an application submitted pursuant to section 3(a)(2) of the Bank Holding Company Act, the Board is required by that Act to take into consideration the following factors: (1) The financial history and condition of the company and the bank concerned; (2) their prospects; (3) the character of their management; (4) the convenience, needs, and welfare of the communities and the area concerned; and (5) whether or not the effect of such acquisition would be to expand the size or extent of the bank holding company system involved beyond limits consistent with adequate and sound banking, the public interest, and the preservation of competition in the field of banking.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., 20551.

Dated at Washington, D.C., this 30th day of June 1965.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 65-7052; Filed, July 6, 1965; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

SANTURCE, P.R., REGIONAL OFFICE

Notice of Transfer to New York Area Office

Pursuant to section 4(a) of the Small Business Act, as amended, the Santurce, P.R., Regional Office is hereby transferred to the jurisdiction of the New York Area Office, located at 42 Broadway, New York City, 10004. The present delegation of authority to the Puerto Rico Regional Director shall remain in effect until superseded by appropriate redelegation of authority by the New York Area Administrator.

Effective date. July 1, 1965.

EUGENE P. FOLEY,
Administrator.

[F.R. Doc. 65-7053; Filed, July 6, 1965; 8:45 a.m.]

SAN DIEGO, CALIF., BRANCH OFFICE

Notice of Designation as Regional Office in Pacific Coastal Area

Pursuant to section 4(a) of the Small Business Act, as amended, the San Diego, Calif., Branch Office is hereby designated as, and shall perform the functions of a regional office under the jurisdiction of the Pacific Coastal Area Office, located at 450 Golden Gate Avenue, San Francisco, Calif., 94102.

Effective date. July 1, 1965.

EUGENE P. FOLEY,
Administrator.

[F.R. Doc. 65-7054; Filed, July 6, 1965; 8:45 a.m.]

[Delegation of Authority 30, Midwestern Area; Chicago, Amdt. 2]

MIDWESTERN AREA

Delegation of Authority To Conduct Program Activities in Regional Offices

I. Pursuant to the authority delegated to the Area Administrator by Delegation of Authority No. 30 (Revision 10) 30 F.R. 972, as amended, 30 F.R. 2742; Delegation of Authority No. 30 (Chicago) 30 F.R. 3252 and 30 F.R. 7686 is hereby amended by revising Item II in its entirety to read as follows:

II. To the regional directors of Des Moines, Indianapolis, Madison, and St. Louis, within the Midwestern Area, the following authority is hereby redelegated:

1. Item IA, 1 through 13 above.
2. Items ID, 1 through 5 above.
3. Item IE above.
4. Item IF above.
5. St. Louis only—Items IC, 1 and 2 above—but not to exceed 50,000.

Effective date. July 1, 1965.

RICHARD E. LASSAR,
Area Administrator, Midwestern Area.

[F.R. Doc. 65-7055; Filed, July 6, 1965; 8:45 a.m.]

[Delegation of Authority 30; Madison Regional Office, Disaster 2-65]

MANAGER, DISASTER FIELD OFFICE, PRAIRIE DU CHIEN, WIS.

Delegation Relating to Financial Assistance Functions

Notice is hereby given that Delegation of Authority No. 30, Madison Regional Office, Disaster No. 2-65 (30 F.R. 6891), is hereby rescinded in its entirety.

Effective date. June 30, 1965.

RICHARD E. LASSAR,
Area Administrator, Midwestern Area.

[F.R. Doc. 65-7056; Filed, July 6, 1965; 8:45 a.m.]

[Delegation of Authority 30; Madison Regional Office, Disaster 1-65]

MANAGER, DISASTER FIELD OFFICE, LA CROSSE, WIS.

Delegation Relating to Financial Assistance Functions

Notice is hereby given that Delegation of Authority No. 30, Madison Regional Office, Disaster No. 1-65 (30 F.R. 6891), is hereby rescinded in its entirety.

Effective date. June 30, 1965.

RICHARD E. LASSAR,
Area Administrator, Midwestern Area.

[F.R. Doc. 65-7057; Filed, July 6, 1965; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

JULY 1, 1965.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 39879—*Chlorine to Brewton, Ala.* Filed by O. W. South, Jr., agent (No. A4717), for interested rail carriers. Rates on chlorine, in tank carloads, from Calvert, Ky., to Brewton, Ala.

Grounds for relief—Market competition.

Tariff—Supplement 36 to Southern Freight Association, agent, tariff ICC S–484.

By the Commission.

[SEAL] BERTHA F. ARMES, *Acting Secretary.*

[F.R. Doc. 65–7087; Filed, July 6, 1965; 8:47 a.m.]

[Notice 35]

FINANCE APPLICATIONS

JULY 1, 1965.

The following publications are governed by the Interstate Commerce Commission's general requirements governing notice of filing of applications under sections 20a except (12) and 214 of the Interstate Commerce Act. The Commission's order of May 20, 1964, providing for such publication of notice, was published in the FEDERAL REGISTER issue of July 31, 1964 (29 F.R. 11126) and became effective October 1, 1964.

All hearings and prehearing conferences, if any, will be called at 9:30 a.m., U.S. standard time unless otherwise specified.

F.D. No. 23710—By application filed June 24, 1965, Southern Pacific Co., 65 Market Street, San Francisco, Calif., 94105, seeks authority under section 20a of the Interstate Commerce Act to assume obligation and liability in respect of $8,100,000 principal amount of its Equipment Trust Certificates, Series No. 28. Applicant's attorneys: Herbert A. Waterman, general attorney, and James J. Trabucco, attorney, Southern Pacific Co., 65 Market Street, San Francisco, Calif., 94105. Protests must be filed no later than 15 days from date of publication in the FEDERAL REGISTER.

F.D. No. 23711—By application filed June 24, 1965, Dixie Ohio Express, Inc., 237 Fountain Street, Akron, Ohio, 44309, seeks authority under section 214 of the Interstate Commerce Act to issue secured promissory notes in the total principal amount of $540,000. Applicant's attorney: Vernon V. Baker, 1411 K Street NW., Washington, D.C., 20005. Protests must be filed no later than 15 days from date of publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] BERTHA F. ARMES, *Acting Secretary.*

[F.R. Doc. 65–7088; Filed, July 6, 1965; 8:47 a.m.]

[Notice 1199]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 1, 1965.

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–67848. By order of June 30, 1965, the Transfer Board approved the transfer to Fred LaMunion, Doniphan, Mo., of the operating rights issued by the Commission June 13, 1961, under Certificate No. MC–119208 (Sub-No. 3) to Lee R. Warren, doing business as Warren Gravel Co., Dexter, Mo., authorizing the transportation, over irregular routes, of sand and gravel, in bulk, in dump vehicles, between points in Ripley, New Madrid, Stoddard, Mississippi, Scott, Wayne, Bollinger, Cape Girardeau, Pemiscott, and Dunklin Counties, Mo., points in Alexander, Pulaski, and Union Counties, Ill., points in Clay, Green, Mississippi, Poinsett, Craighead, and Randolph Counties, Ark., and points in Hickman, Ballard, Carlisle, and Fulton Counties, Ky. William B. Sharp, Sharp and Hatley, Post Office Box 337, Malden, Mo., attorney for applicants.

No. MC–FC–67852. By order of June 28, 1965, the Transfer Board approved the transfer to J. W. Cockburn, doing business as Cockburn Co., 556 Shoshone, Powell, Wyo., of Certificate No. MC–1897 issued December 3, 1964, to Fred J. Keller, doing business as Keller Trucking Co., North and Hamilton, Powell, Wyo., authorizing the transportation of general commodities of household goods and commodities in bulk, over regular route, between Neeteetse, Wyo., and Billings, Mont., serving the intermediate point of Powell, Wyo., restricted to pickup and delivery of livestock, machinery, tractors, hardware, feed, petroleum products in containers, and such building materials as are dealt in by retail lumber establishments; and all other intermediate points and the off-route points within 15 miles of the above-specified route, restricted to pickup delivery of livestock only; and over irregular routes, dried beet pulp, coal, cement and plaster, beans, peas, and empty sacks, livestock, machinery, materials, supplies and equipment incidental to or used in the construction, development, operation, and facilities for the discovery, development, and production of natural gas and petroleum, and uranium ore, in bulk, between, from, and to points and areas in the States of Montana and Wyoming, varying with the commodities transported.

No. MC–FC–67857. By order of June 28, 1965, the Transfer Board approved the transfer to Hagen, Inc., Sioux City, Iowa, of Permits Nos. MC–115915, MC–115915 (Sub-No. 2), MC–115915 (Sub-No. 3), MC–115915 (Sub-No. 6), MC–115915 (Sub-No. 7), MC–115915 (Sub-No. 10), MC–115915 (Sub-No. 16), MC–115915 (Sub-No. 17), Corrected MC–115915 (Sub-No. 19), MC–115915 (Sub-No. 23), and MC–115915 (Sub-No. 24), issued December 21, 1956, March 7, 1962, June 25, 1962, September 5, 1961, March 5, 1963, October 3, 1962, February 12, 1964, August 1, 1963, October 27, 1964, May 25, 1965, and May 28, 1965, respectively, to Fred E. Hagen, doing business as Hagen Truck Line, Sioux City, Iowa authorizing the transportation of meats, meat products and meat byproducts, dairy products, and articles distributed by meat packinghouses, over irregular routes, from and to points and areas in the States of Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming, varying with the commodities transported. J. Max Harding, Post Office Box 2028, Lincoln, Nebr., representative for applicants.

No. MC–FC–67926. By order of June 28, 1965, the Transfer Board approved the transfer to Diffley Truck Line, Inc., Topeka, Kans., of Certificate No. MC–59227, issued May 19, 1965, to Donald H. Edwardson, doing business as Diffley Truck Line, Topeka, Kans., authorizing the transportation of general commodities, excluding household goods and commodities in bulk, over regular routes, between Topeka, Kans., and Manhattan, Kans., serving all intermediate points, and the off-route point of Louisville, Kans. J. M. Caplinger, 823 West 10th Street, Topeka, Kans., representative for applicants.

No. MC–FC–67934. By order of June 29, 1965, the Transfer Board approved the transfer to Wayne Huell Brinkley, doing business as Wayne H. Brinkley, Truck Broker, Laredo, Tex., of the license in No. MC–12894, issued February 6, 1964, to Gabe W. Lewis, Laredo, Tex., authorizing brokerage operations of frozen foods, and unfrozen foods when moving under refrigeration, between Laredo, Tex., on the one hand, and, on the other, points in the United States, including Alaska and Hawaii. Austin L. Hatchell, 1102 Perry Brooks Building, Austin, Tex., attorney for applicants.

No. MC–FC–67935. By order of June 29, 1965, the Transfer Board approved the transfer to Royce Cliff, Albion, N.Y., of the certificates in Nos. MC–19608 and MC–19608 (Sub-No. 1), both issued August 15, 1950, to Clifton W. Farley, doing business as Farley Trucking Service, Lockport, N.Y., authorizing the transportation of: Vinegar, in bulk, from points in Niagara and Wayne Counties, N.Y., to Akron, Cleveland, and Cuyahoga Falls, Ohio, and Springboro, Pa.; and cider and vinegar, in bulk, in tank trucks, from points in Niagara, Orleans, Monroe, Wayne, Wyoming, Yates, and Erie Counties, N.Y., to Cincinnati, Ohio, Pittsburgh and Philadelphia, Pa., and points in Ohio, Pennsylvania, and New Jersey as specified. Raymond A. Richards, 35 Curtice Park, Webster, N.Y., 14580, counsel for applicants.

No. MC–FC–67937. By order of June 30, 1965, the Transfer Board approved the transfer to Cabell Auto Parts, Inc., Huntington, W. Va., of certificate in No. MC–110795, issued November 10, 1949, to M. K. Landreth, doing business as Landreth's Garage, Huntington, W. Va., authorizing the transportation of: Wrecked and disabled motor vehicles, by the truck-away method, between points in Cabell and Wayne Counties, W. Va., Lawrence County, Ohio, and Boyd Coun-

ty, Ky., on the one hand, and, on the other, points in West Virginia, Ohio, and Kentucky. Robert H. Burford, 418 Eighth Street, Huntington, W. Va., attorney for transferee.

No. MC-FC-67938. By order of June 30, 1965, the Transfer Board approved the transfer to C. B. S. Transportation, Inc., Wilmington, N.C., of a portion of the certificate in Nos. MC-21006 (Sub-No. 9) and MC-21006 (Sub-No. 11), issued January 17, 1963, and September 30, 1963, respectively, to Joseph S. Triglia, Delmar, Del., authorizing the transportation of: Wooden agricultural commodity containers, from points in Wicomico County, Md., to points in Dade, Broward, Hardee, Hillsborough, Lee, Collier, and Alachua Counties, Fla., and wooden baskets, boxes and crates, from Salisbury and Hebron, Md., to points in Maryland within 10 miles of each, to points in Georgia, North Carolina, South Carolina, and Florida, except points in the above Florida counties. Francis J. Ortman, 1383 National Press Building, Washington, D.C., 20004, attorney for applicants.

No. MC-FC-67940. By order of June 29, 1965, the Transfer Board approved the transfer to Recovery Trucking and Oil Co., Inc., Lake Charles, La., of the operating rights of Elkins Truck Lines, Inc., Lake Charles, La., authorizing the transportation, in certificates Nos. MC-82569 and MC-82569 (Sub-No. 4), issued June 17, 1949, and June 13, 1951, respectively, of clean and rough rice, rice mill products, rice mill supplies and equipment, lumber, cement, and machinery, materials, supplies, and equipment incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, over irregular routes, between points in Louisiana within 100 miles of Lake Charles, La., including Lake Charles, and of fishmeal, fish residuum, fish scrap, and fish oil, over irregular routes, from points in Cameron Parish, La., to points in Calcasieu Parish, La., and in Certificate of Registration No. MC-82569 (Sub-No. 6), issued March 17, 1964, of oilfield equipment, consisting of machinery, materials, supplies, and equipment incidental to or used in the construction, development, operations and maintenance of facilities for the discovery, development and production of natural gas and petroleum, over irregular routes, to and between all points in the State of Louisiana. Harry E. Barsh, Jr., 416 Pioneer Building, Lake Charles, La., attorney for applicants.

No. MC-FC-67956. By order of June 29, 1965, the Transfer Board approved the transfer to A. M. Harper Trucks, Inc., Box 629, Alice, Tex., of the operating rights in certificate in No. MC-106676 and those evidenced by a certificate of registration in No. MC-106676 (Sub-No. 2), issued October 24, 1949, and March 19, 1964, respectively, to A. M. Harper, doing business as A. M. Harper Trucks, Alice, Tex., authorizing transportation under the said certificate of machinery, materials, supplies, and equipment incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between within a specified Texas territory; and under the certificate of registration, such transportation as authorized by the Railroad Commission of Texas in SMC Certificate No. 5051, acquired by Ken Clark, doing business as A. M. Harper Trucks, Box 1151, Alice, Tex., pursuant to MC-FC-67273 approved November 25, 1964, consummated December 29, 1964.

[SEAL] BERTHA F. ARMES,
Acting Secretary.

[F.R. Doc. 65-7089; Filed, July 6, 1965; 8:47 a.m.]

[Sec. 5a Application 48; Amdt. 5]

EASTERN CENTRAL MOTOR CARRIERS ASSOCIATION, INC.

Proposed Bylaw Amendments; Modified Procedure

Upon consideration of the petition filed May 17, 1965, and amendment thereto filed June 18, 1965, by the Eastern Central Motor Carriers Association, Inc., for approval of proposed bylaw amendments to section 5a, application No. 48; and protests thereto of the National Industrial Traffic League and the New York Central Railroad Co.:

It is ordered, That the said petition, as amended, be handled under modified procedure; that the parties or their representatives comply with the provisions of rules 1.45 to 1.54, inclusive, of the Commission's general rules of practice, the filing and service of pleadings as follows: (a) Opening statement of facts and argument by petitioner and any supporting party on or before July 26, 1965; (b) 30 days after that date, statement of facts and argument by protestants and any supporting party; and (c) 10 days thereafter reply by petitioner and any supporting party.

It is further ordered, That the protestants shall timely advise petitioner and this Commission of the identity, including addresses, of the individuals composing the protestants' defense committee, if any, together with an indication of the number of copies of petitioner's statement which are desired, and to whom the copies are to be sent.

It is further ordered, That any of the interested parties, including those on the attached service list[1] who desire to be served with copies of pleadings, notify petitioner or protestants within 10 days from the date of service of this order.

And it is further ordered, That a copy of this order be filed with the Director, Division of the Federal Register.

Dated at Washington, D.C., this 24th day of June A.D. 1965.

By the Commission, Commissioner Freas.

[SEAL] BERTHA F. ARMES,
Acting Secretary.

[F.R. Doc. 65-7090; Filed, July 6, 1965; 8:47 a.m.]

[1] Filed as part of the original document. Copies may be secured by addressing a request to the Interstate Commerce Commission.

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