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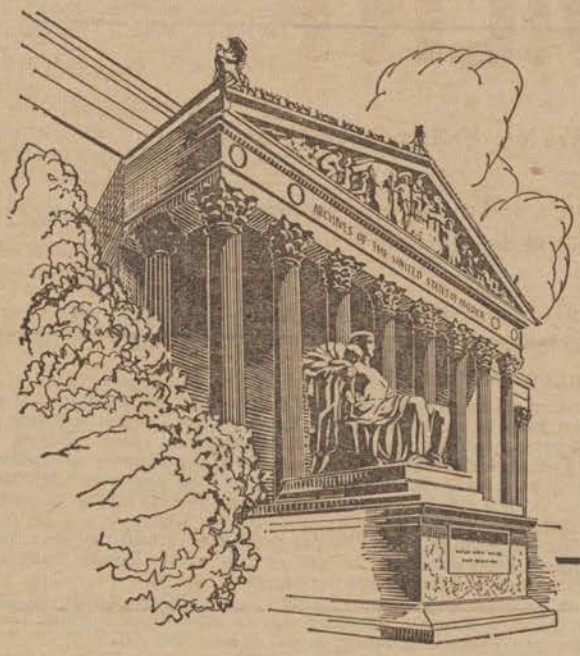

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List of CFR Parts Affected

(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, 1966, and specifies how they are affected.

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3698

NATIONAL SAFE BOATING WEEK, 1966

By the President of the United States of America

A Proclamation

The family boating trip has now become almost as common in American life as the family picnic. It is a profound testimony to the strength of our American system and the scope of our prosperity that the recreation of boating, once the pastime of a privileged few, is now enjoyed by millions of families from all walks of life.

With the steadily increasing traffic on our waterways, however, it is vital that no efforts be spared to keep boating safe as well as stimulating. The knowledge and practice of safe boating principles can make hours spent upon the water measurably safer and more pleasurable.

Since 1958, when the Congress first requested the President to annually proclaim National Safe Boating Week, the rise in boating accidents has been largely checked. This record can be maintained—and improved—only if the nation's boating organizations, Federal and State agencies, and the boating industry continue their efforts to inform the public of the importance of safe boating practices.

NOW, THEREFORE, I, LYNDON B. JOHNSON, PRESIDENT OF THE UNITED STATES OF AMERICA, do hereby designate the week beginning July 3, 1966 as National Safe Boating Week.

I urge every American who uses our waterways to re-examine his boating habits during this Week and decide what he can do, individually and together with his countrymen, to reduce accidents and prevent the needless waste of lives on the water.

I also invite the Governors of the States, the Commonwealth of Puerto Rico, and other areas subject to the jurisdiction of the United States of America to join in this observance and ask them to exert their influence in the cause of safe boating during this Week and throughout the entire year.

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

DONE at the City of Washington this 19th day of January in the year of our Lord nineteen hundred and sixty-six, and of [SEAL] the Independence of the United States of America the one hundred and ninetieth.

LYNDON B. JOHNSON

By the President:

GEORGE W. BALL,
Acting Secretary of State.

[F.R. Doc. 66-893; Filed, Jan. 21, 1966; 4:15 p.m.]

Proclamation 3699

NATIONAL SKI WEEK

By the President of the United States of America

A Proclamation

Skiing in the United States has now become one of our most popular sports. This active and invigorating pastime provides not only recreation, but an unsurpassed opportunity to enjoy the great scenic beauty of our majestic mountains.

Its growing popularity has caused skiing to become of great economic importance to many areas of the United States, where our Nation has now developed some of the finest skiers, and the finest ski facilities, in the world.

It was for this reason that the Congress, by a joint resolution approved January 21, 1966, requested the President to issue a proclamation designating the period beginning January 21, 1966, and ending January 30, 1966, as National Ski Week.

I am most happy to honor that request, and do hereby proclaim the period from January 21 through January 30, 1966, as National Ski Week.

I call upon individual skiers, sports organizations, community leaders, and other interested citizens to arrange appropriate observances of National Ski Week and to join in the effort to improve our ski facilities and to improve the skill of the skiers representing the United States of America in international competitions.

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

DONE at the City of Washington this 21st day of January in the year of our Lord nineteen hundred and sixty-six, and of the [SEAL] Independence of the United States of America the one hundred and ninetieth.

LYNDON B. JOHNSON

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 66-936; Filed, Jan. 24, 1966; 2:14 p.m.]

Rules and Regulations

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Savannah National Wildlife Refuge, S.C.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

SOUTH CAROLINA

SAVANNAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Savannah National Wildlife Refuge, Hardeeville, S.C., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 3,000 acres or 25 percent of the total area of the refuge are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta, Ga., 30323. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The sport fishing season on the refuge extends from March 15, 1966, through October 25, 1966.

(2) Fishing is permitted during daylight hours only.

(3) Boats with motors prohibited in the impoundments.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

WALTER A. GRESH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

JANUARY 17, 1966.

[F.R. Doc. 66-816; Filed, Jan. 24, 1966; 8:46 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6873]

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

Interest on Certain Deferred Payments

On April 20, 1965, a notice of proposed rule making to conform the Income Tax Regulations (26 CFR Part 1) to the amendment made to the Internal Revenue Code of 1954 by section 224(a) of the Revenue Act of 1964 (78 Stat. 77), relating to interest on certain deferred payments, was published in the FEDERAL REGISTER (30 F.R. 5584). 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 and additions set forth below. Sections 1.483 through 1.483–2 of the regulations supersede § 19.3–1 of Treasury Decision 6720, approved April 2, 1964 (29 F.R. 4882).

PARAGRAPH 1. Section 1.163–1 is amended by revising paragraph (a).

PAR. 2. Section 1.483–1, as set forth in paragraph 3 of the notice of proposed rule making, is changed by revising paragraphs (b) (1) and (4), by adding new examples (7) and (8) to paragraph (b)(6), and by revising paragraph (d)(2), example (4) of paragraph (d)(4), and examples (1) and (2) of paragraph (f)(5).

PAR. 3. Section 1.483–2, as set forth in paragraph 3 of the notice of proposed rule making, is changed by revising paragraph (a)(2).

PAR. 4. Section 1.1441–2 is amended by revising paragraph (a)(1).

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

Approved: January 17, 1966.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to the amendment made to the Internal Revenue Code of 1954 by section 224(a) of the Revenue Act of 1964 (78 Stat. 77), relating to interest on certain deferred payments, such regulations are amended as follows:

PARAGRAPH 1. Section 1.61–7 is amended by revising paragraph (a) to read as follows:

§ 1.61–7 Interest.

(a) *In general.* As a general rule, interest received by or credited to the taxpayer constitutes gross income and is fully taxable. Interest income includes interest on savings or other bank deposits; interest on coupon bonds; interest on an open account, a promissory note, a mortgage, or a corporate bond or debenture; the interest portion of a condemnation award; usurious interest (unless by State law it is automatically converted to a payment on the principal); interest on legacies; interest on life insurance proceeds held under an agreement to pay interest thereon; and interest on refunds of Federal taxes. For rules determining the taxable year in which interest, including interest accrued or constructively received, is included in gross income, see section 451 and the regulations thereunder. For the inclusion of interest in income for the purpose of the retirement income credit, see section 37 and the regulations thereunder. For credit of tax withheld at source on interest on tax-free covenant bonds, see section 32 and the regulations thereunder. For rules relating to interest on certain deferred payments, see section 483 and the regulations thereunder.

PAR. 2. Section 1.163–1 is amended by revising paragraph (a) to read as follows:

§ 1.163–1 Interest deduction in general.

(a) Except as otherwise provided in sections 264 to 267, inclusive, interest paid or accrued within the taxable year on indebtedness shall be allowed as a deduction in computing taxable income. For rules relating to interest on certain deferred payments, see section 483 and the regulations thereunder.

* * * * *

PAR. 3. Section 1.453–1 is amended by revising paragraph (b) to read as follows:

§ 1.453–1 Installment method of reporting income.

* * * * *

(b) *Income to be reported.* (1) Persons permitted to use the installment method of accounting prescribed in section 453 may return as income from installment sales in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when the property is paid for bears to the total contract price. In the case of dealers in personal property, for this purpose, gross profit means sales less cost of goods sold. See § 1.453–2 for rules applicable to the computation of income of dealers in personal property reporting on the installment method. In the case of sales of real estate and casual sales of personal property, gross profit means the selling price less the adjusted basis as defined in section 1011 and the regulations thereunder. Gross profit, in the case of a sale of real estate by a person other than a dealer and a casual sale of personal property, is reduced by commissions and other selling expenses for purposes of determining the proportion of installment payments returnable as income. For rules applicable in determining "selling price" and the use of certain other terms, see also paragraph (c) of § 1.453–4.

(2) For purposes of section 453, any total unstated interest (as defined in section 483(b) under a contract for the sale or exchange of property, payments

on account of which are subject to the application of section 483, shall not be included as a part of the selling price or the total contract price. For rules relating to payments received prior to January 1, 1964, see paragraph (a)(2) of § 1.483–2.

PAR. 4. There are inserted immediately after § 1.482–1 the following new sections:

§ 1.483 Statutory provisions; interest on certain deferred payments.

Sec. 483. *Interest on certain deferred payments*—(a) *Amount constituting interest.* For purposes of this title, in the case of any contract for the sale or exchange of property there shall be treated as interest that part of a payment to which this section applies which bears the same ratio to the amount of such payment as the total unstated interest under such contract bears to the total of the payments to which this section applies which are due under such contract.

(b) *Total unstated interest.* For purposes of this section, the term "total unstated interest" means, with respect to a contract for the sale or exchange of propery, an amount equal to the excess of—

(1) The sum of the payments to which this section applies which are due under the contract, over

(2) The sum of the present values of such payments and the present values of any interest payments due under the contract.

For purposes of paragraph (2), the present value of a payment shall be determined, as of the date of the sale or exchange, by discounting such payment at the rate, and in the manner, provided in regulations prescribed by the Secretary or his delegate. Such regulations shall provide for discounting on the basis of 6-month brackets and shall provide that the present value of any interest payment due not more than 6 months after the date of the sale or exchange is an amount equal to 100 percent of such payment.

(c) *Payments to which section applies*—(1) *In general.* Except as provided in subsection (f), this section shall apply to any payment on account of the sale or exchange of property which constitutes part or all of the sales price and which is due more than 6 months after the date of such sale or exchange under a contract—

(A) Under which some or all of the payments are due more than 1 year after the date of such sale or exchange, and

(B) Under which, using a rate provided by regulations prescribed by the Secretary or his delegate for purposes of this subparagraph, there is total unstated interest.

Any rate prescribed for determining whether there is total unstated interest for purposes of subparagraph (B) shall be at least one percentage point lower than the rate prescribed for purposes of subsection (b)(2).

(2) *Treatment of evidence of indebtedness.* For purposes of this section, an evidence of indebtedness of the purchaser given in consideration for the sale or exchange of property shall not be considered a payment, and any payment due under such evidence of indebtedness shall be treated as due under the contract for the sale or exchange.

(d) *Payments that are indefinite as to time, liability, or amount.* In the case of a contract for the sale or exchange of property under which the liability for, or the amount or due date of, any portion of a payment cannot be determined at the time of the sale or exchange, this section shall be separately applied to such portion as if it (and any amount of interest attributable to such portion) were the only payments due under the contract; and such determinations of liability, amount, and due date shall be made at the time payment of such portion is made.

(e) *Change in terms of contract.* If the liability for, or the amount or due date of, any payment (including interest) under a contract for the sale or exchange of property is changed, the "total unstated interest" under the contract shall be recomputed and allocated (with adjustment for prior interest (including unstated interest payments)) under regulations prescribed by the Secretary or his delegate.

(f) *Exceptions and limitations*—(1) *Sales price of $3,000 or less.* This section shall not apply to any payment on account of the sale or exchange of property if it can be determined at the time of such sale or exchange that the sales price cannot exceed $3,000.

(2) *Carrying charges.* In the case of the purchaser, the tax treatment of amounts paid on account of the sale or exchange of property shall be made without regard to this section if any such amounts are treated under section 163(b) as if they included interest.

(3) *Treatment of seller.* In the case of the seller, the tax treatment of any amounts received on account of the sale or exchange of property shall be made without regard to this section if no part of any gain on such sale or exchange would be considered as gain from the sale or exchange of a capital asset or property described in section 1231.

(4) *Sales or exchanges of patents.* This section shall not apply to any payments made pursuant to a transfer described in section 1235(a) (relating to sale or exchanges of patents).

(5) *Annuities.* This section shall not apply to any amount the liability for which depends in whole or in part on the life expectancy of one or more individuals and which constitutes an amount received as an annuity to which section 72 applies.

[Sec. 483 as added by sec. 224(a), Rev. Act. 1964 (78 Stat. 77)]

§ 1.483–1 Computation of interest on certain deferred payments.

(a) *Computation of amount constituting interest*—(1) *General rule.* For all purposes of the Internal Revenue Code, in the case of any contract for the sale or exchange of property, there shall be treated as interest that part of a payment to which section 483 applies (see paragraph (b) of this section) which bears the same ratio to the amount of such payment as the total unstated interest (as defined in paragraph (c) of this section) under such contract bears to the total of the payments to which section 483 applies which are due under such contract. Thus, the amount to be treated as interest under section 483 is determined by multiplying each payment to which such section applies by a fraction, the numerator of which is the total unstated interest under the contract, and the denominator of which is the total of all the payments to which section 483 applies which are due under such contract. The effect of this ratio is to allocate the total unstated interest on a pro rata basis among the total payments to which section 483 applies. Accordingly, the total amount to be treated as interest for a taxable year with respect to a contract under which there are payments which include unstated interest is an amount equal to the unstated interest allocated to the payments under the contract for such year plus any stated interest reportable under the contract for such year. See paragraph (b)(2) of this section for rules relating to allocation of contract price, payments, and stated interest; paragraph (e) of this section for rules relating to indefinite payments; paragraph (f) of this section for rules relating to changes in terms of contract; and paragraph (b) of § 1.483–2 for exceptions and limitations to the application of section 483.

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

Example (1). On December 31, 1963, A sells property to B under a contract which provides that B is to make three payments of $2,000 each, such payments being due, respectively, at the end of each year for the next 3 years. No interest is provided for in the contract. Assume that section 483 applies to each of the payments, and that the total unstated interest under the contract is $559.88. The portion of each $2,000 payment which is treated as interest is $186.63

$$\left($2{,}000 \times \frac{\$559.88}{\$6000.00}\right).$$

Example (2). On December 31, 1963, A sells property to B under a contract which provides that B is to make payments of $4,000, $3,000, and $2,000, such payments being due, respectively, at the end of each year for the next 3 years. No interest is provided for in the contract. Assume that section 483 applies to each of the payments, and that the total unstated interest under the contract is $750.31. The portion of the $4,000 payment which is treated as interest is $333.47

$$\left($4{,}000 \times \frac{\$750.31}{\$9000.00}\right),$$

the portion of the $3,000 payment which is treated as interest is $250.10

$$\left($3{,}000 \times \frac{\$750.30}{\$9000.00}\right),$$

and the portion of the $2,000 payment which is treated as interest is $166.74 $\left($2{,}000 \times \frac{\$750.31}{\$9000.00}\right)$.

Example (3). On December 31, 1963, A sells property to B under a contract which provides that B is to make payments of $2,040 ($2,000 sales price plus $40 interest), $2,080 ($2,000 sales price plus $80 interest), and $2,120 ($2,000 sales price plus $120 interest), such payments being due, respectively, 1, 2, and 3 years from the date of sale. Assume that both A and B are calendar year taxpayers, that section 483 applies to each of the payments, and that the total unstated interest under the contract is $345.85. The portion of each $2,000 payment (sales price) which is treated as interest is $115.28

$$\left($2{,}000 \times \frac{\$345.85}{\$6{,}000.00}\right).$$

Thus, for 1964, the total amount to be treated as interest by A and B with respect

to the contract is $155.28 ($115.28 unstated interest plus $40 stated interest), for 1965 such total amount is $195.28 ($115.28 unstated interest plus $80 stated interest), and for 1966 such total amount is $235.28 ($115.28 unstated interest plus $120 stated interest).

(b) *Payments to which section 483 applies*—(1) *In general.* Except as provided in subparagraph (4) of this paragraph, section 483 applies to any payment made after December 31, 1963, on account of the sale or exchange of property occurring after June 30, 1963, which payment constitutes part or all of the sales price and which is due more than 6 months after the date of such sale or exchange under a contract—

(i) Under which one or more of the payments are due more than 1 year after the date of such sale or exchange, and

(ii) Under which there is "total unstated interest" (within the meaning of paragraph (d) of this section).

For purposes of the preceding sentence, the term "sales price" does not include any interest payments provided for in the contract. The term "sale or exchange" includes any transaction treated as a sale or exchange for purposes of the Code. For purposes of section 483, a payment may be made in cash, stock or securities, or other property (except as provided in subparagraph (5) of this paragraph). Section 483 does not apply to any deferred payments under a contract under which all of the payments are due no more than 1 year after the date of the sale or exchange. Section 483 does not apply to a distribution in complete liquidation of a corporation, regardless of whether the corporation is liquidated in one distribution or in a series of distributions. For special rules relating to the time a sale or exchange takes place in the case of a disposal of timber, coal, or domestic iron ore, which qualifies under section 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore), see that section and the regulations thereunder. See paragraph (e) of this section for special rules relating to indefinite payments, and paragraph (f) of this section for rules relating to the effect of a late payment on the determination of the due date of such payment. Section 483 may apply whether the contract providing for deferred payments is expressed (whether written or oral) or implied. In general, for purposes of section 483, all sales or exchanges involving deferred payments are considered as made under a contract.

(2) *Allocation of contract price, payments, and stated interest.* If payments are due under a contract both for the sale or exchange of property to which section 483 applies (for example, capital assets) and for either the sale or exchange of property to which such section does not apply (for example, the transfer of patents described in section 1235(a)) or services rendered or to be rendered, the parties to the contract may agree at the time of the sale or exchange on a reasonable determination of the portion of the contract price and the stated interest (if any), and of each payment due under the contract, which is allocable to each such type of property and to services. However, if the parties do not so agree on a reasonable determination of the allocation of the contract price, or the stated interest (if any), or each payment due under the contract, the district director shall make such reasonable determination.

(3) *Effect of other provisions of law.* If there is total unstated interest under a contract, a portion of each payment to which section 483 applies shall be treated as interest to the extent provided in such section, notwithstanding that some other provision of law (for example, section 1245, relating to gain from dispositions of certain depreciable property) would, without regard to section 483, treat a portion of the payment as ordinary income or in some other manner. In such a case, section 483 shall apply first and the other provision of law shall apply only to the remainder of the payment not treated as interest under section 483. For example, if a portion of a payment is treated as interest under section 483 and such portion would otherwise be treated as gain from the sale or exchange of property which is not a capital asset under section 1232 (relating to bonds and other evidences of indebtedness), section 483 shall apply first and section 1232 shall apply only to the remainder of the payment after the interest portion has been determined. In such case, in order to avoid a double inclusion in income, for purposes of section 1232(b) the "stated redemption price at maturity" shall be reduced by any amount treated as interest under section 483.

(4) *Effective date.* Section 483 does not apply to any payments on account of a sale or exchange made pursuant to a binding written contract (including an irrevocable written option) entered into before July 1, 1963. For purposes of the preceding sentence, a restricted stock option (as defined in section 424 (b)) shall be considered as irrevocable. For rules relating to certain stock options granted prior to January 1, 1965, see paragraph (a) (2) of § 1.483–2. For purposes of this subparagraph, if, after June 30, 1963 (or December 31, 1964, in the case of certain stock options granted prior to such date), there is a substantial change in the terms of such a contract or option, then any payments made pursuant to such changed contract or option shall not be considered as payments on account of a sale or exchange made pursuant to a contract or option entered into before July 1, 1963 (or January 1, 1965, as the case may be). For example, a payment made after December 31, 1963, pursuant to a "buy-sell" agreement entered into before July 1, 1963, between shareholders, is not subject to section 483 unless such agreement is substantially changed after June 30, 1963. For purposes of this subparagraph, a mere prepayment or early payment of part or all of the sales price or stated interest, or a change in the sales price arising from an independent appraisal or a mechanical formula, if such appraisal or formula is specified in the contract, or the mere transfer of the obligation to make or of the right to receive deferred payments under a contract, is not considered a substantial change in the terms of the contract. Furthermore, a late payment of part or all of the sales price or stated interest shall not be considered a substantial change in the terms of the contract if such payment is made no later than 90 days after the date the payment was due under the contract, or, if the payment is made after such 90-day period, any additional interest provided for under the terms of the contract or under local law is collected.

(5) *Evidence of indebtedness.* For purposes of section 483, an evidence of indebtedness (whether or not negotiable and whether or not includible in gross income) of the purchaser given in consideration for the sale or exchange of property is not a payment, and any payment due under such evidence of indebtedness shall be treated as due under the contract for the sale or exchange.

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

Example (1). On December 31, 1963, A sells property to B under a contract which provides that B is to pay $3,000 on the date of sale, $1,000 on June 1, 1964, and $1,000 on December 26, 1964. No interest is provided for in the contract. Since none of the payments under the contract is due more than 1 year after the date of the sale, section 483 does not apply to any of the payments due under the contract.

Example (2). The facts are the same as in example (1), except that there is an additional $1,000 payment due on June 1, 1965. Since, under the contract, there is at least one payment due more than 1 year after the date of the sale, section 483 applies to any definite payment under the contract which is due more than 6 months after the date of the sale. Thus, section 483 applies to the $1,000 payments due on December 26, 1964, and on June 1, 1965.

Example (3). On December 31, 1963, A sells property to which section 483 applies and renders services to B under a contract which provides that B is to pay $10,000 on the date of sale, $5,000 on December 31, 1964, and $5,000 on December 31, 1965. No interest is provided for in the contract. Assume that the parties make no allocation of the contract price between property and services but that a reasonable allocation of the $20,000 total contract price and of each $5,000 payment is 75 percent for the sale of the property and 25 percent for the services rendered. The district director may allocate the contract price and each payment in those proportions and section 483 would then apply to 75 percent of each $5,000 payment ($3,750) since this is the portion that was allocated to the sale of the property.

Example (4). On December 31, 1963, M Corporation redeems 500 shares of its stock from A, one of its shareholders. M pays A $10,000 on the date of redemption and gives A a non-interest bearing promissory note which provides that M is to pay A $2,000 at the end of each of the next 5 years. Section 483 applies to each of the $2,000 payments.

Example (5). On December 31, 1963, A sells property to B under a contract which provides that B is to pay A $10,000 on the date of sale and transfer to A a total of 4,000 shares of X Corporation stock owned by B, 2,000 of such shares being due on June 30, 1965, and 2,000 shares on June 30, 1966. No interest is provided for in the contract. Section 483 applies to each of the transfers of X stock to A. See paragraph (e) of this section for special rules relating to indefinite payments.

Example (6). On December 31, 1963, M Corporation sells 500 shares of its stock to A, one of its employees, for a lump-sum payment of $10,000. At the same time, A borrows $10,000 from M Corporation and gives M a non-interest bearing promissory note which provides that A is to pay M $2,000 at the end of each of the next 5 years. Section 483 applies to any payments made by A under the promissory note in the same manner as if such payments were being made under a deferred-payment contract for the sale or exchange of the stock.

Example (7). M Corporation and N Corporation each owns one-half of the stock of O Corporation. On December 31, 1963, pursuant to a reorganization qualifying under section 368(a)(1)(B), M contracts to acquire the one-half interest held by N for an initial distribution on such date of 30,000 shares of M voting stock, and a nonassignable right to receive up to 10,000 additional shares of M's voting stock during the next 3 years, provided the net profits of O Corporation exceed certain amounts specified in the contract. No interest is provided for in the contract. No additional shares are received in 1964 or in 1965, but in 1966 the annual earnings of O Corporation exceed the specified amount and on December 31, 1966, an additional 3,000 M voting shares are transferred to N. Section 483 applies to the transfer of the 3,000 M voting shares to N on December 31, 1966. See example (2) of paragraph (e)(3) of this section for an illustration of the computation of total unstated interest in this case.

Example (8). P Corporation and Q Corporation each owns one-half of the stock of R Corporation. On December 31, 1963, pursuant to reorganization qualifying under section 368(a)(1)(B), P contracts to acquire the one-half interest held by Q for a distribution on such date of 40,000 shares of P voting stock. As a part of the plan of reorganization, Q immediately places 10,000 of such voting shares in escrow. The escrow agreement provides that all or a portion of the stock placed in escrow is to be returned to P within 3 years (together with dividends and earnings thereon) if R's net profits do not exceed certain amounts specified in the agreement and that Q Corporation is entitled to vote the escrowed stock until such time as it may be returned to P Corporation. The agreement further provides that the escrow will terminate at the end of 3 years and that any stock then remaining in escrow (together with dividends and earnings thereon) is to be redelivered to Q Corporation. Q Corporation currently includes in income all dividends and earnings thereon with respect to the escrowed stock. Since Q Corporation is treated as having received, on December 31, 1963, all payments due under the exchange, section 483 does not apply to the transfer of any of the escrowed stock to Q Corporation.

(c) *Total unstated interest*—(1) *In general.* For purposes of paragraph (a) of this section (that is, for purposes of determining the portion of a payment to which section 483 applies which is to be treated as interest), the term "total unstated interest" means, with respect to a contract for the sale or exchange of property, an amount equal to the excess of—

(i) The sum of the payments to which section 483 applies which are due under the contract (within the meaning of paragraph (b) of this section), over

(ii) The sum of the present values of such payments and the present values of any stated interest payments due under the contract.

(2) *Present value of a payment.* The present value of any interest payment due under the contract not more than 6 months after the date of the sale or exchange is an amount equal to 100 percent of such payment. The present value of any other interest payment, and of any payment to which section 483 applies, which is due under the contract shall be determined by discounting such payment at an interest rate of 5 percent per annum compounded semiannually, from the nearest date (to the date such payment is actually due under the contract) which marks a 6-month interval from the date of the sale or exchange. For purposes of computing the present value of a payment at such rate and in such manner, column (b) of the appropriate table set forth in paragraph (g) of this section shall be used.

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

Example (1). On December 31, 1963, A sells property to B under a contract which provides that B is to make three payments of $2,000 each, such payments being due, respectively, at the end of each year for the next 3 years. No interest is provided for in the contract. For purposes of paragraph (a) of this section, the total unstated interest under the contract is $559.88, computed as follows:

Sum of payments to which sec. 483 applies		$6,000.00
Less: Present value of $2,000 due every 12 months for 3 years ($2,000×2.72006 (factor for 3 years, col. (b), Table III))		5,440.12
Total unstated interest		559.88

Example (2). On December 31, 1963, A sells property to B under a contract which provides that B is to make two payments of $1,000 each, payable August 1, 1964 and November 1, 1964, and a third payment of $2,000, payable March 1, 1965. No interest is provided for in the contract. For purposes of paragraph (a) of this section, the total unstated interest under the contract is $168.96, computed as follows:

Sum of payments to which sec. 483 applies			$4,000.00
Less:			
Present value of $1,000 due August 1, 1964 ($1,000×0.97561 (factor 6 to 9 months, col. (b), Table I))	$975.61		
Present value of $1,000 due November 1, 1964 ($1,000×0.95181 (factor for 9 to 15 months, col. (b), Table I))	951.81		
Present value of $2,000 due March 1, 1965 ($2,000×0.95181 (factor for 9 to 15 months, col. (b), Table I))	1,903.62	3,831.04	
Total unstated interest			168.96

Example (3). On December 31, 1963, A sells property to B under a contract which provides that B is to make payments of $2,040 ($2,000 sales price plus $40 interest), $2,080 ($2,000 sales price plus $80 interest), and $2,120 ($2,000 sales price plus $120 interest), such payments being due, respectively, 1, 2, and 3 years from the date of sale. For purposes of paragraph (a) of this section, the total unstated interest under the contract is $345.85, computed as follows:

Sum of payments to which sec. 483 applies			$6,000.00
Less:			
Present value of $2,040 due 1 year from date of sale ($2,040×0.95181 (factor for 9 to 15 months, col. (b), Table I))	$1,941.69		
Present value of $2,080 due 2 years from date of sale ($2,080×0.90595 (factor for 21 to 27 months, col. (b), Table I))	1,884.38		
Present value of $2,120 due 3 years from date of sale ($2,120×0.86230 (factor for 33 to 39 months, col. (b), Table I))	1,828.08	5,654.15	
Total unstated interest			345.85

Example (4). The facts are the same as in example (3), except that the first payment of $2,040 ($2,000 sales price plus $40 interest) is due on March 1, 1964. Since this payment is not due more than 6 months after the date of the sale, the $2,000 payment of sales price is not a payment to which section 483 applies. For purposes of paragraph (a) of this section, the total unstated interest under the contract is $247.54, computed as follows:

Sum of payments to which sec. 483 applies			$4,000.00
Less:			
Present value of $40 stated interest due March 1, 1964 ($40×1.00000 (0 to 6 months, col. (b), Table I))	$40.00		
Present value of $2,080 due 2 years from date of sale ($2,080×0.90595 (factor for 21 to 27 months, col. (b), Table I))	1,884.38		
Present value of $2,120 due 3 years from date of sale ($2,120×0.86230 (factor for 33 to 39 months, col. (b), Table I))	1,828.08	3,752.46	
Total unstated interest			247.54

(d) *Test of whether there is total unstated interest under a contract*—(1) *In general.* Except as provided in subparagraphs (2) and (3) of this paragraph, for purposes of determining whether section 483 applies to payments under a contract (that is, for purposes of paragraph (b)(1)(ii) of this section), the determination of whether there is total unstated interest under a contract shall be made in accordance with the method for computing total unstated interest provided in paragraph (c) of this section, except that column (a) of the appropriate table contained in paragraph (g) of this section (which provides for discounting payments at a test rate of 4 percent per annum simple interest) shall be used to determine the present value of a payment. If, after applying the test rate provided in the preceding sentence, there is total unstated interest (regardless of amount) with respect to a contract, section 483 applies to the payments described in paragraph (b) of this section which are due under the contract. In such case, the amount of total unstated interest under the contract which is includible in or deductible from income must be computed by using the higher interest rate prescribed in paragraph (c) of this section, and then allocating such amount among the payments due under the contract in the manner provided in paragraph (a) of this section.

(2) *Alternative test where contract rate is at least 4 percent per annum simple interest.* The method provided in subparagraph (1) of this paragraph for determining whether there is total unstated interest need not be used in the case of a contract which provides for in-

terest at a rate of at least 4 percent simple interest per annum, payable on each installment of principal at the time such installment is payable. For purposes of paragraph (b)(1)(ii) of this section, there is no total unstated interest under such a contract and, therefore, section 483 does not apply to payments under such a contract. For purposes of this paragraph, simple interest means straight interest computed on the principal amount of a payment from the time of the sale or exchange to the time the payment is required to be made. As an illustration of the meaning of simple interest, if a contract provides for payments totaling $6,000 in 3 equal installments of $2,000 plus 4 percent per annum simple interest, such installments of principal and interest being due 1, 2, and 3 years, respectively, from the date of the sale, the amount of interest due with the first installment is $80 ($2,000×0.04×1), the amount of interest due with the second installment is $160 ($2000×0.04×2), and the amount of interest due with the third installment is $240 ($2,000×0.04×3).

(3) *Test rate of interest for governmental obligation described in section 103.* In the case of a contract under which the purchaser is the United States, a State, or any other governmental body described in section 103 (relating to interest on certain governmental obligations), and under which the deferred payments are made pursuant to an obligation to which section 103 applies the test rate of interest for determining whether there is total unstated interest shall be zero

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

Example (1). On December 31, 1963, A sells property to B under a contract which provides that B is to make payments at the end of each of the next 3 years of $2,000 principal, plus 5 percent per annum simple interest. Since the interest rate specified in the contract with respect to each payment is higher than the test rate (4 percent per annum simple interest), it is not necessary to compute whether there is total unstated interest under subparagraph (1) of this paragraph, and section 483 does not apply to any payments due under the contract.

Example (2). The facts are the same as in example (1), except that the interest rate provided in the contract is 2 percent per annum simple interest. Since the interest rate specified in the contract is less than the test rate (4 percent per annum simple interest), section 483 applies to each of the payments of sales price due under the contract. For the method of computing the amount of total unstated interest which is includible in or deductible from income, see paragraph (c) of this section.

Example (3). On December 31, 1963, A sells property to B under a contract which provides that B is to make payments of $2,040 ($2,000 sales price plus $40 interest), $2,080 ($2,000 sales price plus $80 interest), and $2,120 ($2,000 sales price plus $120 interest), such payments being due, respectively, 1, 2, and 3 years from the date of sale. The determination of whether there is total unstated interest under the contract is made in the following manner:

(i) Sum of payments to which sec. 483 applies		$6,000.00
(ii) Sum of:		
Present value of $2,040 due 1 yr. from date of sale ($2,040×0.96154 (factor for 9 to 15 months, col. (a), Table I))	$1,961.54	
Present value of $2,080 due 2 years from date of sale ($2,080×0.92593 (factor for 21 to 27 months, col. (a), Table I))	1,925.93	
Present value of $2,120 due 3 years from date of sale ($2,120×0.89286 (factor for 33 to 39 months, col. (a), Table I))	1,892.86	5,780.33

Since the sum of the payments to which section 483 applies ($6,000) exceeds the sum of the present values of such payments and the present values of the stated interest payments ($5,780.33), there is total unstated interest under the contract and the provisions of section 483 apply to the payments of sales price due under the contract. For the method of computing the amount of total unstated interest which is includible in or deductible from income, see paragraph (c) of this section.

Example (4). (i) On December 31, 1963, A sells property to B under a contract which provides that B is to make four $1,000 payments, each payment bearing 4 percent per annum simple interest. Such payments are due, respectively, 1, 2, 3, and 4 years from the date of sale. Thus, the payments would be: $1,040 ($1,000 sales price plus $40 interest), $1,080 ($1,000 sales price plus $80 interest), $1,120 ($1,000 sales price plus $120 interest), and $1,160 ($1,000 sales price plus $160 interest). The total interest stated in the contract for the 4-year period is $400. Since the interest rate specified in the contract between A and B is equal to the test rate (4 percent per annum simple interest), subparagraph (2) of this paragraph applies. Therefore, it is not necessary to compute whether there is total unstated interest under subparagraph (1) of this paragraph, and section 483 does not apply to any payments due under the contract.

(ii) On the same date, A sells property to C under a contract which provides that C is to make four payments of $1,000 each, such payments being due, respectively, 1, 2, 3, and 4 years from the date of sale. No interest is due until the last payment at which time C is to pay $400 interest. Since the contract between A and C does not provide for interest at a rate of at least 4 percent per annum, payable on each installment of principal at the time such installment is payable, subparagraph (2) of this paragraph does not apply and the determination of whether there is total unstated interest must be made under subparagraph (1) of this paragraph, as follows:

(a) Sum of payments to which sec. 483 applies		$4,000.00
(b) Sum of:		
Present value of $1,000 due every 12 months for 4 years ($1,000×3.64240 (factor for 4 years, col. (a), Table III))	$3,642.40	
Present value of $400 stated interest due 4 years from date of sale ($400×0.86207 (factor for 45 to 51 months, col. (a), Table I))	344.83	
		3,987.23

Since the sum of the payments to which section 483 applies ($4,000) exceeds the sum of the present values of such payments and the present value of the stated interest payment ($3,987.23), there is total unstated interest under the contract, and the provisions of section 483 apply to the payments of sales price due under the contract. For the method of computing the amount of total unstated interest which is includible in or deductible from income, see paragraph (c) of this section.

(e) *Payments that are indefinite as to time, liability, or amount*—(1) *In general.* In the case of a contract for the sale or exchange of property under which there are any indefinite payments, section 483 shall be separately applied to each such indefinite payment as if it (and any amount of interest attributable to such indefinite payment) was the only payment due under the contract, and the effect of the application of section 483 shall be determined at the time such payment is made. For purposes of section 483, a payment shall be considered as indefinite if the liability for, or the amount or due date of, such payment cannot be determined at the time of the sale or exchange. Thus, if, at the time of the sale or exchange, some or all of the payments under the contract are indefinite, the determination as to whether there is total unstated interest (see paragraph (d) of this section), and if so, the computation of the amount of total unstated interest which is includible in or deductible from income (see paragraph (c) of this section), shall be made separately with respect to each indefinite payment as of the time it is received, taking into account the time interval between the sale or exchange and the receipt of the payment (to the nearest 6-month interval). Section 483 shall be applied separately to the aggregate of any definite payments which may also be due under the contract. Section 483 does not apply to any indefinite payment which is made no more than 1 year after the date of the sale or exchange even if there are other payments (definite or indefinite) under the contract made more than a year after such date. The provisions of this subparagraph shall apply notwithstanding the fact that the obligation under which such payment is made has been valued and the transaction treated as "closed" for purposes of determining gain or loss. See paragraph (b)(5) of this section for rules relating to evidence of indebtedness. See paragraph (b)(1)(i) of § 1.483–2 for rule relating to the effect on indefinite payments of the exception for contracts with a sales price of $3,000 or less.

(2) *Contingent interest.* If a deferred-payment contract provides for contingent interest, no part of such contingent interest shall be taken into account for purposes of section 483 until it is actually paid. For example, contingent interest shall not be taken into account in determining whether there is total unstated interest under the contract. For purposes of section 483, interest shall be considered as contingent if the liability for, or the amount or due date of, such interest cannot be determined at the time of the sale or exchange. If any part of the interest provided for in the contract is not contingent interest, such part shall be taken into account as stated interest for purposes of section 483. In case any amount of contingent interest is actually paid, such payment shall be treated in accordance with the rules prescribed for indefinite payments in subparagraph (1) of this paragraph if the payment of the portion of the sales price to which the interest is attributable is indefinite, or in accordance with the rules prescribed for changes in the terms of the contract (see paragraph (f) of this

section) if the payment of the portion of the sales price to which the interest is attributable is definite. If the contract provides that all or a definite part of the interest must in all events be paid by a date specified in the contract (whether or not in certain circumstances it must be paid earlier), then such interest (or the definite part thereof) shall not be considered contingent interest and shall be taken into account as stated interest due on such specified date. If any amount of interest described in the preceding sentence is actually paid before such specified date then such payment shall be treated in accordance with the rules prescribed for indefinite payments in subparagraph (1) of this paragraph if the payment of the portion of the sales price to which the interest is attributable is indefinite, or in accordance with the rules prescribed for changes in the terms of the contract (see paragraph (f) of this section) if the payment of the portion of the sales price to which the interest is attributable is definite.

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

Example (1). On December 31, 1963, A sells property to B under a contract which provides that B is to pay $40,000 at the time of sale and $10,000 on December 29th of each year for the next 3 years, unless profits derived from the property exceed a specified amount during the year, in which case, in such year, B is to pay $12,000. No interest is provided for in the contract. For the year 1964, profits have exceeded the specified amount and B pays $12,000. For 1965 B pays only $10,000, but for 1966 profits have again exceeded the specified amount and B pays $12,000. Since, on the date of sale, there are definite payments due under the contract, total unstated interest is computed with respect to the aggregate of such definite payments. The total unstated interest under the contract, determined as of December 31, 1963, is $2,799.40, computed as follows:

Sum of definite payments to which sec. 483 applies	$30,000.00
Less: Present value of $10,000 due every 12 months for 3 years ($10,000×2.72006 (factor for 3 years, col. (b), Table III))	27,200.60
Total unstated interest	2,799.40

At the time of receipt of the indefinite portion ($2,000) of the first payment ($12,000), additional unstated interest is not computed on the amount of such indefinite portion since payment was made no more than 1 year after the date of the sale. At the time of receipt of the indefinite portion ($2,000) of the last payment ($12,000), additional unstated interest is computed based on the amount of such indefinite portion. The additional unstated interest at the end of the third year is $275.40, computed as follows:

Indefinite portion of payment to which sec. 483 applies	$2,000.00
Less: Present value of such portion ($2,000×0.86230 (factor for 33 to 39 months, col. (b), Table I))	1,724.60
Total unstated interest	275.40

Example (2). M Corporation and N Corporation each own one-half of the stock of O Corporation. On December 31, 1963, pursuant to a reorganization qualifying under section 368(a)(1)(B), M contracts to acquire the one-half interest held by N for an initial distribution on such date of 30,000 shares of M voting stock, and a non-assignable right to receive up to 10,000 additional shares of M's voting stock during the next 3 years, provided the net profits of O Corporation exceed certain amounts specified in the contract. No interest is provided for in the contract. No additional shares are received in 1964 or in 1965, but in 1966 the annual earnings of O Corporation exceed the specified amount and on December 31, 1966, an additional 3,000 M voting shares are transferred to N. The fair market value of such shares on the date of transfer is $60,000 ($20 per share). The total unstated interest applicable to the indefinite payment is $8,262, computed as follows:

Indefinite payment to which sec. 483 applies	$60,000.00
Less: Present value of such payment ($60,000×0.86230 (factor for 33 to 39 months, col. (b), Table I))	51,738.00
Total unstated interest	8,262.00

See paragraph (a)(2) of § 1.483–2 for the effect on a reorganization defined in section 368(a)(1) of treating a portion of voting stock as interest under section 483.

Example (3). On December 31, 1963, A sells property to B under a contract which provides that B is to make one payment on May 1, 1965. No interest is provided for in the contract and, at the time of sale, the adjusted basis of the property to A is $2,000. Assume that the amount of the payment is indefinite but that the contract has an ascertainable fair market value of $8,000. For the year 1963, A includes $6,000 ($8,000 value of contract minus $2,000 adjusted basis) in gross income from the sale of the property and the transaction is treated as "closed" for purposes of determining gain or loss. On May 1, 1965, A collects $9,000 on the contract (which is more than the valuation that was placed on the contract in 1963). Section 483 applies to the $9,000 payment and $642.60 is treated as total unstated interest, computed as follows:

Indefinite payment to which sec. 483 applies	$9,000.00
Less: Present value of such payment ($9,000×0.92860 (factor for 15 to 21 months, col. (b), Table I))	8,357.40
Total unstated interest	642.60

The excess of the amount collected ($9,000) reduced by the amount treated as unstated interest ($642.60) under section 483 is $8,357.40. The excess of such amount ($8,357.40) over the value of the contract as determined in 1963 ($8,000) shall be included in income in accordance with the other applicable provisions of the Code. Thus, $357.40 is included in income.

Example (4). The facts are the same as in example (3), except that on May 1, 1965, A collects only $6,000 on the contract (which is less than the valuation that was placed on the contract in 1963). Section 483 applies to the $6,000 payment and $428.40 is treated as total unstated interest, computed as follows:

Indefinite payment to which sec. 483 applies	$6,000.00
Less: Present value of such payment ($6,000×0.92860 (factor for 15 to 21 months, col. (b), Table I))	5,571.60
Total unstated interest	428.40

The amount collected ($6,000) reduced by the amount treated as unstated interest ($428.40) under section 483 is $5,571.60. The excess of the value of the contract as determined in 1963 ($8,000) over such amount ($5,571.60) shall be treated as a loss in accordance with the other applicable provisions of the Code. Thus, $2,428.40 is treated as a loss.

Example (5). On December 31, 1963, A sells a capital asset which has an adjusted basis in A's hands of $100,000 to B under a contract which provides that B is to make payments on January 15th of 1965, 1966 and 1967, the amount of such payments being dependent solely on the profits derived from the property. No interest is provided for in the contract. Assume that this is a rare and extraordinary case (see paragraph (a)(2) of § 1.453–6) in which the contract does not have an ascertainable fair market value and that A is permitted to apply payments of sales price in reduction of basis before being required to include any amount as gain on the transaction. For 1965, B pays A $50,000, for 1966 $100,000, and for 1967 $100,000.

(i) For the year 1965, the $50,000 payment would be allocated $2,409.50 as total unstated interest and $47,590.50 as return of capital, computed as follows:

(*a*) Indefinite payment to which sec. 483 applies	$50,000.00
Less: Present value of such payment ($50,000×0.95181 (factor for 9 to 15 months, col. (b), Table I))	47,590.50
Total unstated interest	2,409.50
(*b*) Return of capital	47,590.50

(ii) For the year 1966, the $100,000 payment would be allocated $9,405 as total unstated interest, $52,409.50 as return of capital, and $38,185.50 as capital gain, computed as follows:

(*a*) Indefinite payment to which sec. 483 applies	$100,000.00
Less: Present value of such payment ($100,000×0.90595 (factor for 21 to 27 mos., col. (b), Table I))	90,595.00
Total unstated interest	9,405.00
(*b*) Payment of principal	90,595.00
Plus: Amount of capital returned in 1965	47,590.50
	138,185.50
Less: Adjusted basis of property	100,000.00
Capital gain	38,185.50

(iii) For the year 1967, the $100,000 payment would be allocated $13,770 as total unstated interest and $86,230 as capital gain, computed as follows:

(*a*) Indefinite payment to which sec. 483 applies	$100,000.00
Less: Present value of such payment ($100,000×0.86230 (factor for 33 to 39 months, col. (b), Table I))	86,230.00
Total unstated interest	$13,770.00
(*b*) Capital gain	$86,230.00

(f) *Changes in terms of contract*—(1) *In general.* If the liability for, or the amount or due date of, any payment (including interest) under a contract for the sale or exchange of property is changed during any taxable year (referred to as the "year of change"), the total unstated interest under the contract shall be recomputed under the rules of paragraphs (c) and (d) of this section (as if the original contract had contained

the changed terms) and allocated (in the manner provided in subparagraph (4) of this paragraph) with adjustment for prior interest (including unstated interest) payments. The provisions of this paragraph apply regardless of whether there was total unstated interest under the original contract. In general, a late payment or an early payment (including a prepayment) is considered a change in the due date of such payment to the date on which the payment is actually made, and therefore is considered a change in the terms of the contract. However, for purposes of the preceding sentence, the due date of a payment shall not be considered changed merely because the payment is late (or early), provided the payment is made no later (or earlier) than 90 days after (or before) the date the payment was due under the contract. Furthermore, any additional interest which is paid by the purchaser because of a late payment, either under the terms of the contract or under the provisions of local law, shall be taken into account as stated interest for purposes of any recomputation of total unstated interest under the contract. In general, a novation is considered a change in the terms of the contract. However, for special rules relating to the transfer of the obligation to make deferred payments or of the right to receive deferred payments, see subparagraph (6) of this paragraph. A default in remaining payments under a contract (regardless of whether the property is repossessed or the debtor is released from liability under the contract) is also considered a change in the terms of the contract for purposes of section 483. In such case, the contract shall be considered as having been changed so as to provide for a reduction in the stated sales price to the amount that has actually been paid by the debtor as of the date of the default, and total unstated interest shall be recomputed based on such revised contract. Any payments subsequently made by or on behalf of the debtor with respect to his obligation (including payments on a deficiency judgment) shall be treated as indefinite payments under the contract in accordance with the rules prescribed in paragraph (e) of this section. For purposes of section 483, the value of the repossessed property is not considered a payment under the contract.

(2) *Effect of change in terms of contract on characterization as principal or interest.* Except as otherwise provided in this paragraph, the characterization as principal or interest of any portion of a payment under a contract for the sale or exchange of property is not changed as a result of events occurring after the close of the taxable year in which the payment is made. Thus, for example, if a portion of a payment was characterized as interest for a prior year, and such characterization resulted in a corporation being treated as a personal holding company for such prior year, any change in the terms of the contract does not decrease the portion of such payment characterized as interest for purposes of redetermining personal holding company status for such prior year. However, the parties to a contract may change its terms so as to alter for the year of change and for any subsequent years the characterization as principal and interest of any portion of a payment under the contract.

(3) *Effect on basis of change in terms of contract.* If the terms of the contract are changed so that the amount of total unstated interest (if any) under the revised contract differs from the amount of total unstated interest (if any) under the original contract, the basis to the purchaser of any property which was sold or exchanged under the original contract (or to any other person whose basis for such property is determined in whole or in part by reference to the basis of the purchaser) shall be redetermined as of the date of the change by taking into account any recomputation of total unstated interest. Thus, such purchaser (or such other person) shall redetermine his basis only if he has not sold, exchanged, or otherwise disposed of such property at the time the change in the terms of the contract is made.

(4) *Allocation of recomputed total unstated interest.* (i) If the amount of total unstated interest recomputed under the contract (as changed) exceeds the amount of total unstated interest previously returned as income or deducted under the contract (prior to the change in terms), such excess amount shall be allocated on a pro rata basis among the remaining definite payments due under the revised contract; that is, there shall be treated as interest that part of a definite payment (due under the revised contract) to which section 483 applies which bears the same ratio to the amount of such payment as such excess amount bears to the total of the remaining definite payments to which section 483 applies which are due under such revised contract. For purposes of this subdivision, the determination of whether a payment is definite shall be made at the time the contract is changed.

(ii) If the amount of total unstated interest recomputed under the contract (as changed) is less than the amount of total unstated interest previously returned as income or deducted (under the contract prior to the change in terms) the amount of the difference shall be deducted from the income of the seller or added to the income of the purchaser for the year of the change.

(5) *Examples.* The provisions of subparagraphs (1) through (4) of this paragraph may be illustrated by the following examples:

Example (1). (i) On December 31, 1963, A, a calendar year taxpayer, sells a capital asset (which A has held more than 6 months and which has an adjusted basis to A of $4,000) to B under a contract which provides that B is to make three payments of $2,000 each, such payments being due on December 31st of 1964, 1965, and 1966. No interest is provided for in the contract. After applying section 483, total unstated interest is determined to be $559.88, and the amount of each $2,000 payment which is treated as interest is determined to be $186.63. For the year 1963, A includes $1,440.12 ($5,440.12 ($6,000 value of B's obligation minus $559.88 total unstated interest) minus $4,000 adjusted basis) as long-term capital gain on the sale of the property. In 1964, A includes $186.63 as interest income. On June 1, 1965, A and B change the terms of the contract making the balance of the payments due immediately. Total unstated interest under the revised contract is $381.98, computed as follows:

Sum of payments to which sec. 483 applies		$6,000.00
Less:		
Present value of $2,000 due December 31, 1964 ($2,000×0.95181 (factor for 9 to 15 months, col. (b), Table I))	$1,903.62	
Present value of $4,000 due June 1, 1965 ($4,000×0.92860 (factor for 15 to 21 months, col. (b), Table I))	3,714.40	5,618.02
Total unstated interest (recomputed)		381.98

(ii) The portion of the recomputed total unstated interest to be allocated to the final definite payment of $4,000 is $195.35, computed as follows:

Total unstated interest (recomputed)	$381.98
Less: Portion of original total unstated interest previously included in income	186.63
Total unstated interest allocated to final definite payment	195.35

(iii) Since after the change in the terms of the contract a lesser portion of B's payments is treated as interest, a correspondingly greater portion of B's payments is treated as part of the sales price. Accordingly, for the year 1965, A includes as long-term capital gain an additional $177.90, which may be computed as follows:

Total unstated interest (original)	$559.88
Less: Total unstated interest (recomputed)	381.98
Additional long-term capital gain for 1965	177.90

Example (2). (i) The facts are the same as in example (1), except that on June 1, 1965, A and B change the terms of the contract by providing that the last two payments shall be due on December 31st of 1966 and 1968. The total unstated interest under the revised contract is $809.38, computed as follows:

Sum of payments to which sec. 483 applies		$6,000.00
Less:		
Present value of $2,000 due December 31, 1964 ($2,000×0.95181 (factor for 9 to 15 months, col. (b), Table I))	$1,903.62	
Present value of $2,000 due December 31, 1966 ($2,000×0.86230 (factor for 33 to 39 months, col. (b), Table I))	1,724.60	
Present value of $2,000 due December 31, 1968 ($2,000×0.78120 (factor for 57 to 63 months, col. (b), Table I))	1,562.40	5,190.62
Total unstated interest (recomputed)		809.38

(ii) The portion of the recomputed total unstated interest to be allocated among the remaining payments under the contract is $622.75, computed as follows:

Total unstated interest (recomputed)	$809.38
Less: Portion of original total unstated interest previously included to remaining payments	622.75
Total unstated interest allocated to remaining payments	622.75

(iii) The portion of each remaining $2,000 payment which is treated as interest under the revised contract is $311.38

$$\left($2,000 \times \frac{$622.75}{$4,000.00}\right)$$

(iv) Since after the change in the terms of the contract a greater portion of B's payments is treated as interest, a correspondingly lesser portion of B's payments is treated as part of the sales price. Accordingly, for the year 1965, A would treat as long-term capital loss the amount of $249.50, which may be computed as follows:

Total unstated interest (recomputed)	$809.38
Less: Total unstated interest (original)	559.88
Amount treated as long-term capital loss for 1965	249.50

Example (3). (i) The facts are the same as in example (1), except that in May 1965 A and B change the terms of the contract by reducing the sales price to a total of $3,000, and by agreeing that B is to pay the remaining balance of $1,000 on June 1, 1965. Total unstated interest under the revised contract is $167.78, computed as follows:

Sum of payments to which sec. 483 applies		$3,000.00
Less:		
Present value of $2,000 due December 31, 1964 ($2,000×0.95181 (factor for 9 to 15 months, col. (b), Table I))	$1,903.62	
Present value of $1,000 due June 1, 1965 ($1,000×0.92860 (factor for 15 to 21 months, col. (b), Table I))	928.60	2,832.22
Total unstated interest (recomputed)		167.78

(ii) Since the amount of the recomputed total unstated interest under the contract as changed ($167.78) is less than the amount of total unstated interest previously returned as income ($186.63), the amount of the difference ($18.85) shall be deducted from A's income for 1965, and such amount shall be added to B's income for such year.

Example (4). (i) The facts are the same as in example (1), except that B fails to make the payment due on December 31, 1965, and A repossesses the property. The contract is considered as having been changed in 1965 to provide for one $2,000 payment due at the end of 1964. Total unstated interest under the revised contract is $96.38, computed as follows:

Sum of payments to which sec. 483 applies	$2,000.00
Less: Present value of $2,000 due December 31, 1964 ($2,000×0.95181 (factor for 9 to 15 months, col. (b), Table I))	1,903.62
Total unstated interest (recomputed)	96.38

(ii) Since the amount of the recomputed total unstated interest under the contract as changed ($96.38) is less than the amount of total unstated interest previously returned as income ($186.63), the amount of the difference ($90.25) shall be deducted from A's income for 1965, and such amount shall be added to B's income for such year.

Example (5). (i) On December 31, 1963, A sells property to B under a contract which provides that B is to make a $1,000 payment at the end of each year for the next 4 years, each payment bearing 4 percent per annum simple interest. Thus, the payments will be in the following amounts: $1,040 ($1,000 sales price plus $40 interest), $1,080 ($1,000 sales price plus $80 interest), $1,120 ($1,000 sales price plus $120 interest), and $1,160 ($1,000 sales price plus $160 interest). Since the interest rate specified in the contract is equal to the test rate (4 percent per annum simple interest) provided in paragraph (d)(2) of this section, it is determined, as of December 31, 1963, that there is no total unstated interest under the contract. B makes the first two payments on time, but the third payment, which is due on December 31, 1966, is not made until December 31, 1967, a year late. At the same time, B makes the final payment. A does not collect any additional interest on the late payment. Since the third payment is more than 90 days late, the date of the payment is considered changed to December 31, 1967. Accordingly, a new determination of whether there is total unstated interest under the revised contract must be made by applying the method provided in paragraph (d)(1) of this section, as follows:

(a) Sum of payments to which sec. 483 applies		$4,000.00
(b) Sum of:		
Present value of $1,040 due 1 year from date of sale ($1,040×0.96154 (factor for 9 to 15 months, col. (a), Table I))	$1,000.00	
Present value of $1,080 due 2 years from date of sale ($1,080×0.92593 (factor for 21 to 27 months, col. (a), Table I))	1,000.00	
Present value of $2,280 due 4 years from date of sale ($2,280×0.86207 (factor for 45 to 51 months, col. (a), Table I))	1,965.52	3,965.52

Since the sum of the payments to which section 483 applies ($4,000) exceeds the sum of the present values of such payments and the present values of the stated interest payments ($3,965.52), there is total unstated interest under the revised contract and the provisions of section 483 now apply to the payments due under the contract.

(ii) The amount of total unstated interest to be allocated to the final $2,000 payment of sales price under the contract and which is includible in A's income and deductible from B's income for 1967 is $160.38, computed as follows:

Sum of payments to which sec. 483 applies		$4,000.00
Less:		
Present value of $1,040 due 1 year from date of sale ($1,040 × 0.95181 (factor for 9 to 15 months, col. (b), Table I))	$989.88	
Present value of $1,080 due 2 years from date of sale ($1,080 × 0.90595 (factor for 21 to 27 months, col. (b), Table I))	978.43	
Present value of $2,280 due 4 years from date of sale ($2,280 × 0.82075 (factor for 45 to 51 months, col. (b), Table I))	1,871.31	3,839.62
Total unstated interest		160.38

Example (6). The facts are the same as in example (5). On December 31, 1963 (the date of the sale), the basis of the property in the hands of B is $4,000. On March 1, 1968, after all the payments have been made under the contract, B sells the property. Assuming that there were no adjustments to the basis of the property, B's basis for purposes of determining gain or loss on the sale of the property would be $3,839.62 ($4,000 original basis minus $160.38 unstated interest). On the other hand, if B sold the property on November 1, 1966 (prior to the date of the change) his basis for the property would be $4,000.

(6) *Transfer of obligation to make or contract right to receive deferred payments.* (i) If an obligation to make deferred payments (whether definite or indefinite) under a contract under which there is total unstated interest is transferred by sale, exchange, distribution, or other disposition (for example, if the purchaser under a deferred-payment contract for the sale or exchange of property later transfers that property and the transferee either assumes the purchaser's obligation to the seller or takes the property subject to such obligation), the following rules shall apply—

(*a*) The person who has the right to receive payments under the obligation shall not be affected with respect to section 483 merely by reason of such transfer.

(*b*) The transferor of the obligation to make deferred payments shall not be entitled to any deductions for unstated interest with respect to payments due under the obligation after the date of the transfer, unless, by reason of the default of the transferee, the transferor is liable for and makes payments under the obligation.

(*c*) Section 483 shall apply to the transferee in the same manner that it applied to the transferor; that is, the transferee is entitled to the same deductions (if otherwise allowable) for unstated interest as the transferor would have been entitled to if the transfer had not occurred. Thus, the transferee may be entitled to deduct unstated interest notwithstanding that the sales price to the transferee is no more than $3,000. However, if section 163(b) (relating to deduction for interest on certain installment purchases) applies to the transferee, he shall compute his interest deductions under that section (see paragraph (b)(2) of § 1.483–2) regardless of whether the transferor so computed his interest deductions.

(*d*) A separate determination must be made, in accordance with the rules prescribed in this section and in § 1.483–2, as to the application of section 483 to the contract between the transferor and the transferee under which the obligation to make the deferred payments is transferred. For purposes of such separate determination, the assumption by the transferee of the obligation of the transferor shall be treated as a payment made at the time of the transfer.

The rules set forth in this subdivision shall apply regardless of whether the transferor is completely released from liability with respect to the person having the right to receive the payments, or remains liable to such person under the obligation if the transferee defaults.

(ii) If a right to receive deferred payments (whether definite or indefinite) under a contract under which there is total unstated interest is transferred by sale, exchange, distribution, or other disposition, the following rules shall apply (except to the extent that such transfer constitutes an assignment of future income)—

(*a*) The person who has the obligation to make payments under the contract shall not be affected with respect to section 483 merely by reason of such transfer.

(*b*) The transferor of the contract right to receive deferred payments shall treat any amount realized (as defined in section 1001(b)) from the transferee as the final payment under his contract with the person having the obligation to make the payments, and shall recompute his total unstated interest under such contract under the rules provided in subparagraphs (1) through (5) of this paragraph.

(*c*) The transferee of such contract right shall treat the payments he receives from the person having the obligation to make the payments as if they were re-

ceived under a contract for the sale or exchange of property entered into with such person on the date of the transfer. Thus, the transferee shall determine, in accordance with the rules prescribed in this section and in § 1.483–2, the applicability of section 483 to such payments.

(*d*) A separate determination must be made, in accordance with the rules prescribed in this section and in § 1.483–2, as to the application of section 483 to the contract between the transferor and transferee under which the contract right to receive the deferred payments is transferred.

The rules set forth in this subdivision shall apply regardless of whether the transferor is made liable (under the contract with the transferee) for any payments which are not received by the transferee by reason of the default of the person having the obligation to make such payments.

(iii) If section 483 does not apply to an obligation to make or a contract right to receive deferred payments (for example, because of an exception set forth in section 483(f)), the following rules shall apply in the case of a transfer of such obligation or contract right, whether by sale, exchange, distribution, or other disposition—

(*a*) Section 483 shall not become applicable to the obligation or contract right merely by reason of such a transfer. However, if the transferee and the person having the obligation to make (or the right to receive) the payments under the contract change its terms, a determination must be made as to whether section 483 applies to the contract as changed. For example, if the only reason section 483 did not apply to a deferred-payment contract was because no payment was due more than 1 year after the date of the sale or exchange, any change in the terms of the contract by the transferee and such person, which makes a payment fall due more than 1 year after the date of such sale or exchange would make section 483 apply to the contract. For special rules relating to the application of the effective date provisions to transfers, see paragraph (b)(4) of this section.

(*b*) A separate determination must be made as to the application of section 483 to the contract between the transferor and the transferee under which an obligation to make or a contract right to receive deferred payments is transferred. For purposes of such separate determination, the assumption by the transferee of the obligation of the transferor shall be treated as an evidence of indebtedness of the transferee.

(iv) The provisions of this subparagraph may be illustrated by the following examples:

Example (*1*). (*a*) On December 31, 1963, A sells property to B under a contract which provides that B is to make four payments of $2,000 each, such payments being due, respectively, at the end of each year for the next 4 years. No interest is provided for in the contract. Assume that section 483 applies to each of the payments and that the portion of each payment which is treated as interest is $229.60. On January 1, 1966, B transfers other property to C in exchange for C's non-interest-bearing promissory note which provides that C is to pay B $1,000 at the end of each of the next 4 years, and C's assumption of the obligation to make the two remaining $2,000 payments to A.

(*b*) With respect to each of the two remaining $2,000 payments, C may deduct $229.60 and A continues to include such amount in income. B has no deductions with respect to the payments by C.

(*c*) With respect to the contract between B and C, section 483 applies to each of the $1,000 payments to be made by C at the end of each of the next 4 years, and total unstated interest with respect to such payments must be computed in the manner provided in paragraph (c) of this section and then allocated in the manner provided in paragraph (a) of this section. Because the assumption of B's obligation by C is treated as a payment made at the time of the transfer, section 483 does not apply to the two remaining $2,000 payments for purposes of the contract between B and C.

Example (*2*). (*a*) The facts are the same as in example (1), except that on January 1, 1966, A transfers his contract right to receive the two remaining $2,000 payments to C in exchange for property having a fair market value of $3,000.

(*b*) B is not affected by the transaction and continues to deduct $229.60 with respect to each of the two remaining $2,000 payments. A treats his contract with B as having been changed to provide for two payments of $2,000 each, due December 31st of 1964 and 1965, respectively, and a final payment of $3,000 (the fair market value of the property transferred by C to A), due January 1, 1966. A recomputes his total unstated interest in accordance with the rules provided in paragraph (c) of this section (as if the original contract with B had contained the changed terms) and allocates such unstated interest in the manner provided in subparagraph (4) of this paragraph.

(*c*) C treats the two remaining $2,000 payments from B as if they are due under a contract for the sale of property entered into with B on January 1, 1966. Thus, C computes total unstated interest under paragraph (c) of this section as if he had entered into a contract subject to section 483 which provided for $2,000 due December 31, 1966, and $2,000 due December 31, 1967, and then allocates such total unstated interest in the manner provided in paragraph (a) of this section.

(*d*) With respect to the contract between A and C, section 483 does not apply because there are no deferred payments.

Example (*3*). (*a*) On December 31, 1963, A, a holder described in section 1235(b), sells property, consisting of all substantial rights to a patent, to B under a contract which provides that B is to pay A $1,000 at the end of each year for the next 10 years. No interest is provided for in the contract, but section 483 does not apply because the deferred payments are made pursuant to a transfer described in section 1235(a) (see paragraph (b)(4) of § 1.483–2). On January 1, 1972, B, who is not a holder described in section 1235(b), sells the patent right to C under a contract which provides that C is to assume B's remaining obligation to pay A $1,000 at the end of each year for the next 2 years. There is no other consideration and no interest provided for in the contract between B and C.

(*b*) Since section 483 did not apply to the contract between A and B, B was not entitled to a deduction for unstated interest with respect to his obligation. Accordingly, section 483 does not become applicable to the obligation merely by reason of its transfer to C. Thus, C is not entitled to a deduction for unstated interest with respect to the obligation he has assumed and A is not required to include any unstated interest income.

(*c*) With respect to the contract between B and C, section 483 does not apply because the sales price under such contract is no more than $3,000, so that the exception set forth in section 483(f)(1) is applicable.

Example (*4*). (*a*) The facts are the same as in example (3), except that B sells the patent right to C on January 1, 1966, under a separate contract which provides that C is to assume B's remaining obligation to pay A $1,000 at the end of each year for the next 8 years. There is no other consideration and no interest provided for in the contract between B and C.

(*b*) Since section 483 did not apply to the contract between A and B, B was not entitled to a deduction for unstated interest with respect to his obligation. Accordingly, section 483 does not become applicable to the obligation merely by reason of its transfer to C. Thus, C is not entitled to a deduction for unstated interest because he is B's transferee.

(*c*) With respect to the contract between B and C, section 483 applies, and for purposes of paragraph (a) of this section, total unstated interest under such contract is $1,553.09, computed as follows:

Sum of payments to which sec. 483 applies	$8,000.00
Less: Present value of $1,000 due every 12 months for 8 years ($1,000 × 6.44691 (factor for 8 years, col. (b), Table III))	6,446.91
Total unstated interest	$1,553.09

Thus, C may deduct and B must include in income, $194.14 $\left($1,000 × $\frac{\$1,553.09}{\$8,000.00}$$\right)$ with respect to each payment C makes to A.

(g) *Present value tables*—(1) *Computation of present value.* If the purpose of the present value computation is to determine under paragraph (d) of this section whether there is total unstated interest under a contract, column (a) (which incorporates a rate of 4 percent per annum simple interest) of the appropriate table set forth in subparagraph (2) of this paragraph shall be used. For the rules relating to certain governmental obligations, see paragraph (d)(3) of this section. If the purpose of the present value computation is to determine under paragraph (c) of this section the amount of total unstated interest under a contract to be included in or deducted from income (that is, after it has already been determined by using column (a) of the appropriate table that the contract contains total unstated interest), column (b) (which incorporates an interest rate of 5 percent per annum, compounded semiannually) of the appropriate table set forth in subparagraph (2) of this paragraph shall be used. If a contract provides for deferred payments for a period in excess of 60 years, the factor (or factors) necessary may be obtained upon request to the Commissioner of Internal Revenue, Washington, D.C., 20224. In general, such request must be accompanied by a copy of the contract (or the proposed contract) and other relevant instruments.

(2) *Tables.* The following tables shall be used for computing the present value of a payment to which section 483 applies and the present value of any interest payment due under a contract:

TABLE I—PRESENT VALUE OF DEFERRED PAYMENT

(COL. (a), 4 PERCENT SIMPLE INTEREST—COL. (b), 5 PERCENT INTEREST, COMPOUNDED SEMIANNUALLY)

Number of months deferred		Col. (a)	Col. (b)	Number of months deferred		Col. (a)	Col. (b)	Number of months deferred		Col. (a)	Col. (b)
More than	But not more than	Present value of $1 at 4 percent simple interest	Present value of $1 at 5 percent compounded semiannually	More than	But not more than	Present value of $1 at 4 percent simple interest	Present value of $1 at 5 percent compounded semiannually	More than	But not more than	Present value of $1 at 4 percent simple interest	Present value of $1 at 5 percent compounded semiannually
0	6	1.00000	1.00000	237	243	0.55556	0.37243	477	483	0.38462	0.13870
6	9	.98039	.97561	243	249	.54945	.36335	483	489	.38168	.13532
9	15	.96154	.95181	249	255	.54348	.35448	489	495	.37879	.13202
15	21	.94340	.92860	255	261	.53763	.34584	495	501	.37594	.12880
21	27	.92593	.90595	261	267	.53191	.33740	501	507	.37313	.12566
27	33	.90909	.88385	267	273	.52632	.32917	507	513	.37037	.12259
33	39	.89286	.86230	273	279	.52083	.32115	513	519	.36765	.11960
39	45	.87719	.84127	279	285	.51546	.31331	519	525	.36496	.11669
45	51	.86207	.82075	285	291	.51020	.30567	525	531	.36232	.11384
51	57	.84746	.80073	291	297	.50505	.29822	531	537	.35971	.11106
57	63	.83333	.78120	297	303	.50000	.29094	537	543	.35714	.10836
63	69	.81967	.76214	303	309	.49505	.28385	543	549	.35461	.10571
69	75	.80645	.74356	309	315	.49020	.27692	549	555	.35211	.10313
75	81	.79365	.72542	315	321	.48544	.27017	555	561	.34965	.10062
81	87	.78125	.70773	321	327	.48077	.26358	561	567	.34722	.09816
87	93	.76923	.69047	327	333	.47619	.25715	567	573	.34483	.09577
93	99	.75758	.67362	333	339	.47170	.25088	573	579	.34247	.09343
99	105	.74627	.65720	339	345	.46729	.24476	579	585	.34014	.09116
105	111	.73529	.64117	345	351	.46296	.23879	585	591	.33784	.08893
111	117	.72464	.62553	351	357	.45872	.23297	591	597	.33557	.08676
117	123	.71429	.61027	357	363	.45455	.22728	597	603	.33333	.08465
123	129	.70423	.59539	363	369	.45045	.22174	603	609	.33113	.08258
129	135	.69444	.58086	369	375	.44643	.21633	609	615	.32895	.08057
135	141	.68493	.56670	375	381	.44248	.21106	615	621	.32680	.07860
141	147	.67568	.55288	381	387	.43860	.20591	621	627	.32468	.07669
147	153	.66667	.53939	387	393	.43478	.20089	627	633	.32258	.07482
153	159	.65789	.52623	393	399	.43103	.19599	633	639	.32051	.07299
159	165	.64935	.51340	399	405	.42735	.19121	639	645	.31847	.07121
165	171	.64103	.50088	405	411	.42373	.18654	645	651	.31646	.06947
171	177	.63291	.48866	411	417	.42017	.18199	651	657	.31447	.06778
177	183	.62500	.47674	417	423	.41667	.17755	657	663	.31250	.06613
183	189	.61728	.46511	423	429	.41322	.17322	663	669	.31056	.06451
189	195	.60976	.45377	429	435	.40984	.16900	669	675	.30864	.06294
195	201	.60241	.44270	435	441	.40650	.16488	675	681	.30675	.06140
201	207	.59524	.43191	441	447	.40323	.16085	681	687	.30488	.05991
207	213	.58824	.42137	447	453	.40000	.15693	687	693	.30303	.05845
213	219	.58140	.41109	453	459	.39683	.15310	693	699	.30120	.05702
219	225	.57471	.40107	459	465	.39370	.14937	699	705	.29940	.05563
225	231	.56818	.39128	465	471	.39063	.14573	705	711	.29762	.05427
231	237	.56180	.38174	471	477	.38760	.14217	711	717	.29586	.05295
								717	723	.29412	.05166

TABLE II—PRESENT VALUE OF ANNUITY CERTAIN: $1 EVERY 6 MONTHS

(COL. (a), 4 PERCENT SIMPLE INTEREST—COL. (b), 5 PERCENT INTEREST, COMPOUNDED SEMIANNUALLY)

Number of years final payment deferred	Col. (a) Present value at 4 percent simple interest	Col. (b) Present value at 5 percent compounded semiannually	Number of years final payment deferred	Col. (a) Present value at 4 percent simple interest	Col. (b) Present value at 5 percent compounded semiannually	Number of years final payment deferred	Col. (a) Present value at 4 percent simple interest	Col. (b) Present value at 5 percent compounded semiannually
*0.5	0.98039	0.97561	20.5	29.71774	25.46612	40.5	47.85103	34.58714
1.0	1.94193	1.92742	21.0	30.26122	25.82061	41.0	48.22982	34.71916
1.5	2.88533	2.85602	21.5	30.79885	26.16645	41.5	48.60576	34.84796
2.0	3.81126	3.76197	22.0	31.33076	26.50385	42.0	48.97889	34.97362
2.5	4.72035	4.64583	22.5	31.85708	26.83302	42.5	49.34926	35.09621
3.0	5.61321	5.50813	23.0	32.37791	27.15417	43.0	49.71691	35.21582
3.5	6.49040	6.34939	23.5	32.89337	27.46748	43.5	50.08187	35.33251
4.0	7.35247	7.17014	24.0	33.40357	27.77315	44.0	50.44419	35.44635
4.5	8.19993	7.97087	24.5	33.90862	28.07137	44.5	50.80390	35.55741
5.0	9.03326	8.75206	25.0	34.40862	28.36231	45.0	51.16104	35.66577
5.5	9.85293	9.51421	25.5	34.90367	28.64616	45.5	51.51565	35.77148
6.0	10.65938	10.25776	26.0	35.39387	28.92308	46.0	51.86776	35.87462
6.5	11.45303	10.98318	26.5	35.87931	29.19325	46.5	52.21741	35.97524
7.0	12.23428	11.69091	27.0	36.36008	29.45683	47.0	52.56463	36.07340
7.5	13.00351	12.38138	27.5	36.83627	29.71398	47.5	52.90946	36.16917
8.0	13.76109	13.05500	28.0	37.30797	29.96486	48.0	53.25193	36.26261
8.5	14.50736	13.71220	28.5	37.77526	30.20962	48.5	53.59207	36.35376
9.0	15.24265	14.35336	29.0	38.23822	30.44841	49.0	53.92991	36.44269
9.5	15.96729	14.97889	29.5	38.69694	30.68137	49.5	54.26548	36.52946
10.0	16.68158	15.58916	30.0	39.15149	30.90866	50.0	54.59881	36.61411
10.5	17.38581	16.18455	30.5	39.60194	31.13040	50.5	54.92994	36.69669
11.0	18.08025	16.76541	31.0	40.04837	31.34673	51.0	55.25889	36.77726
11.5	18.76518	17.33211	31.5	40.49085	31.55778	51.5	55.58569	36.85586
12.0	19.44086	17.88499	32.0	40.92945	31.76369	52.0	55.91037	36.93255
12.5	20.10753	18.42438	32.5	41.36423	31.96458	52.5	56.23295	37.00736
13.0	20.76542	18.95061	33.0	41.79526	32.16056	53.0	56.55346	37.08035
13.5	21.41477	19.46401	33.5	42.22261	32.35177	53.5	56.87193	37.15156
14.0	22.05580	19.96489	34.0	42.64634	32.53831	54.0	57.18839	37.22104
14.5	22.68871	20.45355	34.5	43.06651	32.72030	54.5	57.50286	37.28882
15.0	23.31371	20.93029	35.0	43.48318	32.89786	55.0	57.81536	37.35494
15.5	23.93099	21.39541	35.5	43.89640	33.07108	55.5	58.12592	37.41946
16.0	24.54075	21.84918	36.0	44.30624	33.24008	56.0	58.43456	37.48240
16.5	25.14316	22.29188	36.5	44.71274	33.40495	56.5	58.74131	37.54380
17.0	25.73840	22.72379	37.0	45.11597	33.56581	57.0	59.04619	37.60371
17.5	26.32664	23.14516	37.5	45.51597	33.72274	57.5	59.34922	37.66216
18.0	26.90804	23.55625	38.0	45.91280	33.87584	58.0	59.65042	37.71918
18.5	27.48275	23.95732	38.5	46.30650	34.02521	58.5	59.94982	37.77481
19.0	28.05093	24.34860	39.0	46.69713	34.17094	59.0	60.24744	37.82908
19.5	28.61273	24.73034	39.5	47.08473	34.31311	59.5	60.54330	37.88203
20.0	29.16829	25.10278	40.0	47.46935	34.45182	60.0	60.83742	37.93369

*The factor for 0.5 years is applicable to a payment due more than 6 months but not more than 9 months from the date of the sale or exchange. In the case of a payment due not more than 6 months from the date of the sale or exchange, see the instructions in subparagraph (4)(iii) of this paragraph.

TABLE III—PRESENT VALUE OF ANNUITY CERTAIN $1 EVERY 12 MONTHS

(COL. (a), 4 PERCENT SIMPLE INTEREST—COL. (b), 5 PERCENT INTEREST, COMPOUNDED SEMIANNUALLY)

Number of years final payment deferred	Col. (a) Present value at 4 percent simple interest	Col. (b) Present value at 5 percent compounded semiannually	Number of years final payment deferred	Col. (a) Present value at 4 percent simple interest	Col. (b) Present value at 5 percent compounded semiannually
1	0.96154	0.95181	31	19.88780	15.47987
2	1.88747	1.85777	32	20.32640	15.68577
3	2.78033	2.72006	33	20.75743	15.88176
4	3.64240	3.54081	34	21.18116	16.06830
5	4.47573	4.32201	35	21.59783	16.24586
6	5.28218	5.06556	36	22.00767	16.41485
7	6.06343	5.77329	37	22.41090	16.57571
8	6.82101	6.44691	38	22.80773	16.72881
9	7.55630	7.08808	39	23.19836	16.87454
10	8.27059	7.69835	40	23.58298	17.01324
11	8.96503	8.27922	41	23.96177	17.14526
12	9.64071	8.83209	42	24.33490	17.27092
13	10.29860	9.35833	43	24.70255	17.39053
14	10.93963	9.85920	44	25.06487	17.50437
15	11.56463	10.33595	45	25.42201	17.61273
16	12.17439	10.78972	46	25.77412	17.71586
17	12.76963	11.22162	47	26.12134	17.81402
18	13.35103	11.63272	48	26.46381	17.90746
19	13.91921	12.02400	49	26.80165	17.99639
20	14.47477	12.39643	50	27.13498	18.08104
21	15.01825	12.75092	51	27.46393	18.16161
22	15.55016	13.08832	52	27.78861	18.23829
23	16.07099	13.40947	53	28.10912	18.31129
24	16.58119	13.71514	54	28.42558	18.38076
25	17.08119	14.00608	55	28.73808	18.44689
26	17.57139	14.28300	56	29.04672	18.50983
27	18.05216	14.54658	57	29.35160	18.56973
28	18.52386	14.79746	58	29.65280	18.62675
29	18.98682	15.03625	59	29.95042	18.68103
30	19.44137	15.26353	60	30.24454	18.73268

(3) *Instructions for Table I.* Table I is the basic present value table, and may be used for computing the present value of any payment or payments regardless of the amount of the payments or the interval the payments are deferred. The present value of a payment is computed under Table I as follows:

(i) Determine the factor contained in the applicable present value column (that is, col. (a) or col. (b)) for the appropriate number of months the payment under the contract is deferred; and

(ii) Multiply the amount of the payment by the factor determined under subdivision (i) of this subparagraph.

For example, the present value, using a rate of 4 percent per annum simple interest, of a payment of $1,000 due 3 years (36 months) from the date of sale is $892.86 ($1,000×0.89286 (factor for 33 to 39 months, col. (a), Table I)).

(4) *Instructions for Table II.* (i) Table II shows the present value of a series of equal deferred payments due at 6-month intervals. For purposes of determining whether the payments under a contract are due at 6-month intervals and whether such payments are equal in amount, a payment shall be treated as due on the nearest date (to the date such payment is actually due under the contract) which marks a 6-month interval from the date of the sale or exchange. For example, a payment due 13 months, 14 months, or exactly 15 months from the date of sale would be treated as due 12 months from such date, and a payment due 15 months and 1 day, 16 months, or 17 months from the date of sale would be treated as due 18 months from such date. In the case of a payment due 6 months or less from the date of the sale or exchange, see subdivision (iii) of this subparagraph.

(ii) Table II may be used, without adjustment, for computing the present value of a series of equal payments, under a contract under which the first payment is actually due more than 6 months but not more than 9 months from the date of the sale or exchange, and all payments thereafter are due at regular 6-month intervals with respect to the date of the first payment (all such payments being treated under the rule of subdivision (i) of this subparagraph as due on the nearest date which marks a 6-month interval from the date of the sale or exchange). The present value of such a series of equal payments is computed under Table II as follows:

(*a*) Determine the factor contained in the applicable present value column (that is, col. (a) or col. (b)) for the appropriate number of years the final payment under the contract is deferred; and

(*b*) Multiply the amount of a single payment under the contract by the factor determined under (*a*) of this subdivision.

For example, the present value, using a rate of 4 percent per annum simple interest, of a series of eight $1,000 payments, the first payment being due 7 months from the date of sale, and the remaining seven payments being due, respectively, every 6 months thereafter (so that under the rule of subdivision (i) of this subparagraph the final payment is deferred 4 years), is $7,352.47 ($1,000×7.35247 (factor for 4 years, col. (a), Table II)).

(iii) Table II may also be used, with adjustment, for computing the present value of a series of equal payments under a contract under which the first payment is actually due not more than 6 months from the date of the sale or exchange, and all payments thereafter are due at regular 6-month intervals with respect to the date of the first payment (all such payments being treated under the rule of subdivision (i) of this subparagraph as due on the nearest date which marks a 6-month interval from the date of the sale or exchange), provided that no payment is actually due (before application of subdivision (i) of this subparagraph) more than 6 months but not more than 9 months from the date of the sale or exchange. The present value of such a series of equal payments is computed under Table II as follows:

(*a*) Determine the factor contained in the applicable present value column (that is, col. (a) or col. (b)) for the appropriate number of years the final payment under the contract is deferred;

(*b*) Adjust the factor determined under (*a*) of this subdivision by increasing such factor either by 0.01961 if the present value computation is made under column (a) or by 0.02439 if the present value computation is made under column (b); and

(*c*) Multiply the amount of a single payment under the contract by the adjusted factor determined under (*b*) of this subdivision.

For example, the present value, using a rate of 4 percent per annum simple interest, of a series of eight $1,000 payments, the first payment being due exactly 6 months from the date of sale, and the remaining seven payments being due, respectively every 6 months thereafter (so that under the rule of subdivision (i) of this subparagraph the final payment is deferred 4 years), is $7,372.08 ($1,000 ×7.35247 plus 0.01961)).

(iv) Table II may also be used, with adjustment, for computing the present value of a series of equal payments under a contract under which the first payment is due more than 6 months from the date of the sale or exchange and is due on the anniversary (that is, the exact multiple of a 6-month interval) of the date of the sale or exchange, and all payments thereafter are due at regular 6-month intervals with respect to the date of the first payment (all such payments being treated under the rule of subdivision (i) of this subparagraph as due on the nearest date which marks a 6-month interval from the date of the sale or exchange). The present value of such a series of equal payments is computed as follows:

(*a*) Determine the factor contained in the applicable present value column (that is, col. (a) or col. (b)) for the appropriate number of years the final payment under the contract is deferred;

(*b*) Multiply the amount of a single payment under the contract by the factor determined under (*a*) of this subdivision;

(*c*) Determine the factor contained in the applicable present value column (that is, col. (a) or col. (b)) for the 6-month period immediately preceding the 6-month period in which the initial payment under the contract is due;

(*d*) Multiply the amount of a single payment under the contract by the factor determined under (*c*) of this subdivision; and

(*e*) Subtract the amount determined under (*d*) of this subdivision from the amount determined under (*b*) of this subdivision to obtain the present value.

For example, Table II may be used to compute the present value, using a rate of 4 percent per annum simple interest, of a series of eight $1,000 payments, the first payment being due exactly 12 months from the date of sale, and the remaining seven payments being due, respectively, every 6 months thereafter (so that under the rule of subdivision (i) of this subparagraph the final payment is deferred 4.5 years). Such computation, including the adjustment, is made as follows:

$1,000×8.19993 (factor for 4.5 years, col. (a), Table II)	$8,199.93
Less adjustment: $1,000×0.98039 (factor for 0.5 year, col. (a), Table II)	980.39
Present value	7,219.54

(5) *Instructions for Table III.* (i) Table III shows the present value of a series

of equal deferred payments due at 12-month intervals with respect to the date of the sale or exchange. For purposes of determining whether the payments under a contract are due at 12-month intervals and whether such payments are equal in amount, a payment shall be treated as due on the nearest date (to the date such payment is actually due under the contract) which marks a 6-month interval from the date of the sale or exchange. For example, a payment due 13 months, 14 months, or exactly 15 months from the date of sale would be treated as due 12 months from such date, and a payment due 21 months and 1 day, 22 months, or 23 months from the date of sale would be treated as due 24 months from such date.

(ii) Table III may be used, without adjustment, for computing the present value of a series of equal payments, under a contract under which the first payment is actually due more than 9 months but not more than 15 months from the date of the sale or exchange, and all payments thereafter are due at regular 12-month intervals with respect to the date of the first payment (all such payments being treated under the rule of subdivision (i) of this subparagraph or due on the nearest date which marks a 6-month interval from the date of the sale or exchange). The present value of such a series of equal payments is computed under Table III as follows:

(*a*) Determine the factor contained in the applicable present value column (that is, col. (a) or col. (b)) for the appropriate number of years the final payment under the contract is deferred; and

(*b*) Multiply the amount of a single payment under the contract by the factor determined under (*a*) of this subdivision.

For example, the present value, using an interest rate of 5 percent per annum, compounded semiannually, of a series of eight $1,000 payments, the first payment being due 12 months from the date of sale, and the remaining seven payments being due, respectively, every 12 months thereafter (so that under the rule of subdivision (i) of this subparagraph the final payment is deferred 8 years) is $6,446.91 ($1,000×6.44691 (factor for 8 years, col. (b), Table III)).

(iii) Table III may also be used, with adjustment, for computing the present value of a series of equal payments under a contract in which the first payment is due more than 12 months from the date of the sale or exchange and is due on the anniversary (that is, the exact multiple of a 12-month interval) of the date of the sale or exchange, and all payments thereafter are due at regular 12-month intervals with respect to the date of the first payment (all such payments being treated under the rule of subdivision (i) of this subparagraph as due on the nearest date which marks a 6-month interval from the date of the sale or exchange). The present value of such a series of equal payments is computed under Table III as follows:

(*a*) Determine the factor contained in the applicable present value column (that is, col. (a) or col. (b)) for the appropriate number of years the final payment under the contract is deferred;

(*b*) Multiply the amount of a single payment under the contract by the factor determined under (*a*) of this subdivision;

(*c*) Determine the factor contained in the applicable present value column (that is, col. (a) or col. (b)) for the year immediately preceding the year in which the initial payment under the contract is due;

(*d*) Multiply the amount of a single payment under the contract by the factor determined under (*c*) of this subdivision; and

(*e*) Subtract the amount determined under (*d*) of this subdivision from the amount determined under (*b*) of this subdivision to obtain the present value.

For example, Table III may be used to compute the present value, using an interest rate of 5 percent, compounded semiannually, of a series of eight $1,000 payments, the first payment being due exactly 3 years from the date of sale, and the remaining seven payments being due, respectively, every 12 months thereafter (so that under the rule of subdivision (i) of this subparagraph the final payment is deferred 10 years). Such computation, including the adjustment, is made as follows:

$1,000×7.69335 (factor for 10 years, col. (b), Table III)	$7,698.35
Less adjustment: $1,000×1.85777 (factor for 2 years, col. (b), Table III)	1,857.77
Present value	5,840.58

If, in the preceding example, the first payment had been due 3½ years (instead of 3 years) from the date of sale, the method of computation described could not be used and Table I should be used for the present value computation.

§ 1.483–2 Treatment as interest for purposes of Code; exceptions and limitations to application of section 483.

(a) *Treatment as interest for purposes of Code*—(1) *Effect on income, deductions, basis, etc.*—(i) *In general.* Generally, a contract under which there is total unstated interest (within the meaning of section 483(a)) shall be treated as if such interest were actually provided for in the contract, and such unstated interest shall constitute interest for all purposes of the Code. Thus, for example, except as provided in paragraph (b)(1) of this section, in the case of a sale of property, total unstated interest shall not be treated as part of the selling price of such property. Unless unstated interest is charged to the capital account under section 266 (relating to carrying charges), the basis to the purchaser of property sold or exchanged shall not include any amount treated by the purchaser as total unstated interest under the contract pursuant to section 483. For rules relating to the effect on basis of a change in the terms of the contract, see paragraph (f)(3) of § 1.483–1.

(ii) *Cash and accrual method of reporting unstated interest income and deductions.* Any amount treated as interest under section 483 by the seller shall be included as interest income for the taxable year in which the payment is received in the case of a cash method taxpayer and for the taxable year in which the payment is due in the case of an accrual method taxpayer. Any amount treated as interest under section 483 by the purchaser shall (if otherwise allowable) be deducted as interest for the taxable year in which the payment is made in the case of a cash method taxpayer and for the taxable year in which the payment is due in the case of an accrual method taxpayer. Notwithstanding the rules of this subdivision with respect to unstated interest, interest which is stated in the contract shall be treated in accordance with the rules of the Code otherwise applicable. For rules relating to defaults, see paragraph (f)(1) of § 1.483–1.

(iii) *Example.* The provisions of subdivision (ii) of this subparagraph may be illustrated by the following example:

Example. On December 31, 1963, A, a calendar year accrual method taxpayer, sells property to B, a calendar year cash method taxpayer, under a contract which provides that B is to make three payments of $2,000 each, such payments being due, respectively, as of December 31, 1966, 1967, and 1968. No interest is provided for in the contract. Assume that the total unstated interest under the contract is $1,071.50 and that the portion of each payment which is treated as interest is $357.17. B makes the first two payments on time, but the third payment is not made until January 31, 1969. For 1964 and 1965, A does not include, nor does B deduct, any amount as interest with respect to the contract. For 1966 and 1967, A includes $357.17 each year as interest income and B deducts the same amount each year as an interest expense. For 1968, A includes $357.17 as accrued interest income but B is not entitled to an interest deduction. For 1969, B may deduct $357.17 as an interest expense with respect to the contract.

(2) *Other effects of treating portion of sales price as unstated interest.* This subparagraph sets forth some illustrations of the effects of treating a portion of the sales price as unstated interest. These illustrations are not all-inclusive. The treatment as unstated interest under section 483 of a portion of a payment which would otherwise be treated as part of the sales price may have the effect of increasing the amount of a nondeductible loss because of the application of section 165(c) (relating to limitation on losses of individuals) or of an unallowable deduction because of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers), or of changing the character of gains and losses or increasing the amount of an allowable loss under section 1231 (relating to property used in the trade or business). Such treatment may affect eligibility to use the installment method of accounting under section 453(b)(2) (relating to limitation on installment method), except

that section 483 shall have no effect in determining whether payments received prior to January 1, 1964, in the taxable year of sale exceed 30 percent of the selling price of the property. Furthermore, the application of section 483 may affect the treatment of a stock option under part II, subchapter D, chapter 1 of the Code, except that section 483 shall have no effect in determining whether options granted prior to January 1, 1965, meet the requirements of section 422(b)(4), 423(b)(6), 424(b)(1), or 424(c). Amounts treated as unstated interest under section 483 may, if otherwise qualified under section 266 (relating to carrying charges), be charged to the capital account. The treatment of any portion of voting stock as interest under section 483 will not prevent an otherwise eligible acquisition from qualifying as a reorganization under section 368(a)(1) (relating to definitions of corporate reorganizations), although the payment of cash or property other than voting stock will prevent certain acquisitions from so qualifying. See section 368(a)(1)(B) and (C) and the regulations thereunder for rules relating to the extent to which voting stock must be exchanged by the acquiring corporation in certain reorganizations. Unstated interest shall be treated as interest for purposes of applying the source rules contained in section 861(a)(1) (relating to income from sources within the United States) and section 862(a)(1) (relating to income from sources without the United States), and for purposes of computing the amount of personal holding company income under section 543 (relating to personal holding company income) and section 1372(e)(5) (relating to election by a small business corporation).

(b) *Exceptions and limitations to the application of section 483*—(1) *Sales price of $3,000 or less*—(i) *Determination of sales price.* Section 483 shall not apply to any payment on account of the sale or exchange of property if it can be determined at the time of such sale or exchange that the sales price cannot exceed $3,000. For purposes of determining the amount of the sales price, the amount of any downpayment and any amount treated as unstated interest under section 483 shall be included, but interest provided for in the contract shall not be included. If property which is encumbered by a liability is sold or exchanged, the amount of the liability (whether the property is merely taken subject to the liability or whether the liability is assumed by the purchaser) shall be included as a part of the sales price. The $3,000 exception provided by this subparagraph does not apply to a contract under which payments are indefinite as to liability or amount if the total of the payments (exclusive of interest specified in the contract) due under the contract could exceed $3,000, notwithstanding that such payments do not subsequently exceed such amount. If the district director ascertains from the surrounding facts and circumstances that a single transaction with a sales price in excess of $3,000 has been fragmented into more than one separate transaction each with a sales price less than $3,000 in order to avoid the operation of the provisions of section 483, he may determine that section 483 applies.

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

Example (1). On December 31, 1963, A sells property to B under a contract which provides that B is to make four payments of $700 each, such payments being due, respectively, every 6 months for the next 2 years. No interest is provided for in the contract. Since the total sales price ($2,800) under the contract is not in excess of $3,000, section 483 does not apply.

Example (2). On December 31, 1963, A sells property to B under a contract which provides that B is to make four payments as follows: $721 ($700 principal plus $21 interest), $742 ($700 principal plus $42 interest), $763 ($700 principal plus $63 interest), and $784 ($700 principal plus $84 interest), such payments being due, respectively, every 6 months for the next 2 years. Since the total sales price ($2,800) exclusive of stated interest ($210) does not exceed $3,000, section 483 does not apply, even though the total dollar amount of the contract, including both principal and stated interest ($3,010), exceeds $3,000.

Example (3). On December 31, 1963, A sells property to B under a contract which provides that B is to make three payments of $800 each, such payments being due June 30, 1964, December 31, 1964, and June 30, 1965. A fourth payment of $800 is to be made on December 31, 1965, but only if the profit derived from the property exceeds an amount specified in the contract. No interest is provided for in the contract. Section 483 applies to the contract even though the three definite payments ($2,400) do not exceed $3,000, because the total payments due under the contract could exceed such amount. Furthermore, section 483 applies even though, subsequently, the profit derived from the property does not exceed the amount specified in the contract, so that only $2,400 is actually paid under the contract.

Example (4). A divides a 100 acre tract of unimproved real property into four equal parcels and sells them to B under four separate contracts dated, respectively, December 31, 1963, January 31, 1964, February 29, 1964, and March 30, 1964. Each contract provides for payments of $1,000 at the time of sale and $1,000 at the end of 1 year. No interest is provided in any of the contracts. The district director may determine that section 483 applies to the four contracts if he ascertains that a single transaction with a sales price in excess of $3,000 has been fragmented into four separate transactions each with a sales price less than $3,000 in order to avoid the operation of the provisions of section 483.

(2) *Carrying charges.* In the case of the purchaser, the tax treatment of amounts paid on account of the sale or exchange of property shall be determined without regard to section 483 if such amounts are treated under section 163(b) (relating to deduction for interest on certain installment purchases) as if they included interest. Accordingly, if the provisions of section 163(b) apply to a contract, the purchaser shall, with respect to payments under the contract, compute his interest deductions under that section (without regard to section 483), even though such amount differs from the amount to be treated as interest income by the seller as computed under the provisions of section 483.

(3) *Capital asset or section 1231 property*—(i) *Treatment of seller.* In the case of the seller, the determination of the tax treatment of any amounts received on account of the sale or exchange of property shall be made without regard to section 483 if no part of any gain on such sale or exchange would (if the property were sold at a gain) be considered as gain from the sale or exchange of a capital asset or property described in section 1231 (relating to property used in the trade or business and involuntary conversions). The determination of whether the exception of the preceding sentence applies shall be made without regard to whether any gain or loss is realized on the sale or exchange, whether any realized gain or loss would be recognized, or whether some other provision of law, such as section 1245 (relating to gain from dispositions of certain depreciable property) or section 1250 (relating to gain from dispositions of certain depreciable realty) applies, or would apply, to some or all of the gain. For example, the provisions of section 483 apply to deferred payments of stock or securities by a corporation which is a party to a reorganization, notwithstanding that under section 354(a) no gain or loss is recognized on the transaction. Similarly, the provisions of section 483 apply to deferred payments made to a corporation for its stock, notwithstanding the nonrecognition of gain or loss to the corporation under section 1032 (relating to exchange of stock for property).

(ii) *Treatment of purchaser.* The purchaser under a contract under which there are payments to which section 483 applies shall determine the amount of any interest deduction under such section, notwithstanding that section 483 does not apply to the seller because of the provisions of subdivision (i) of this subparagraph.

(4) *Sales or exchanges of patents.* Section 483 does not apply to any payments made pursuant to a transfer described in section 1235(a) (relating to sale or exchange of patents). The preceding sentence does not apply to transfers which are not described in section 1235(a) but which receive capital gain treatment under another section of the Code.

(5) *Annuities.* Section 483 does not apply to any amount the liability for which depends in whole or in part on the life expectancy of one or more individuals and which constitutes an amount received as an annuity to which section 72 (relating to annuities, etc.) applies. Thus, in the case of both the purchaser and the seller, any such amount is not considered a payment to which section 483 applies.

PAR. 5. Section 1.861–2 is amended by revising so much of paragraph (a) as precedes subparagraph (1) of such paragraph. The amended provision reads as follows:

§ 1.861–2 Interest.

(a) *General.* There shall be included in gross income from sources within the

United States all interest (including interest on certain deferred payments, as provided in section 483 and the regulations thereunder) received or accrued, as the case may be, from the United States, any Territory, any political subdivision of a Territory, or the District of Columbia, and interest on bonds, notes, or other interest-bearing obligations of residents of the United States, whether corporate or otherwise, except—

* * * * *

PAR. 6. Section 1.1441–2 is amended by revising paragraph (a)(1) to read as follows:

§ 1.1441–2 Income subject to withholding.

(a) *Fixed or determinable annual or periodical income.* (1) The gross amount of fixed or determinable annual or periodical income is subject to withholding. Section 1441 specifically includes in such income interest (except interest on deposits with persons carrying on the banking business paid to persons not engaged in business in the United States), dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, and emoluments; but other kinds of income are included, as, for instance, royalties. For purposes of the preceding sentence, the term "interest" includes interest on certain deferred payments, as provided in section 483 and the regulations thereunder. The term "fixed or determinable annual or periodical" income is merely descriptive of the character of a class of income. If an item of income falls within the class of income contemplated by the statute, it is immaterial whether payment of that item is made in a series of repeated payments or in a single lump sum. Thus, $5,000 in royalty income would come within the meaning of the term, whether paid in 10 payments of $500 each or in one payment of $5,000.

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

[F.R. Doc. 66–656; Filed, Jan. 24, 1966; 8:45 a.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 20—OCCUPATIONAL TRAINING OF UNEMPLOYED PERSONS

Miscellaneous Amendments

Pursuant to authority contained in section 207 of the Manpower Development and Training Act of 1962 (42 U.S.C. 2587), I hereby amend Title 29, Part 20, of the Code of Federal Regulations as set forth below.

Section 4 of the Administrative Procedure Act (5 U.S.C. 1003) which requires notice of proposed rules, opportunity for public participation and delay in effective date is not applicable because these rules only relate to public benefits. I do not believe such procedure will serve a useful purpose here. Accordingly, these amendments shall become effective immediately.

The amendments read as follows:

1. Section 20.30(c) is amended to read as follows:

§ 20.30 Eligibility for training allowances.

* * * * *

(c) For purposes of paragraph (a) of this section, an individual is "unemployed" if he has worked less than 40 hours for which compensation is payable in the week, or less than a full workweek scheduled for his industry or occupation, or if he is a farm worker in a farm family which has less than $1,200 annual net farm family income. For purposes of paragraph (b) of this section, the head of the family or household is "employed" only if he or she worked 20 hours or more for which compensation is payable in the week for which the training allowance is to be paid: *Provided*, That a trainee who has qualified for a training allowance in a previous week shall not become ineligible because of the employment of the head of his family or household until such head has been employed 20 hours a week or more for 3 consecutive weeks during which period his gross weekly earnings are not less than twice the amount of the weekly training allowance payable the trainee under § 20.35.

* * * * *

2. Paragraph (d) is added to § 20.40 and reads as follows:

§ 20.40 Subsistence allowances.

* * * * *

(d) *Ineligibility.* Persons ineligible for a training allowance under § 20.32(b) shall also be ineligible for a subsistence allowance.

3. Section 20.41 is amended to read as follows:

§ 20.41 Transportation allowances.

(a) *Transportation within commuting area.* A person engaged in training under the Act who commutes between his residence and the training facility is eligible for an allowance in an amount equal to the cost of daily local transportation by the least expensive means of transportation reasonably available, less 50 cents a day up to a maximum deduction of $2.50 a week. Any person drawing a subsistence allowance by reason of his referral to training outside the commuting area of his regular place of residence is eligible for such daily transportation allowance if his choice for the location of his temporary residence is reasonable in view of such factors as living costs and availability of facilities. A person engaged in on-the-job training, however, shall not be eligible for such allowance for any week in which he has been offered compensated work by the on-the-job employer for a full workweek customary in the industry for the occupation for which he is being trained.

(b) *Travel from outside commuting area.* (1) Any person drawing subsistence allowance by reason of his referral to training outside the commuting area of his residence is eligible for an allowance not exceeding the rate of $0.10 per mile to defray the cost of travel at the beginning and end of his training program by the least expensive means of transportation reasonably available between his home and the area of training except as provided in subparagraph (3) of this paragraph.

(2) A person, including an individual enrolled in an on-the-job training program, who has been referred to training outside the commuting area may elect to substitute for the subsistence allowance provided under § 20.40 a transportation allowance in an amount equal to the cost of daily transportation from his home to the training facility by the least expensive means of transportation reasonably available, less 50 cents a day up to a maximum deduction of $2.50 a week. This allowance may not exceed the daily subsistence allowance to which the trainee would otherwise be entitled under § 20.40, or $0.10 per mile except as provided in subparagraph (3) of this paragraph.

(3) In noncontiguous States or in areas outside the continental United States where the per diem allowance prescribed under § 836 of Title V, United States Code, exceeds the maximum per diem allowance prescribed under that section for contiguous States, the maximum of $0.10 a mile shall not apply.

(c) *Method of payment.* A transportation allowance will be paid to an eligible trainee upon his filing a completed request, in accordance with instructions provided by the Secretary. When the payment is made in advance, the trainee shall acknowledge receipt of the allowance.

(d) *Ineligibility.* A person who is ineligible for a training allowance in accordance with § 20.32(b) shall also be ineligible for a transportation allowance, except that in case of termination of training under subsection 202(h) of the Act a trainee in training outside the commuting area may be eligible for such a transportation allowance in accordance with paragraph (b) of this section as may be necessary to enable him to return to his regular place of residence.

(Sec. 207, 76 Stat. 29)

Signed at Washington, D.C., this 18th day of January 1966.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 66–817; Filed, Jan. 24, 1966; 8:46 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 209—ADMINISTRATIVE PROCEDURE

Shipping Safety Fairways and Anchorage Areas, Gulf of Mexico

Pursuant to the provisions of section 10 of the River and Harbor Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), and section 4 of the Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462; 43 U.S.C. 1333(f)), § 209.135 is hereby prescribed establishing shipping safety fairways and anchorage areas in the Gulf of Mexico effective upon publication in the FEDERAL REGISTER, as follows:

§ 209.135 Shipping safety fairways and anchorage areas, Gulf of Mexico.

(a) *Purpose.* Fairways and anchorage areas as described in this section are established to control the erection of structures therein to provide safe approaches through oil fields in the Gulf of Mexico to entrances to the major ports along the Gulf Coast.

(b) *Permits.* Department of the Army permits are required pursuant to law (30 Stat. 1151; 33 U.S.C. 403) and (67 Stat. 462; 43 U.S.C. 1333(f)) for work or structures in the Gulf of Mexico in coastal waters and the waters covering the outer continental shelf. The Department of the Army will grant no permits for the erection of structures in the areas designated as fairways, since structures located therein would constitute obstructions to navigation. Within an area designated as an achorage area, not more than four (4) structures will be permitted at any time. Structures shall be not less than three (3) nautical miles apart and shall be not less than one and one-half (1½) nautical miles from the sea buoy at any harbor entrance.

(c) *Modification of the areas.* The fairways and anchorage areas are subject to modification but only after due notification and consideration of the views of interested parties, and advance publication of any adverse determination (see § 209.520 for notice of proposed rule making).

(d) *The areas.*

(1) *Brazos Santiago Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
26°05'24"	97°09'42"
26°05'12"	97°08'30"
26°04'12"	96°59'30"
26°04'00"	96°57'24"
26°03'18"	96°51'54"

and lines joining points at:

26°03'24"	97°09'12"
26°03'18"	97°08'30"
26°02'06"	96°57'24"
26°01'36"	96°51'30"

(2) *Brazos Santiago Anchorages.* The areas within lines joining points at:

Latitude	Longitude
26°03'18"	97°08'30"
25°58'54"	97°08'30"
25°58'54"	96°57'24"
26°02'06"	96°57'24"

and lines joining points at:

26°05'12"	97°08'30"
26°04'12"	96°59'30"
26°09'00"	96°59'30"
26°09'00"	97°08'30"

(3) *Port Mansfield Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
26°32'48"	97°16'06"
26°32'54"	97°14'48"
26°33'18"	97°04'42"
26°33'30"	96°59'06"

and lines joining points at:

26°34'48"	97°16'48"
26°34'54"	97°15'12"
26°35'18"	97°04'42"
26°35'30"	96°59'00"

(4) *Port Mansfield Anchorages.* The areas within lines joining points at:

Latitude	Longitude
26°32'54"	97°14'48"
26°29'54"	97°13'36"
26°30'18"	97°04'24"
26°33'18"	97°04'42"

and lines joining points at:

26°37'54"	97°16'48"
26°34'54"	97°15'12"
26°35'18"	97°04'42"
26°38'12"	97°04'48"

(5) *Aransas Pass Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
27°49'30"	97°03'24"
27°48'30"	97°01'36"
27°46'42"	96°58'06"
27°46'18"	96°55'54"
27°45'30"	96°51'06"
27°45'00"	96°47'12"
27°43'48"	96°39'36"

and lines joining points at:

27°51'18"	97°02'24"
27°50'06"	97°00'18"
27°48'30"	96°57'18"
27°47'12"	96°48'12"
27°46'36"	96°44'24"
27°45'36"	96°37'48"

(6) *Aransas Pass Anchorages.* The areas within lines joining points at:

Latitude	Longitude
27°48'30"	97°01'36"
27°45'48"	97°04'00"
27°41'42"	96°57'48"
27°46'42"	96°58'06"

and lines joining points at:

27°46'18"	96°55'54"
27°43'00"	96°55'36"
27°45'30"	96°51'06"

and lines joining points at:

27°54'00"	96°57'00"
27°50'06"	97°00'18"
27°48'30"	96°57'18"
27°47'12"	96°48'12"

(7) *Matagorda Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
28°24'54"	96°20'30"
28°24'12"	96°19'42"
28°14'48"	96°09'42"
28°11'24"	96°06'06"

and lines joining points at:

28°26'06"	96°18'42"
28°25'36"	96°18'06"
28°16'12"	96°08'06"
28°12'30"	96°04'12"

(8) *Matagorda Anchorages.* The areas within lines joining points at:

Latitude	Longitude
28°24'12"	96°19'42"
28°21'30"	96°21'30"
28°12'42"	96°12'12"
28°14'48"	96°09'42"

and lines joining points at:

28°27'00"	96°14'54"
28°25'36"	96°18'06"
28°16'12"	96°08'06"
28°18'12"	96°05'36"

(9) *Freeport Safety Fairways.* (i) The area between a line joining points at:

Latitude	Longitude
28°54'06"	95°16'48"
28°42'24"	95°12'00"

and a line joining points at:

28°53'06"	95°14'00"
28°43'30"	95°10'06"

(ii) The area between lines joining points at:

Latitude	Longitude
28°54'54"	95°19'18"
28°54'06"	95°16'48"
28°53'06"	95°14'00"
28°48'36"	95°01'24"
28°47'36"	94°58'42"
28°32'48"	94°17'18"

and lines joining points at:

28°56'36"	95°17'24"
28°55'30"	95°14'24"
28°52'30"	95°06'00"
28°50'00"	94°59'00"
28°49'00"	94°56'30"
28°33'18"	94°12'06"

(10) *Freeport Anchorages.* The areas within lines joining points at:

Latitude	Longitude
28°54'06"	95°16'48"
28°52'36"	95°19'24"
28°42'24"	95°12'00"

and lines joining points at:

28°53'06"	95°14'00"
28°43'30"	95°10'06"
28°48'36"	95°01'24"

and lines joining points at:

28°52'30"	95°06'00"
28°58'00"	95°10'00"
28°55'30"	95°14'24"

(11) *Galveston Safety Fairways.* (i) The area between a line joining points at:

Latitude	Longitude
29°06'24"	94°26'12"
27°51'42"	94°26'12"

and a line joining points at:

29°06'24"	94°23'54"
27°50'24"	94°24'00"

(ii) The area between lines joining points at:

Latitude	Longitude
29°19'54"	94°43'54"
29°19'30"	94°41'42"
29°18'30"	94°40'00"
29°18'00"	94°39'30"
29°07'42"	94°27'48"
29°07'30"	94°22'30"
28°36'00"	93°31'48"

and lines joining points at:

29°22'12"	94°45'00"
29°21'24"	94°40'18"
29°19'24"	94°37'06"
29°10'30"	94°22'54"
29°09'06"	94°20'36"
28°36'06"	93°27'54"

(12) *Galveston Anchorages.* The areas within lines joining points at:

Latitude	Longitude
29°18'00"	94°39'30"
29°14'48"	94°45'12"
29°02'48"	94°36'30"
29°07'42"	94°27'48"

and lines joining points at:

29°10'30"	94°22'54"
29°22'18"	94°32'00"
29°19'24"	94°37'06"

(13) *Sabine Safety Fairways.* (i) The area between lines joining points at:

Latitude	Longitude
29°40'12"	93°51'06"
29°36'48"	93°49'42"
29°32'36"	93°45'12"
29°28'42"	93°41'00"
28°21'42"	93°41'00"

and lines joining points at:

Latitude	Longitude
29°41'48"	93°49'24"
29°37'24"	93°47'30"
29°33'00"	93°42'48"
29°29'30"	93°39'00"
29°08'48"	93°39'00"
29°05'30"	93°39'00"
28°22'00"	93°39'00"

(ii) The area between a line joining points at:

Latitude	Longitude
29°05'30"	93°39'00"
27°56'42"	92°39'54"

and a line joining points at:

29°08'48"	93°39'00"
27°56'48"	92°37'06"

(14) *Sabine Anchorages.* (i) The area within lines joining points at:

Latitude	Longitude
29°35'06"	93°51'54"
29°33'48"	93°55'18"
29°32'54"	93°54'36"

(ii) The area within lines joining points at:

Latitude	Longitude
29°32'36"	93°45'12"
29°31'06"	93°53'12"
29°27'18"	93°50'18"
29°28'42"	93°46'06"
29°28'42"	93°41'00"

(iii) The area within lines joining points at:

Latitude	Longitude
29°33'48"	93°39'00"
29°33'00"	93°42'48"
29°29'30"	93°39'00"
29°30'48"	93°38'18"
29°30'48"	93°36'42"

(iv) The area within lines joining points at:

Latitude	Longitude
29°37'30"	93°41'54"
29°38'30"	93°42'42"
29°37'24"	93°45'42"

(15) *Coastwise Safety Fairways.* (i) *Brazos Santiago to Aransas Pass.* The area between lines joining points at:

Latitude	Longitude
26°04'00"	96°57'24"
27°40'12"	96°55'36"
27°43'00"	96°55'36"
27°46'18"	96°55'54"

and lines joining points at:

26°04'12"	96°59'30"
26°09'00"	96°59'30"
26°33'30"	96°59'06"
26°35'30"	96°59'00"
27°41'42"	96°57'48"
27°46'42"	96°58'06"

(ii) *Aransas Pass to Calcasieu Pass.* The area between lines joining points at:

Latitude	Longitude
27°40'12"	96°55'36"
27°45'00"	96°47'12"
27°46'36"	96°44'24"
28°47'36"	94°58'42"
28°49'00"	94°56'30"
29°06'24"	94°26'12"
29°06'24"	94°23'54"
29°07'30"	94°22'30"
29°09'06"	94°20'36"
29°31'06"	93°53'12"
29°32'36"	93°45'12"
29°33'00"	93°42'48"
29°33'48"	93°39'00"
29°33'58"	93°28'53"
29°32'57"	93°19'44"
29°32'57"	93°17'00"

and lines joining points at:

27°43'00"	96°55'36"
27°45'30"	96°51'06"
27°47'12"	96°48'12"
28°11'24"	96°06'06"
28°12'30"	96°04'12"
28°42'24"	95°12'00"
28°43'30"	95°10'06"
28°48'36"	95°01'24"
28°50'00"	94°59'00"
29°02'48"	94°36'30"
29°07'42"	94°27'48"
29°10'30"	94°22'54"
29°32'54"	93°54'36"
29°35'06"	93°51'54"
29°36'48"	93°49'42"
29°37'24"	93°47'30"
29°37'24"	93°45'42"
29°37'30"	93°41'54"
29°37'32"	93°21'25"

(16) *Calcasieu Pass Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
29°45'00"	93°20'58"
29°40'56"	93°20'18"
29°38'18"	93°20'42"
29°37'32"	93°21'25"
29°32'57"	93°17'00"
29°31'30"	93°15'03"
29°31'08"	93°14'38"
27°52'09"	93°12'42"

and lines joining points at:

29°45'05"	93°20'03"
29°41'12"	93°19'37"
29°37'30"	93°18'15"
29°31'16"	93°12'16"
27°52'11"	93°10'27"

(17) *Calcasieu Pass Anchorages.* (i) The area within lines joining points at:

Latitude	Longitude
29°33'58"	93°28'53"
29°29'00"	93°28'45"
29°29'07"	93°19'38"
29°32'57"	93°19'44"

(ii) The area within lines joining points at:

29°42'00"	93°12'28"
29°42'00"	93°17'33"
29°37'30"	93°17'15"
29°37'30"	93°18'15"
29°31'16"	93°12'16"

(18) *Mermentau Pass Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°45'36"	93°07'24"
29°44'24"	93°07'48"

and a line joining points at:

29°45'18"	93°06'24"
29°44'06"	93°06'48"

(19) *Southwest Pass Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
29°34'48"	92°03'12"
29°30'48"	92°07'00"
29°23'30"	92°08'24"

and lines joining points at:

29°34'24"	92°02'24"
29°30'24"	92°06'12"
29°23'24"	92°07'30"

(20) *Atchafalaya Pass Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°22'24"	91°23'48"
29°14'18"	91°30'24"

and a line joining points at:

29°22'00"	91°22'54"
29°13'54"	91°29'36"

(21) *Bayou Grand Caillou Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°10'06"	90°57'30"
29°02'24"	91°03'30"

and a line joining points at:

29°09'36"	90°56'24"
29°01'54"	91°02'36"

(22) *Caillou Pass Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°05'30"	90°34'18"
29°01'48"	90°34'24"

and a line joining points at:

29°05'12"	90°33'12"
29°01'48"	90°33'24"

(23) *Belle Pass Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°05'00"	90°14'30"
29°03'48"	90°14'30"

and a line joining points at:

29°05'00"	90°13'30"
29°03'48"	90°13'30"

(24) *Barataria Pass Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°16'00"	89°57'00"
29°14'54"	89°55'48"

and a line joining points at:

29°16'30"	89°56'06"
29°15'18"	89°55'00"

(25) *Grand Bayou Pass Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°17'36"	89°41'36"
29°16'48"	89°42'12"

and a line joining points at:

29°17'18"	89°40'36"
29°16'18"	89°41'18"

(26) *Empire to the Gulf Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°15'24"	89°37'00"
29°14'12"	89°37'48"

and a line joining points at:

29°15'00"	89°36'00"
29°13'42"	89°36'54"

(27) *Southwest Pass (Mississippi River) Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
28°54'30"	89°26'12"
28°53'36"	89°26'48"
28°38'42"	89°16'30"

and a line joining points at:

28°54'48"	89°24'54"
28°40'36"	89°15'00"

(28) *South Pass (Mississippi River) Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
28°59'18"	89°08'30"
28°58'42"	89°07'30"
28°58'09"	89°08'30"
28°54'15"	88°59'00"

and lines joining points at:

East Jetty Light	
29°00'09"	89°07'24"
28°55'42"	88°57'06"

(29) *Mississippi River—Gulf Outlet Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
29°42'10"	89°25'49"
29°29'33"	89°07'47"
29°27'14"	89°03'20"
29°26'33"	89°03'48"
29°24'38"	89°00'00"
29°24'35"	88°57'17"
29°08'25"	88°50'18"

and lines joining points at:

29°09'08"	88°48'10"
29°23'04"	88°54'11"
29°26'28"	88°55'39"
29°32'10"	88°48'52"
29°37'32"	88°42'28"

and lines joining points at:

29°42'29"	89°25'31"
29°29'53"	89°07'31"
29°27'36"	89°03'06"
29°28'17"	89°02'38"
29°26'38"	88°59'22"
29°26'38"	88°58'43"
29°38'59"	88°44'04"

(30) *Mississippi River—Gulf Outlet Anchorage.* The area within lines joining points at:

Latitude	Longitude
29°26'28"	88°55'39"
29°23'04"	88°54'11"
29°29'45"	88°46'13"
29°32'10"	88°48'52"

(31) *Gulfport Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
30°20'54"	89°05'36"
30°13'56"	88°59'42"
30°11'09"	88°59'56"
30°06'45"	88°56'24"
30°05'42"	88°56'24"

and lines joining points at:

30°21'27"	89°04'38"
30°14'11"	88°58'29"
30°11'29"	88°58'45"
30°07'42"	88°55'37"
30°07'39"	88°54'05"

(32) *Biloxi Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
30°24'06"	88°50'57"
30°23'15"	88°50'22"
30°21'11"	88°47'36"
30°20'13"	88°47'04"
30°15'06"	88°47'06"
30°13'09"	88°47'46"
30°12'23"	88°49'02"

and lines joining points at:

30°24'27"	88°50'31"
30°23'57"	88°49'31"
30°21'42"	88°46'36"
30°20'25"	88°45'55"
30°14'57"	88°45'57"
30°12'56"	88°46'39"
30°12'00"	88°45'25"

(33) *Pascagoula Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
30°20'46"	88°34'39"
30°20'21"	88°34'39"
30°17'00"	88°31'21"
30°12'59"	88°30'53"
30°11'50"	88°32'05"
30°10'09"	88°34'33"

and a line joining points at:

30°20'30"	88°33'18"
30°18'39"	88°31'25"

and a line joining points at:

30°20'26"	88°31'25"
30°18'39"	88°31'25"

and lines joining points at:

30°19'21"	88°30'12"
30°17'25"	88°30'12"
30°12'46"	88°29'42"
30°11'21"	88°31'00"
30°09'33"	88°29'48"

(34) *Panama City Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
30°09'24"	85°40'12"
30°09'21"	85°41'40"
30°07'36"	85°44'20"
30°06'59"	85°46'12"

and lines joining points at:

30°08'34"	85°40'16"
30°07'55"	85°41'50"
30°06'49"	85°43'28"
30°05'16"	85°44'45"

(35) *Port St. Joe Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
29°49'54"	85°19'24"
29°50'59"	85°22'25"
29°53'32"	85°22'25"
29°54'12"	85°24'00"
29°54'12"	85°25'55"
29°52'58"	85°28'43"
29°52'58"	85°32'24"

and lines joining points at:

29°48'22"	85°18'12"
29°47'21"	85°21'00"
29°50'42"	85°23'31"
29°52'51"	85°23'36"
29°53'10"	85°24'18"
29°53'10"	85°25'33"
29°51'57"	85°28'19"
29°49'19"	85°30'18"

(36) *Mobile Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
30°38'46"	88°03'24"
30°38'14"	88°02'42"
30°31'59"	88°02'00"
30°31'59"	88°04'59"

and lines joining points at:

Latitude	Longitude
30°31'00"	88°05'30"
30°31'00"	88°01'54"
30°26'55"	88°01'26"
30°16'35"	88°02'45"
30°14'09"	88°03'24"
30°10'36"	88°03'53"
30°07'15"	88°06'54"

and lines joining points at:

30°39'55"	88°01'15"
30°37'06"	88°01'23"
30°26'11"	88°00'11"
30°16'18"	88°01'35"
30°13'52"	88°01'12"
30°13'14"	88°01'12"
30°10'36"	88°01'35"
30°08'04"	88°00'36"

(37) *Pensacola Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
30°23'41"	87°14'34"
30°23'06"	87°13'53"
30°22'54"	87°13'53"
30°20'47"	87°15'45"

and lines joining points at:

30°18'43"	87°19'24"
30°15'57"	87°18'19"
30°14'20"	87°19'05"

and a line joining points at:

30°26'27"	87°08'28"
30°25'35"	87°10'30"

and lines joining points at:

30°24'36"	87°07'07"
30°22'57"	87°09'38"
30°22'36"	87°11'50"
30°19'21"	87°14'46"
30°19'52"	87°17'31"

and lines joining points at:

30°19'15"	87°17'37"
30°16'28"	87°16'32"
30°15'45"	87°15'24"

(38) *Tampa Safety Fairways.* (i) An area 2 nautical miles in width centered on the alinement of Egmont Channel and extending from a point abreast of Egmont Key light for a distance of approximately 8.9 nautical miles to a point abreast of the Whistle Buoy. The north and south boundary line would have an azimuth of 84° true. From a point abreast of the Whistle Buoy the fairway is flared, the northerly line having an azimuth of 114° true and the southerly line an azimuth of 54° true, both lines extending to the 60-foot contour in the Gulf of Mexico.

(ii) An area 2 nautical miles in width covering southwest channel, the northerly limit line extending on a line with an azimuth of 45° true from Egmont Light and the southerly line being parallel to and 2 nautical miles southeasterly of the northerly limit line. Both limit lines would extend to the 40-foot contour in the Gulf of Mexico. The inner end of the northerly line terminates at the 18-foot contour from which point a straight line is drawn to the southern tip of Egmont Key. The inner end of the southerly limit line terminates at the 18-foot contour abreast of Egmont Key.

(39) *Charlotte Safety Fairway.* An area 1 nautical mile in width on the alinement of the marked entrance channel extending on the north side from a point abreast of Whistle Buoy No. 1 on an azimuth of 36° true to the shoreline of Gasparilla Island. On the south side the line would deflect to an azimuth of 67° true to parallel the inner section of the entrance channel and to end upon contact with the northerly end of Lacosta Island. The outer section of the fairway would flare with the northerly boundary having an azimuth of 46° true and the southerly boundary an azimuth of 26° true, both terminating at the intersection with the 60-foot contour in the Gulf of Mexico.

[Regs., Dec. 17, 1965, 1507-32 (Gulf of Mexico)—ENGCW-ON]

(Sec. 10, 30 Stat. 1151, sec. 4, 67 Stat. 462; 33 U.S.C. 403, 43 U.S.C. 1333(f))

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

[F.R. Doc. 66-808; Filed, Jan. 24, 1966; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 65-CE-148]

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 reduce the lateral extent of V-11 to a 6 mile wide airway from the Salem, Mich., VORTAC to Bloomer INT. This action will permit simultaneous en route operations along V-11 and missed approach procedures at Pontiac, Mich., Municipal Airport.

Since this change involves a small amount of airspace within the United States and will provide for a greater flow of air traffic, this alteration is minor in nature and the Administrator has found that notice and public procedure hereon is unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., March 31, 1966, as hereinafter set forth.

Section 71.123 (29 F.R. 17509; 30 F.R. 6241, 9261, 10287, 13056) is amended as follows: In V-11 "12 AGL to INT Salem 052° and Windsor, Ont., Canada 335° radials." is deleted and "6-miles wide 12 AGL to INT Salem 052° and Windsor, Ont., Canada 335° radials." is substituted therefor.

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

Issued in Washington, D.C., on January 18, 1966.

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

[F.R. Doc. 66-809; Filed, Jan. 24, 1966; 8:45 a.m.]

[Airspace Docket No. 65-WE-121]

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 realign the segment of VOR Federal

airway No. 21 west alternate which is presently designated from the intersection of the Hector, Calif., 228° and the Daggett, Calif., 187° True radials to Daggett.

The Federal Aviation Agency is relocating the Ontario, Calif., VOR to a new site located at latitude 33°55'06" N., longitude 117°31'44" W. The relocation of this navigation facility will necessitate the utilization of the Hector 226° True radial for the alignment of V–21 direct between Ontario and Hector. All other airway segments utilizing the Ontario VOR are designated direct station to station and will automatically adjust to the relocated facility. Accordingly, action is taken herein to redesignate V–21 west alternate segment by utilizing the Hector 226° True radial.

Since the alteration accomplished by this action involves a small amount of airspace and no additional burden is imposed on any person, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, § 71.123 (29 F.R. 17509; 30 F.R. 82, 9625) is amended as follows: In V–21 "INT of Hector 228° and Daggett, Calif., 187° radials" is deleted and "INT of Hector 226° and Daggett, Calif., 187° radials" is substituted therefor.

This amendment shall become effective 0001 e.s.t., March 31, 1966.

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

Issued in Washington, D.C., on January 18, 1966.

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

[F.R. Doc. 66–810; Filed, Jan. 24, 1966; 8:45 a.m.]

[Airspace Docket No. 65–SW–34]

PART 73—SPECIAL USE AIRSPACE

Modification of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to amend the time of designation for Restricted Area R–2403, Little Rock, Ark.

The U.S. Army has concurred in the Federal Aviation Agency's request that the time of designation of R–2403 be changed so as to reflect the actual use of the area. R–2403 is presently designated from 0700 Saturday through 1700 Sunday, c.s.t., September 1 through May 31; and 0600 to 2400 c.s.t., daily, June 1 through August 31. It has been determined that the area is only required from 0700 Saturday through 1700 Sunday, c.s.t.

Since this amendment is less restrictive in nature and reduces the burden on the public, notice and public procedure hereon are unnecessary and the amendment may be made effective immediately.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

Section 73.24 (29 F.R. 17733) R–2403, Little Rock, Ark., is amended as follows: Under time of designation "0700 Saturday through 1700 Sunday, c.s.t., September 1 through May 31; and 0600 to 2400 c.s.t., daily, June 1 through August 31." is deleted and "0700 Saturday through 1700 Sunday, c.s.t." is substituted therefor.

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

Issued in Washington, D.C., on January 18, 1966.

A. D. HARVEY,
Acting Director, Air Traffic Service.

[F.R. Doc. 66–811; Filed, Jan. 24, 1966; 8:45 a.m.]

[Airspace Docket No. 65–WA–63]

PART 73—SPECIAL USE AIRSPACE

Extension of Temporary Restricted Areas

The purpose of this action is to extend the designation of R–5116A and R–5116B during the period of April 1, 1966, through May 31, 1966.

On July 31, 1965, Airspace Docket No. 65–SW–23 was published in the FEDERAL REGISTER (30 F.R. 9577) establishing these temporary restricted areas from September 15, 1965, through February 1, 1966, as published by NOTAMs 24 hours in advance. These restricted areas were required to contain a series of six off range missile firing tests adjacent to the White Sands Proving Grounds, N. Mex. Interested persons were given an opportunity to comment on these proposals, and the actions were modified to accommodate certain comments received. The restricted areas were activated six times for periods of very short duration in accordance with the programmed firings.

The Air Force has now requested an extension of the time of designation for these areas from April 1, 1966, through May 31, 1966, to accommodate four additional firings, consisting of two additional firings in April and two in May. The same descriptions and procedures currently in effect will be utilized during the extended periods.

Since the Air Force has stated that a military need exists to accomplish the additional firing, and the total time during which the areas would be activated will be of a very short duration, the Administrator finds that notice and public procedure hereon are impractical and for these reasons the amendments may be effective in less than 30 days.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

Section 73.51 (29 F.R. 17756, 30 F.R. 9577) is amended as follows:

a. In R–5116A White Sands Proving Grounds, N. Mex., "Sunrise to Sunset, September 15, 1965, through February 1, 1966," is deleted and "Sunrise to Sunset, September 15, 1965, through February 1, 1966, and April 1, 1966, through May 31, 1966," is substituted therefor.

b. In R–5116B White Sands Proving Grounds, N. Mex., "Sunrise to Sunset, September 15, 1965, through February 1, 1966," is deleted and "Sunrise to Sunset, September 15, 1965, through February 1, 1966, and April 1, 1966, through May 31, 1966," is substituted therefor.

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

Issued in Washington, D.C., on January 18, 1966.

A. D. HARVEY,
Acting Director, Air Traffic Service.

[F.R. Doc. 66–812; Filed, Jan. 24, 1966; 8:45 a.m.]

[Airspace Docket No. 66–WA–2]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

On November 2, 1965, Airspace Docket No. 65–WA–60 was published in the FEDERAL REGISTER (30 F.R. 13864) which designated the Nashua, N.H. Temporary Restricted Area, R–4902, from November 4, 1965, through February 4, 1966. The area was designated to accommodate classified operations involving unusual maneuvers by jet aircraft that would be hazardous to nonparticipating aircraft.

The Department of the Navy has advised the Federal Aviation Agency that the operations being carried out in R–4902 will not be completed by February 4, 1966. As a result, they have stated that an urgent military requirement exists for the continuation of this restricted area through April 30, 1966. During the period February 4, 1966, to March 1, 1966, equipment maintenance and modification may preclude use of the area. If operations temporarily cease on February 4, 1966, an appropriate NOTAM will be issued. Further, reactivation of the area will be accomplished through NOTAM action 7 days prior to continuation of operations.

Since the Department of the Navy has stated that the continued designation of the area is of urgent military necessity, the Administrator has determined that it is contrary to the public interest to comply with the notice, public procedure, and effective date requirements of the Administrative Procedure Act. Therefore, this amendment may become effective in less than 30 days.

In consideration of the foregoing, effective immediately, Part 73 of the Federal Aviation Regulations is amended as hereinafter set forth.

In § 73.49 (30 F.R. 17755), R–4902 Nashua, N.H. (Temporary), is amended as follows: "Time of designation 0900 e.s.t. to sunset, November 4, 1965, through February 4, 1966," is deleted, and "Time of designation, 0900 e.s.t. to sunset, No-

vember 4, 1965, through April 30, 1966," is substituted therefor.

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

Issued in Washington, D.C., on January 18, 1966.

A. D. HARVEY,
Acting Director,
Air Traffic Service.

[F.R. Doc. 66-813; Filed, Jan. 24, 1966; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 11—Coast Guard, Department of the Treasury

[CGFR 65-60]

PART 11-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 11-2.2—Solicitation of Bids

CONTRACT INDEXES

Pursuant to authority vested in me as Commandant, U.S. Coast Guard, by Treasury Department Order 167-17 (20 F.R. 4976) and Treasury Department Order 167-50 (28 F.R. 530):

1. In section 11-2.201, paragraph (a) (50) is added, reading as follows:

§ 11-2.201 Preparation of invitations for bids.

(a) * * *

(50) Invitation for bids containing an index or table of parts for use in locating specific contract clauses, drawings, etc., will contain a provision that: Any index or table of parts included with this IFB or contract is for information and assistance in locating certain provisions and requirements and may not contain reference to all documents, drawings and other requirements set forth in this schedule and does not excuse the contractor from complying with all requirements incorporated by reference or included in this IFB or contract.

* * * * *

Dated: January 18, 1966.

[SEAL] E. J. ROLAND,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 66-832; Filed, Jan. 24, 1966; 8:47 a.m.]

Title 47—TELECOMMUNICATION

[FCC 66-52]

Chapter I—Federal Communications Commission

PART 95—CITIZENS RADIO SERVICE

Station Identification Requirements in Citizens Radio Service

Order. At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 19th day of January 1966;

The Commission, having under consideration § 95.95(c) of its rules, which sets forth the station identification requirements for stations in the Citizens Radio Service; and

It appearing, that, letters from licensees and monitoring by Commission field personnel indicate there is widespread misunderstanding on the part of some citizens radio station licensees as to the requirements of that section; and

It further appearing, that, it would serve the public interest to clarify the requirements of that section and to provide examples illustrative of the proper station identification procedure; and

It further appearing, that, authority for the amendment adopted herein is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended; and

It further appearing, that, since the amendment adopted herein is interpretative in nature and does not alter existing requirements, compliance with the notice and effective date provisions of section 4 of the Administrative Procedure Act is unnecessary;

It is ordered, That, effecitve February 1, 1966, § 95.95(c) of Part 95 of the Commission's rules is amended as set forth in the attached Appendix.

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

Released: January 20, 1966.

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

Section 95.95(c) is amended to read as follows:

§ 95.95 Station identification.

* * * * *

(c) Except as provided in paragraph (d) of this section, all transmissions from each unit of a citizens radio station shall be identified by the transmission of its assigned call sign at the beginning and end of each transmission or series of transmissions directed to or exchanged with a unit of the same station or units of other stations. Each required identification shall include not only the call sign of the station unit transmitting, but also the call sign of the station or stations with which the transmitting unit is communicating, or attempting to communicate. In the case of communications between units of the same station (intrastation), after identifying itself by its assigned call sign, the transmitting unit may identify the other units by unit designators. For communications between units of different stations (interstation), the complete sign of all stations involved must be transmitted. If the call sign of the station being called is not known, the name or trade name may be used, but when contact has been made the called station shall thereafter be identified by its call sign. Examples of proper identification procedure are set forth at the end of this paragraph. Where transmissions or exchanges of transmissions of greater length are permitted by this part, the identification shall also be transmitted at least every 15 minutes. Each transmission or exchange of transmissions conducted on different frequencies shall be fully and separately identified in accordance with the foregoing on each frequency used.

EXAMPLES OF PROPER IDENTIFICATION

Intrastation communications:

(1) Calling: "KZZ 0001 base, calling unit 2."

Response: "KZZ 0001 unit 2, to base, over."

Clearing: "KZZ 0001 base, clear with unit 2" and "KZZ 0001 unit 2, clear with base."

(2) Calling: "KZZ 0001 unit 1, calling unit 3."

Response: "KZZ 0001 unit 3, to unit 1, over."

Clearing: "KZZ 0001 unit 1, clear with unit 3" and "KZZ 0001 unit 3, clear with unit 1."

Interstation communications:

Calling: "KZZ 0001 calling KZZ 0002," or "KZZ 0001 calling KZZ 0002 unit 3" (if appropriate).

Response: "KZZ 0002 to KZZ 0001, over."

Clearing: "KZZ 0001 clear with KZZ 0002." and "KZZ 0002 clear with KZZ 0001."

* * * * *

[F.R. Doc. 66-842; Filed, Jan. 24, 1966; 8:48 a.m.]

Title 7—AGRICULTURE

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

[Lime Reg. 20, Amdt. 2]

PART 911—LIMES GROWN IN FLORIDA

Quality and Size Regulation

(a) Findings: (1) Pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Florida Lime Administrative Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than January 26, 1966. Shipments of Florida

limes are currently regulated pursuant to Lime Regulation 20, as amended (30 F.R. 9052; 14847), and, unless sooner terminated, will continue to be so regulated until April 1, 1966; determinations as to the need for, and extent of, continued regulation of Florida lime shipments must await the development of the crop and the availability of information on the demand for such fruit; the recommendations and supporting information for regulation of lime shipments subsequent to January 26, 1966, and in the manner herein provided, were promptly submitted to the Department after a meeting of the Florida Lime Administrative Committee on January 21, 1966, held to consider recommendations for regulation; the provisions of this amendment are identical with the aforesaid recommendations of the committee, and information concerning such provisions has been disseminated among handlers of Florida limes; it is necessary, in order to effectuate the declared policy of the act, to make this amendment effective as hereinafter set forth; and compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) It is, therefore, ordered that paragraph (b) (2) (iii) of § 911.322 (Lime Regulation 20; 30 F.R. 9052; 14847) is amended to read as follows:

(iii) Any limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) which are of a size smaller than 2 inches in diameter: *Provided*, That such limes which are of a size smaller than 2 inches in diameter but not of a size smaller than 1⅝ inches in diameter may be handled if such smaller limes have an average juice content of at least 50 percent, by volume, are in one of the containers specified in paragraph (b) (1) (i) and (iii) of § 911.310 (Lime Regulation 8, as amended; 29 F.R. 8461, 30 F.R. 2521), and contain the applicable quantity of limes prescribed for such containers.

(c) The provisions of this amendment shall become effective at 12:01 a.m., e.s.t., January 26, 1966.

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

Dated: January 24, 1966.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 66–931; Filed, Jan. 24, 1966; 11:28 a.m.]

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN DESIGNATED AREA OF CALIFORNIA

Subpart—Outlets for Substandard and Cull Dates

Notice was published in the December 29, 1965, issue of the FEDERAL REGISTER (30 F.R. 16210) regarding a proposal, recommended by the Date Administrative Committee, to permit Deglet Noor dates which meet the grade and size requirements for marketable dates except for defects of broken skin, improper hydration, mashing, and mechanical injury, to be disposed of for use, or used, in specified products for human consumption. The authorization for such action is provided in § 987.56 of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in a designated area of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were submitted within the prescribed time, except comment from the Date Administrative Committee that the intent of its recommendation was to have such disposition of substandard dates end with the current crop year on July 31, 1966.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation by the Committee, and other available information, it is found that the use of substandard dates of the Deglet Noor variety in specified products for human consumption, as hereinafter set forth, will tend to effectuate the declared policy of the act.

Therefore, Subpart—Outlets for Substandard and Cull Dates is hereby added to read as follows:

§ 987.256 Disposition of substandard dates for certain specified products.

Beginning January 25, 1966, and ending July 31, 1966, dates of the Deglet Noor variety which are inspected and certified as meeting the grade and size requirements for marketable Deglet Noor dates except for defects of broken skin, improper hydration, mashing, and mechanical injury may, pursuant to § 987.56, be disposed of for use, or used, in the production of date products for human consumption in the form of rings, chunks, pieces, syrup, butter, macerated, or paste.

It is further found that good cause exists for making this action effective as herein specified and for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003(c)) in that: (1) This action relieves restrictions on the disposition of substandard Deglet Noor dates; (2) currently there is an active demand for dates in the wider outlets authorized; and (3) the effective time should be as soon as possible to maximize sales at the more remunerative prices.

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

Dated January 20, 1966, to become effective upon publication in the FEDERAL REGISTER.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 66–823; Filed, Jan. 24, 1966; 8:46 a.m.]

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

Dates; Exemptions

Notice was published in the December 2, 1965, issue of the FEDERAL REGISTER (30 F.R. 14934) regarding a proposal, by the Department, to amend § 999.1 *Regulation governing the importation of dates* (7 CFR Part 999) pursuant to the requirements of section 8e (7 U.S.C. 608e–1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal, and two submissions were received within the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the written data, views, or arguments submitted pursuant to the notice and other available information, it is hereby found that the regulation governing the importation of dates (7 CFR 999.1) should be amended as hereinafter set forth so as to permit the importation of dates that have been so denatured as to render them unfit for human consumption.

Therefore, the importation of dates into the United States shall be subject to, and in accordance with, the requirements of § 999.1 of this part, including paragraph (d) of § 999.1 thereof which is hereby amended to read as follows:

§ 999.1 Regulation governing the importation of dates.

* * * * *

(d) *Exemptions.* Notwithstanding any other provisions of this section, any lot of dates for importation which in the aggregate does not exceed 70 pounds and any dates that are so denatured as to render them unfit for human consumption may be imported exempt from the provisions of this section.

* * * * *

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

Dated January 19, 1966, to become effective 30 days after publication in the FEDERAL REGISTER.

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

[F.R. Doc. 66–824; Filed, Jan. 24, 1966; 8:46 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[10th Gen. Rev. of Export Regs., Amdt. 11]

PART 384—GENERAL ORDERS

Section 384.7 *Extension of copper export controls* is amended to read as follows:

§ 384.7 Exports of copper.

The increasing scarcity of copper and copper products in the United States and abroad has made it necessary for the Office of Export Control to revise the export licensing provisions of this § 384.7 (previously announced in Current Export Bulletins No. 924, dated November 24, 1965, and No. 925, dated December 14, 1965). These revised provisions are described below under the following categories:

(a) *Exportations of copper scrap.* The term copper scrap, as used in this regulation, includes copper metalliferous ash and residues (Export Control Commodity No. 28401), and copper and copper-base alloy waste and scrap, including copper alloy waste and scrap of less than 40 percent copper content where copper is the component of chief weight (Export Control Commodity No. 28402).

(1) *Reduction in GLV dollar-value limits.* Effective 12:01 a.m., e.s.t., January 27, 1966, the GLV dollar-value limit for Country Groups T and V is reduced to $100 for shipments of copper metalliferous ash and residues, and of copper-base alloy wastes and scrap. (Previously, the GLV dollar-value limit was $500.) Any General License GLV shipment of these commodities, the total value of which is exported under the previous general license provisions up to and including February 21, 1966. Any such shipment not laden aboard the exporting carrier on or before February 21, 1966, requires a validated license for export.

(2) *Increase of copper scrap quota.* The previously announced export licensing copper scrap quota of 15,000 copper content short tons for licensing during the first half of 1966 has been increased by 1,500 copper content short tons, thus totalling 16,500 copper content short tons.

(3) *Copper metalliferous ash and residues and copper alloy scrap of less than 40 percent copper content, now part of quota.* Exportations of copper metalliferous ash and residues, and of copper alloy waste and scrap of less than 40 percent copper content where copper is the component of chief weight were previously exempted from quota restrictions under the provisions of this § 384.7. (See Current Export Bulletin No. 925.) These commodities will now be charged against the increased export quota for copper scrap.

(4) *Quota now includes scrap exported for refining or processing abroad.* This § 384.7 (see page 1), Current Export Bulletin No. 925, dated December 14, 1965) provided that copper scrap exported for the purpose of refining abroad, or refining and further processing abroad, and subsequent return to the United States, would be licensed without charge against the export quota. This provision is now rescinded. As a result, all licenses issued for such purposes will be charged against the export quota. It is also pointed out that applicants submitting this type of application are no longer required to include the certification set forth on page 1 of Current Export Bulletin No. 925.

(5) *New statements of past participation in exports of scrap not required.* The previously submitted statements of past participation in exports of copper scrap (received in the Office of Export Control through December 20, 1965) will be used as the basis for determining each exporter's share of the increased export quota of 16,500 copper content short tons for distribution among exporters in the first half of 1966. (See paragraph (f) of this section for explanation of post participation in exports licensing method.)

(6) *Submission of license applications to export scrap*—(i) *Historical exporters.* License applications from historical exporters may be submitted to the Office of Export Control through May 31, 1966. (See paragraph (f) of this section).

(ii) *Non-historical exporters.* As provided in this § 384.7 (See Current Export Bulletin No. 925), license applications from non-historical exporters to export copper scrap are required to be submitted on or before January 20, 1966.

(b) *Exportations of ores, concentrates, matte, and blister copper.* Applications for licenses covering the exportation of copper ores and concentrates (Export Control Commodity No. 28311), copper matte (Export Control Commodity No. 28312), and blister copper and other unrefined copper (Export Control Commodity No. 68211) generally will not be approved.

(1) *Exception for copper which cannot be processed commercially in U.S.* Consideration will be given to approval of applications covering the proposed exportation of commodities described in paragraph (a)(6)(ii) of this section which, because of contamination or any other reason, cannot be processed commercially in the United States. Such an application shall include a statement describing the commodities, including an analysis of the metal content, and an explanation of the difficulty in processing the commodity in the United States. In addition, the application shall set forth the following certification:

I (We) certify that to my (our) best knowledge and belief the commodities described on this application cannot be commercially processed in the United States.

(2) *Reduction in GLV dollar-value limits.* (i) Effective 12:01 a.m., e.s.t., January 27, 1966, the GLV dollar-value limit for Country Groups T and V is reduced to $100 for shipments of copper metalliferous ash and residues, and of copper-base alloy waste and scrap. (Previously, the GLV dollar-value limit was $500.)

(ii) Any General License GLV shipment of these commodities, the total value of which is between $100 and $500 and which was on dock for lading, or laden aboard an exporting carrier prior to 12:01 a.m., e.s.t., January 27, 1966, may be exported under the previous general license provisions up to and including February 21, 1966. Any such shipment not laden aboard the exporting carrier on or before February 21, 1966, requires a validated license for export.

(c) *Exportations of refined copper.* The term "refined copper," as used in this section, includes any refined copper, including remelted, in cathodes, billets, ingots (except copper-base alloy ingots), wire bars, and other crude forms (Export Control Commodity No. 68212). (See paragraph (d) of this section for exportations of copper-base alloy ingots.)

(1) *Reduction in GLV dollar-value limits.* (i) Effective 12:01 a.m., e.s.t., January 27, 1966, the GLV dollar-value limit for Country Groups T and V is reduced to $100 for shipments of refined copper. (Previously, the GLV dollar-value limit was $500.)

(ii) Any General License GLV shipment of refined copper the total value of which is between $100 and $500 and which was on dock for lading, or laden aboard an exporting carrier prior to 12:01 a.m., e.s.t., January 27, 1966, may be exported under the previous general license provisions up to and including February 21, 1966. Any such shipment not laden aboard the exporting carrier on or before February 21, 1966, requires a validated license for export.

(2) *Refined copper produced from foreign materials licensed ex-quota.* (i) License applications covering refined copper produced from foreign-origin copper raw materials, or against which an equivalent quantity of foreign-origin copper raw materials has been entered into the United States under a Customs Import Entry, will be considered for licensing without a charge against the refined copper export quota. (See subparagraph (3) of this paragraph.)

(ii) This licensing on an ex-quota basis will be permitted only if:

(*a*) The application is submitted to the Office of Export Control within three months following the date of the related Customs Import Entry. (For example, if the Customs Import Entry was made on January 5, 1966, the application for related refined copper must be submitted not later than April 4, 1966); and

(*b*) The application is supported by the following certification:

I(We) certify that the refined copper described in this license application has been or will be (a) produced from foreign-origin copper raw materials, or (b) produced in the United States from copper raw materials against which an equivalent quantity of copper raw materials, originating from _____, has been entered into
(Name of country)
the United States by _____
(Name and address of importer)[1]
under Customs Import Entry No. _____, on _____, at _____, covering
(Date) (Location of port)
_____ short tons of copper content."
(Quantity)

(3) *Establishment of quota for refined copper produced from domestic-origin materials.* An export quota of 25,000 copper content short tons of refined copper produced from domestic-origin materials is established for licensing during the first half of 1966.

(4) *Licensing of domestic-origin copper based on past participation.* The past participation in exports method of licensing will be used in considering applications for export licenses submitted

[1] If the importer is a Customs Broker or is otherwise acting as an agent, the certification shall also include the name of the principal for whom the agent is acting.

against the above quota. (See paragraph (f) of this section for an explanation of this licensing method.)

(5) *Requirement for statement of past participation.* (i) Each exporter who has exported refined copper produced from domestic-origin materials during the base period of January 1, 1963 through June 30, 1965, and who wishes to claim a share of the export quota, is required to submit his statement of past participation in exports of this commodity no later than February 14, 1966. The statement shall be completed in accordance with the provisions set forth in paragraph (f) of this section below, except that any shipments of refined copper produced from foreign-origin materials, or produced from material against which an equivalent quantity of foreign material has been entered into the United States under a Customs Import Entry, shall not be included in the exporter's report of shipments during the base period. Where the statement is submitted by other than a refiner, the statement shall be accompanied by a certification from the exporter's refiner setting forth the quantity of refined copper produced from domestic materials which the refiner delivered to the exporter during the period January 1, 1963, through June 30, 1965. If the refiner is unable to state accurately the quantity of domestic-origin refined copper delivered to the exporter during the base period, the refiner may certify to an estimated quantity delivered to the exporter based on the ratio of domestic-origin materials to foreign materials used by the refiner for the refiner's total production of refined copper during the period January 1, 1963, through June 30, 1965.

(ii) After evaluating all such exporters' statements received on or before February 14, 1966, the Office of Export Control will inform each exporter of his share of the quota.

(6) *Submission of license applications*—(i) *Historical exporters.* License applications from historical exporters may be submitted to the Office of Export Control through May 31, 1966. (See paragraph (f) of this section.)

(ii) *Non-historical exporters.* Any exporter who does not qualify as an historical exporter may submit his license applications against the portion of the quota reserved for non-historical exporters. These applications for licenses may be submitted through February 21, 1966.

(7) *Revocation of certain outstanding refined copper licenses.* (i) Any outstanding validated license issued during the period July 1, 1965, through December 31, 1965, which covers the exportation of refined copper as defined in this paragraph (c), is revoked effective 12:01 a.m., e.s.t., January 20, 1966. Customs Officers will not permit exportations of refined copper to be made under any license described above. (Also see paragraph (g) of this section for prohibition against shipments of refined copper and other commodities under Time Limit, Periodic Requirements, or Project Licenses.)

(ii) Any shipments affected by this revocation of licenses to export refined copper, which were on dock for lading, or laden aboard an exporting carrier pursuant to actual orders for export prior to 12:01 a.m., e.s.t., January 20, 1966, may be exported under the revoked validated license up to and including February 21, 1966. Any such shipment not laden aboard the exporting carrier on or before February 21, 1966, requires a new validated license for export.

(iii) An exporter holding such a revoked license shall return the license to the U.S. Department of Commerce, Office of Export Control, Washington, D.C., 20230, as soon as possible, but no later than January 27, 1966. If the license is on deposit with the Customs Office and shows an unshipped balance as of January 20, 1966, the exporter shall immediately request the Customs Office to forward the license to the Office of Export Control.

(iv) At the time of returning the license to the Office of Export Control or of requesting the Customs Office to take such action, the exporter shall direct a letter to the U.S. Department of Commerce, Office of Export Control, Washington, D.C., 20230, referring to the validated license number and advising whether the unshipped balance has been or will be (*a*) produced from foreign-origin copper raw materials, or (*b*) produced in the United States from copper raw materials against which an equivalent quantity of copper raw materials has been entered into the United States in the exporter's name or on his behalf. Where the advice to the Office of Export Control sets forth that the refined copper is of foreign origin as described in (*a*) or (*b*), the letter shall include also the following certification:

I (We) certify that the unshipped quantity of _____ of refined copper,
(Copper content pounds)
remaining on validated export license No. _____, as of January 20, 1966, issued to me (us), as licensee, has been or will be (a) produced from foreign-origin copper raw materials and/or (b) produced in the United States from copper raw materials against which an equivalent quantity of copper raw materials, originating from _____
(Name of country)
_____, has been entered into the United States by _____
(Name and address of importer)[1]
under Customs Import Entry No. ____, on _____, at _____, covering _____ short tons of copper content.
(Date) (Location of port) (Quantity)

(v) Upon receipt of a letter containing the above certification, the Office of Export Control will issue a new license for the unshipped balance. Any revoked licenses not supported by the above certification will not be considered for reinstatement. These latter shipments may be made only after the submission to, and approval by, the Office of Export Control of a new application for export license in accordance with the provisions of subparagraphs (4), (5), and (6) of this paragraph.

NOTE: The date of issuance of a license is shown in coded form as part of the license number in the upper right corner of the license document. The license number is composed of a letter and a series of numerals following the validating symbol; for example, A5–12–6–04051. The digits immediately following the letter indicate the year, month, and day of license issuance. A5–12–6 signifies a license issuance in the year 1965 (5), in the month of December (12) on the sixth day of the month (6).

(d) *Exportations of copper-base alloy ingots.* For the purpose of this regulation, copper-base alloy ingots (Export Control Commodity No. 68212) are defined as ingots composed essentially of copper with one or more other metals, for example: Beryllium copper ingots, devarda alloy ingots, guinea alloy ingots, ounce metal ingots, etc.

NOTE: Master alloys of copper (Export Control Commodity No. 68213) are not included in the above definition of copper-base alloy ingots. (See paragraph (e) of this section for master alloys of copper.)

(1) *Reduction in GLV dollar-value limits.* (i) Effective 12:01 a.m., e.s.t., January 27, 1966, the GLV dollar-value limit for Country Groups T and V is reduced to $100 for shipments of copper-base alloy ingots. (Previously, the GLV dollar-value limit for copper-base alloy ingots was $500.)

(ii) Any General License GLV shipment of copper-base alloy ingots the total value of which is between $100 and $500 and which was on dock for lading, or laden aboard and exporting carrier prior to 12:01 a.m., e.s.t., January 27, 1966, may be exported under the previous general license provisions up to and including February 21, 1966. Any such shipment not laden aboard the exporting carrier on or before February 21, 1966, requires a validated license for export.

(2) *Establishment of quota for copper-base alloy ingots.* An export quota of 1,000 copper content short tons is established for licensing of copper-base alloy ingots during the first half of 1966.

(3) *Licensing of copper-base alloy ingots based on past participation.* The past participation in exports method of licensing will be used in considering applications for export licenses submitted against the above quota. (See paragraph (f) of this section for an explanation of this licensing method.)

(4) *Requirement for statement of past participation.* (i) Each exporter who has exported copper-base alloy ingots during the base period of January 1, 1963, through June 30, 1965, and who wishes to claim a share of the export quota, is required to submit his statement of past participation in exports no later than February 14, 1966. The statement shall be completed in accordance with the provisions set forth in paragraph (f) of this section.

[1] If the importer is a Customs Broker or is otherwise acting as an agent, the certification shall also include the name of the principal for whom the agent is acting.

(ii) After evaluating all such exporters' statements received on or before February 14, 1966, the Office of Export Control will inform each exporter of his share of the quota.

(5) *Submission of license applications*—(i) *Historical exporters.* License applications from historical exporters may be submitted to the Office of Export Control through May 31, 1966. (See paragraph (f) of this section.)

(ii) *Non-historical exporters.* Any exporter who does not qualify as an historical exporter may submit his license applications against the portion of the quota reserved for non-historical exporters. These applications for licenses may be submitted through February 21, 1966.

(e) *Exportations of semi-fabricated copper products and master alloys of copper.* The term "semi-fabricated copper products and master alloys of copper," as used in this section, includes the following commodities:

Export control commodity No.	*Commodity description*
68213	Master alloys of copper.
68221	Bars, rods, angles, shapes, sections, and wire of copper or copper-base alloy.
68222	Plates, sheets, and strips of copper or copper-base alloy.
68223	Copper foil.
68223	Paper back copper foil.
68224	Copper and copper alloy powders and flakes.
68225	Tubes, pipes, and blanks therefor, and hollow bars of copper or copper-base alloy.
69892	Copper casting and forgings.
72310	Wire and cable coated with, or insulated with, fluorocarbon polymers or copolymers.
72310	Coaxial-type communications cable as follows: (a) Containing fluorocarbon polymers or copolymers, (b) using a mineral insulator dielectric, (c) using a dielectric aired by discs, beads, spiral, screw, or any other means, (d) designed for pressurization or use with a gas dielectric, or (e) intended for submarine laying.
72310	Other coaxial cable.
72310	Communications cable containing more than one pair of conductors of which any one of the conductors, single or stranded, has a diameter exceeding 0.9 mm. (0.035 inch), as follows: (a) Cable in which the nominal mutual capacitance of paired circuits is less than 53 nanofarads/mile (33 nanofarads/KM), except conventional paper and air dielectric types, (b) submarine cable, or (c) cable containing fluorocarbon polymers or copolymers.
72310	Other communications cable containing more than one pair of conductors and containing any conductor, single or stranded, exceeding 0.9 mm. in diameter.
72310	Other copper or copper-base alloy insulated wire and cable.

(1) *Reduction in GLV dollar-value limits.* (i) Effective 12:01 a.m., e.s.t., January 27, 1966, the GLV dollar-value limit for Country Groups T and V is reduced to $250 for each of the entries set forth above in this paragraph (e), which are classified under Export Control Commodity No. 72310, and is reduced to $100 for each of the other entries set forth above in this paragraph (e). (Previously, the GLV dollar-value limit for each of the above entries was $500.)

(ii) Any General License GLV shipment of the commodities described above in this paragraph (e), the total value of which is between $250 and $500 for commodities classified under Export Control Commodity No. 72310, or between $100 and $500 for all other entries described above in this paragraph (e) and which were on dock for lading, or laden aboard an export carrier prior to 12:01 a.m., e.s.t., January 27, 1966 may be exported under the previous general license provisions up to and including February 21, 1966. Any such shipment not laden aboard the exporting carrier on or before February 21, 1966, requires a validated license for export.

(2) *Establishment of export quota.* An export quota of 6,500 copper content short tons is established for licensing of semi-fabricated copper products and master alloys of copper during the first half of 1966. This export quota of 6,500 copper content short tons was arrived at by deducting the quantity of semi-fabricated copper commodities shipped pursuant to United States military and AID contracts from the total quantity of such commodities shipped by exporters during 1965. Thus, the export quota of 6,500 copper content short tons represents the 1965 level of commercial exports of semi-fabricated products, exclusive of United States military and AID shipments.

(3) *Shipments under military and AID contracts licensed ex-quota.* Applications for licenses to export under United States military contracts or under contracts financed by the Agency for International Development, any of the commodities set forth above in this paragraph (e) will be considered for licensing without charge against the exporter's share of the quota. Such applications shall include a statement that the commodities and quantities described on the application are being shipped pursuant to a United States military contract or under a contract financed by the Agency for International Development and shall include the contract number and date of contract. If the shipment is being made pursuant to a United States military contract, the application shall include the branch of the military service executing the contract and DO–DX defense priority rating.

(4) *Licensing of semi-fabricated products based on past participation.* The past participation in exports method of licensing will be used in considering applications for export licenses submitted against the above quota. (See paragraph (f) of this section for an explanation of this licensing method.)

(5) *Requirement for statement of past participation.* (i) Each exporter who has exported any of the commodities set forth above in this paragraph (e) during the base period of calendar years 1964 and 1965 and who wishes to claim a share of the export quota, is required to submit his statement of past participation in exports of these commodities no later than February 14, 1966. The statement shall be completed in accordance with the provisions set forth in paragraph (f) of this section, except that the quantity shipped during the base period shall be shown in three separate categories: (*a*) the quantity shipped under United States military contracts, (*b*) the quantity shipped under contracts financed by the Agency for International Development, and (*c*) the quantity of all other shipments. If the exporter did not make any shipments during the base period under United States military or Agency for International Development contracts, he shall so indicate on his statement of past participation in exports of semi-fabricated copper commodities.

(ii) After evaluating all such exporters' statements received on or before February 14, 1966, the Office of Export Control will inform each exporter of his share of the quota based on his shipments reported under this paragraph (e).

(6) *Submission of license applications*—(i) *Historical exporters.* License applications received from historical exporters may be submitted to the Office of Export Control through May 31, 1966. (See paragraph (f) of this section.)

(ii) *Non-historical exporters.* Any exporter who does not qualify as an historical exporter may submit his license applications against the portion of quota reserved for non-historical exporters. These applications for licenses may be submitted through February 21, 1966.

(f) *Past participation in exports licensing method*—(1) *Purpose of past participation licensing method.* (i) The use of the past participation in exports licensing method aids in accomplishing one of the underlying considerations in licensing; namely, the maintenance of a normal pattern of export trade during periods of short supply. It also aids in assuring an equitable distribution among exporters of the available export quota.

(ii) Under this method of license issuance, the bulk of an export quota is reserved for those firms which have participated in exports during a representative base period. However, licensing under the past participation method does not completely preclude participation by exporters who do not have a record of past participation in exports during the base period since a certain portion of the quota is also reserved for exporters within this category. Generally, this portion of the quota is established at about 5 percent of the total quota.

(2) *Restrictive quota participation.* A single firm shall be entitled to only one participation in each quota established for each category of commodities. The claiming of an additional participation through any device whatsoever, including the transfer or assignment of an export order, may result in the denial of all export privileges to all persons concerned. In no instance may an additional participation in an export quota be claimed by the device of transferring an export order to another person or firm for the purpose of filing a license application covering a commodity subject to

the past participation in exports licensing method.

(3) *Submission of statement of past participation.* Each exporter who has exported the specified commodity, or category of commodities, during the specified base period, and who wishes to claim a share of the quota, is required to submit a statement of past participation in exports. This statement shall be submitted, in duplicate, to the U.S. Department of Commerce, Office of Export Control, Washington, D.C., 20230. The specified commodity, or category of commodities, base period, and date of submission of the statement is set forth in other paragraphs of this section. When required, the statement of past participation shall include the following information and such other information specifically required by other paragraphs of this section.

(i) The quantity of the specified commodity, or category of commodities (in copper content pounds), and total value, exported by the applicant during the specified base period. However, this quantity exported during the base period shall not include any of the following types of shipments:

(*a*) Shipments to dependencies and other possessions of the United States;

(*b*) Intransit shipments exported under the provisions of General License GIT; and

(*c*) Shipments to Canada.

(ii) The name of each exporter, dealer, manufacturer, or other business organization engaged in the export of the specified commodities, which is directly or indirectly owned or controlled by the firm submitting the statement of past participation, or which directly or indirectly owns or controls the operations of the firm submitting the statement of past participation.

(iii) A successor firm which has acquired the business interests of a predecessor may include its predecessor's record of past participation in exports for the purpose of establishing the successor firm's position as an historical exporter, providing that the predecessor is not entitled to claim the same past participation in exports. The successor firm shall submit a statement of past participation in exports for consideration by the Office of Export Control and shall set forth a full explanation of the association between the entities concerned, including the following signed statement:

> The terms of acquisition of the business interests of _____ preclude the predecessor firm from claiming past participation in exports for the purpose of obtaining export licenses under the historical pattern of export licensing.
>
> (Name of predecessor firm)

(g) *Restrictions on shipments under time limit, periodic requirements, and project licenses.* Effective 12:01 a.m., e.s.t., January 20, 1966, no outstanding Time Limit, Periodic Requirements, or Project License may be used to export any of the copper commodities set forth below. However, any such shipment which was on dock for lading, or laden aboard an exporting carrier prior to 12:01 a.m., e.s.t., January 20, 1966, may be exported under the Time Limit, Periodic Requirements, or Project License up to and including January 27, 1966. Any such shipment not laden aboard the exporting carrier on or before January 27, 1966, requires an individual validated export license.

Export control commodity No.	*Commodity description*
28311	Copper ores and concentrates.
28312	Copper matte.
68211	Blister copper and other unrefined copper.
68212	Refined copper, including remelted, in cathodes, billets, ingots, wire bars, and other crude forms.
68213	Master alloys of copper.
68221	Bars, rods, angles, shapes, sections, and wire of copper or copper-base alloy.
68222	Plates, sheets, and strips of copper or copper-base alloy.
68223	Copper foil.
68233	Paper backed copper foil.
68224	Copper and copper alloy powders and flakes.
68225	Tubes, pipes, and blanks therefor, and hollow bars of copper or copper-base alloy.
69892	Copper castings and forgings.
72310	Wire and cable coated with, or insulated with fluorocarbon polymers or copolymers.
72310	Coaxial-type communications cable as follows: (a) containing fluorocarbon polymers or copolymers, (b) using a mineral insulator dielectric, (c) using a dielectric aired by discs, beads, spiral, screw, or any other means, (d) designed for pressurization or use with a gas dielectric, or (e) intended for submarine laying.
72310	Other coaxial cable.
72310	Communications cable containing more than one pair of conductors of which any one of the conductors, single or stranded, has a diameter exceeding 0.9 mm. (0.035 inch), as follows: (a) cable in which the nominal mutual capacitance of paired circuits is less than 53 nanofarads/mile (33 nanofarads/KM), except conventional paper and air dielectric types, (b) submarine cable, or (c) cable containing fluorocarbon polymers or copolymers.
72310	Other communications cable containing more than one pair of conductors and containing any conductor, single or stranded, exceeding 0.9 mm. in diameter.
72310	Other copper or copper-base alloy insulated wire and cable.

(h) *Additional license requirements.* (i) Effective 12:01 a.m., e.s.t., January 27, 1966, a validated export license is required for shipments of the commodities described below under Export Control Commodity No. 69892 to Country Groups T, V, and W, and under Export Control Commodity No. 68226 to Country Groups T and V. A GLV dollar-value limit of $100 is established for shipments of these commodities to Country Groups T and V under the provisions of General License GLV.

Export control commodity No.	*Commodity description*
68226	Tube and pipe fittings of copper or copper-base alloy.
69892	Copper or copper-base alloy fabricated anodes.
69892	Copper or copper-base alloy cores (mold inserts).

(ii) Shipments of the above commodities removed from General License to destinations in Country Groups T, V, and W as a result of changes set forth above and which were on dock for lading, laden aboard an exporting carrier or in transit to a port of exit pursuant to actual orders for export prior to 12:01 a.m., e.s.t., January 27, 1966, may be exported under the previous General License provisions up to and including February 21, 1966. Any such shipment not laden aboard the exporting carrier on or before February 21, 1966, requires a validated license for export.

(iii) Applications for licenses: Applications for licenses to export the commodities described above in this paragraph (h), may be submitted under the general procedure for filing applications for export licenses. No quantitative restrictions will be applied in considering these applications. The extension of the validated license requirement for exportations of these commodities will permit the Office of Export Control to exercise the necessary surveillance over exports of these commodities.

(i) *Reduction of shipping tolerance allowance.* Section 379.2(h) of this chapter (Comprehensive Export Schedule) states, in part, that a shipping tolerance of 10 percent is allowed on the unshipped balance specified on a validated license for shipments of any commodities licensed in units of pounds. Effective 12:01 a.m., e.s.t., January 20, 1966, this shipping tolerance allowance is reduced to 5 percent for shipments of any commodities listed in paragraphs (a), (g), and (h) of this section.

(j) *Additional copy of declaration no longer required.* Current Export Bulletin No. 924 stated that when clearing a shipment under a validated export license covering certain specified copper commodities, the licensee shall file with the Customs Office an additional copy of the Shipper's Export Declaration. (See page 7 of Current Export Bulletin No. 924.) This requirement is now rescinded.

(k) *Licenses will now bear a validity period of six months.* Validated export licenses covering the exportations of the commodities set forth in paragraphs (a), (g), and (h) of this section and which are issued on or after January 20, 1966, will bear a validity period of 6 months. This rescinds the previous announcement of a 3-month validity period, as set forth on page 6 of Current Export Bulletin No. 924.

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

Effective: January 20, 1966.

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

[F.R. Doc. 66-903; Filed, Jan. 24, 1966; 12:10 p.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 31, 301]

TREATMENT OF TIPS

Income and Employment Tax and Procedure and Administration

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

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

In order to conform the Income Tax Regulations (26 CFR Part 1), the Employment Tax Regulations (26 CFR Part 31), and the Regulations on Procedure and Administration (26 CFR Part 301) to the amendments made to the Internal Revenue Code of 1954 by section 313 of the Social Security Amendments of 1965 (79 Stat. 382), relating to the treatment of tips, such regulations are amended as follows:

PARAGRAPH 1. Section 1.451 is amended by adding a new subsection (c) to section 451 and by adding a historical note. These added provisions read as follows:

§ 1.451 Statutory provisions; general rule for taxable year of inclusion.

SEC. 451. *General rule for taxable year of inclusion.* * * *

(c) *Special rule for employee tips.* For purposes of subsection (a), tips included in a written statement furnished an employer by an employee pursuant to section 6053(a) shall be deemed to be received at the time the written statement including such tips is furnished to the employer.

[Sec. 451 as amended by sec. 313(b), Social Security Amendments, 1965 (79 Stat. 382)]

PAR. 2. Section 1.451–1 is amended by adding at the end thereof a new paragraph (c) to read as follows:

§ 1.451–1 General rule for taxable year of inclusion.

* * * * *

(c) *Special rule for employee tips.* Tips reported by an employee to his employer in a written statement furnished to the employer pursuant to section 6053 (a) shall be included in gross income of the employee for the taxable year in which the written statement is furnished the employer. For provisions relating to the reporting of tips by an employee to his employer, see section 6053 and § 31.6053–1 of this chapter (Employment Tax Regulations).

PAR. 3. Section 31.3102 is amended by revising subsection (a) of section 3102, by adding a new subsection (c) to section 3102, and by revising the historical note. These revised and added provisions read as follows:

§ 31.3102 Statutory provisions; deduction of tax from wages.

SEC. 3102. *Deduction of tax from wages*—(a) *Requirement.* The tax imposed by section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. An employer who in any calendar quarter pays to an employee cash remuneration to which paragraph (7) (B) or (C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar quarter is less than $50; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (8)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than $150 and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (12)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax with respect to such tips from any wages of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than $20.

* * * * *

(c) *Special rule for tips.* (1) In the case of tips which constitute wages, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th day following the quarter) in which the tips were deemed paid, by deducting the amount of the tax from such wages of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) as are under control of the employer.

(2) If the tax imposed by section 3101, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceeds the wages of the employee (excluding tips) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following quarter) an amount of money equal to the amount of the excess.

(3) The Secretary or his delegate may, under regulations prescribed by him, authorize employers—

(A) To estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any quarter of the calendar year,

(B) To determine the amount to be deducted upon each payment of wages (exclusive of tips) during such quarter as if the tips so estimated constituted the actual tips so reported, and

(C) To deduct upon any payment of wages (other than tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) to such employee during such quarter (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such wages of the employee during the quarter to the amount required to be deducted in respect of tips included in written statements furnished to the employer during the quarter.

(4) If the tax imposed by section 3101 with respect to tips which constitute wages exceeds the portion of such tax which can be collected by the employer from the wages of the employee pursuant to paragraph (1) or paragraph (3), such excess shall be paid by the employee.

[Sec. 3102 as amended by Sec. 205A, Social Security Amendments, 1954; sec. 201(h)(3), Social Security Amendments, 1956; sec. 313(c) (1) and (2), Social Security Amendments, 1965 (79 Stat. 382)]

PAR. 4. Section 31.3102–1 is amended by revising the heading and paragraph (a) to read as follows:

§ 31.3102–1 Collection of, and liability for, employee tax; in general.

(a) The employer shall collect from each of his employees the employee tax with respect to wages for employment performed for the employer by the employee. The employer shall make the collection by deducting or causing to be deducted the amount of the employee tax from such wages as and when paid. (For provisions relating to the time of such payment, see § 31.3121(a)–2.) The

employer is required to collect the tax, notwithstanding the wages are paid in something other than money, and to pay over the tax in money. (As to the exclusion from wages of remuneration paid in any medium other than cash for certain types of services, see § 31.3121(a)(7)–1, relating to such remuneration paid for service not in the course of the employer's trade or business or for domestic service in a private home of the employer; and § 31.3121(a)(8)–1, relating to such remuneration paid for agricultural labor.) For provisions relating to the collection of, and liability for, employee tax in respect of tips, see § 31.3102–3.

* * * * *

PAR. 5. Section 31.3102–2 is amended to read as follows:

§ 31.3102–2 Manner and time of payment of employee tax.

The employee tax is payable to the district director in the manner and at the time prescribed in Subpart G of the regulations in this part. For provisions relating to the payment by an employee of employee tax in respect of tips, see paragraph (d) of § 31.3102–3.

PAR. 6. There is inserted after § 31.3102–2 the following new section:

§ 31.3102–3 Collection of, and liability for, employee tax on tips.

(a) *Collection of tax from employee*—(1) *In general.* Subject to the limitations set forth in subparagraph (2) of this paragraph, the employer shall collect from each of his employees the employee tax on those tips received by the employee which constitute wages for purposes of the tax imposed by section 3101. (For provisions relating to the treatment of tips as wages, see §§ 31.3121(a)(12) and 31.3121(q).) The employer shall make the collection by deducting or causing to be deducted the amount of the employee tax from wages (exclusive of tips) or other funds turned over by the employee to the employer (see subparagraph (3) of this paragraph) which are under the control of the employer.

(2) *Limitations.* An employer is required to collect employee tax on tips which constitute wages only in respect of those tips which are reported by the employee to the employer in a written statement furnished to the employer pursuant to section 6053(a). The employer is responsible for the collection of employee tax on tips reported to him only to the extent that the employer can—

(i) During the period beginning at the time the written statement is submitted to him and ending at the close of the 10th day of the month following the month in which the statement was submitted, or

(ii) In the case of an employer who elects to deduct the tax on an estimated basis (see paragraph (c) of this section), during the period beginning at the time the written statement is submitted to him and ending at the close of the 30th day following the quarter in which the statement was submitted,

collect the employee tax by deducting it from wages (not including tips) of the employee, or from funds referred to in subparagraph (3) of this paragraph, which are under his control during the period.

(3) *Furnishing of funds to employer.* If the amount of employee tax in respect of tips reported by the employee to the employer in a written statement (or statements) furnished pursuant to section 6053(a) exceeds the wages (excluding tips) of the employee (reduced by the amount of tax under sections 3101 and 3402 required to be collected by the employer in respect of such wages) from which the employer is required to collect the employee tax in respect of such tips, the employee may furnish to the employer, within the period specified in subparagraph (2) (i) or (ii) of this paragraph (whichever is applicable), an amount of money equal to the amount of such excess.

(b) *Less than $20 of tips.* Notwithstanding the provisions of paragraph (a) of this section, if an employee furnishes to his employer a written statement—

(1) Covering a period of less than 1 month, and

(2) The statement is furnished to the employer prior to the close of the 10th day of the month following the month in which the tips were actually received by the employee, and

(3) The statement discloses tips in an amount less than $20.

the employer may deduct amounts equivalent to employee tax on such tips from wages (exclusive of tips) or other funds turned over by the employee to the employer which are under the control of the employer. (As to the exclusion from wages of tips of less than $20, see § 31.3121(a)(12)–1.)

(c) *Collection of employee tax on estimated basis*—(1) *In general.* Subject to certain limitations and conditions, an employer may, at his discretion, make collection of the employee tax in respect of tips reported by an employee to the employer on an estimated basis. An employer who elects to make collection of the employee tax on an estimated basis shall:

(i) In respect of each employee, make an estimate of the amount of tips that will be reported, pursuant to section 6053(a), by the employee to the employer in a calendar quarter.

(ii) Determine the amount which must be deducted upon each payment of wages (exclusive of tips) to be made during the quarter by the employer to the employee in order to collect from the employee during the quarter an amount equal to the amount obtained by multiplying the estimated quarterly tips by the sum of the rates of tax under subsections (a) and (b) of section 3101.

(iii) Deduct from any payment of wages (exclusive of tips) to such employee, or from funds referred to in paragraph (a)(3) of this section, such amount as may be necessary to adjust the amount of tax withheld on the estimated basis to conform to the amount of employee tax imposed upon, and required to be deducted in respect of, tips reported by the employee to the employer during the calendar quarter in written statements furnished to the employer pursuant to section 6053(a). If an adjustment is required, the additional employee tax required to be collected may be deducted upon any payment of wages (other than tips) to the employee during the quarter and within the first 30 days following the quarter or from funds turned over by the employee to the employer for such purposes within such period.

(2) *Estimating tips employee will report*—(i) *Initial estimate.* The initial estimate of the amount of tips that will be reported by a particular employee in a calendar quarter shall be made on the basis of the facts and circumstances surrounding the employment of that employee. However, if a number of employees are employed under substantially the same circumstances and working conditions, the initial estimate established for one such employee may be used as the initial estimate for other employees in that group.

(ii) *Adjusting estimate.* If the quarterly estimate of tips in respect of a particular employee continues to differ substantially from the amount of tips reported by the employee and there are no unusual factors involved (for example, an extended absence from work due to illness) the employer shall make an appropriate adjustment of his estimate of the amount of tips that will be reported by the employee.

(iii) *Reasonableness of estimate.* The employer must be prepared, upon request of the district director, to disclose the factors upon which he relied in making the estimate, and his reasons for believing that the estimate is reasonable.

(d) *Employee tax not collected by employer.* If—

(1) The amount of the employee tax imposed by section 3101 in respect of those tips received by an employee which constitute wages exceeds,

(2) The amount of employee tax imposes by section 3101 (in respect of tips reported by the employee to the employer) which can be collected by the employer from wages (exclusive of tips) of such employee or from funds referred to in paragraph (a)(3) of this section,

the employee shall be liable for the payment of tax in an amount equal to such excess. For provisions relating to the manner and time of payment of employee tax by an employee, see paragraph (d) of § 31.6011(a)–1 and paragraph (a)(4) of § 31.6071(a)–1. For provisions relating to statements required to be furnished by employers to employees in respect of uncollected employee tax on tips reported to the employer, see § 31.6053–2.

PAR. 7. Section 31.3121(a)–1 is amended by revising paragraphs (a), (b), (e), and (j) to read as follows:

§ 31.3121(a)–1 Wages.

(a) Whether remuneration paid after 1954 for employment performed after 1936 constitutes wages is determined under section 3121(a). This section and §§ 31.3121(a)(1)–1 to 31.3121(a)(12)–1, inclusive (relating to the statutory ex-

clusions from wages), apply with respect only to remuneration paid after 1954 for employment performed after 1936. Whether remuneration paid after 1936 and before 1940 for employment performed after 1936 constitutes wages shall be determined in accordance with the applicable provisions of law and of 26 CFR (1939) Part 401 (Regulations 91). Whether remuneration paid after 1939 and before 1951 for employment performed after 1936 constitutes wages shall be determined in accordance with the applicable provisions of law and of 26 CFR (1939) Part 402 (Regulations 106). Whether remuneration paid after 1950 and before 1955 for employment performed after 1936 constitutes wages shall be determined in accordance with the applicable provisions of law and of 26 CFR (1939) Part 408 (Regulations 128).

(b) The term "wages" means all remuneration for employment unless specifically excepted under section 3121(a) (see §§ 31.3121(a)(1)–1 to 31.3121(a)(12)–1, inclusive) or paragraph (j) of this section.

* * * * *

(e) Generally the medium in which the remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as for example, goods, lodging, food, or clothing. Remuneration paid in items other than cash shall be computed on the basis of the fair value of such items at the time of payment. See, however, §§ 31.3121(a)(7)–1, 31.3121(a)(8)–1, 31.3121(a)(10)–1, and 31.3121(a)(12)–1, relating to the treatment of remuneration paid in any medium other than cash for services not in the course of the employer's trade or business and for domestic service in a private home of the employer, for agricultural labor, for services performed by certain homeworkers, and as tips, respectively.

* * * * *

(j) In addition to the exclusions specified in §§ 31.3121(a)(1)–1 to 31.3121(a)(12)–1, inclusive, the following types of payments are excluded from wages:

(1) Remuneration for services which do not constitute employment under section 3121(b) and which are not deemed to be employment under section 3121(c) (see § 31.3121(c)–1).

(2) Remuneration for services which are deemed not to be employment under section 3121(c) (see § 31.3121(c)–1).

(3) Tips or gratuities paid, prior to January 1, 1966, directly to an employee by a customer of an employer, and not accounted for by the employee to the employer. For provisions relating to the treatment of tips received by an employee after December 31, 1965, as wages, see §§ 31.3121(a)(12) and 31.3121(q).

PAR. 8. Section 31.3121(a)–2 is amended by revising paragraph (a) to read as follows:

§ 31.3121(a)–2 Wages; when paid and received.

(a) In general, wages are received by an employee at the time that they are paid by the employer to the employee. Wages are paid by an employer at the time that they are actually or constructively paid unless under paragraph (c) of this section they are deemed to be subsequently paid. For provisions relating to the time when tips received by an employee are deemed paid to the employee, see § 31.3121(q)–1.

* * * * *

PAR. 9. Section 31.3121(a)(1)–1 is amended by revising paragraphs (a)(1) and (b)(1) to read as follows:

§ 31.3121(a)(1)–1 Annual wage limitation.

(a) *In general.* (1) The term "wages" does not include that part of the remuneration paid by an employer to an employee within any calendar year—

(i) After 1954 and before 1959 which exceeds the first $4,200 of remuneration, or

(ii) After 1958 which exceeds the first $4,800 of remuneration.

(exclusive of remuneration excepted from wages in accordance with paragraph (j) of § 31.3121(a)–1 or §§ 31.3121(a)(2)–1 to 31.3121(a)(12)–1, inclusive) paid within the calendar year by an employer to the employee for employment performed for him at any time after 1936. For provisions relating to the treatment of tips for purposes of the annual wage limitation, see § 31.3121(q)–1.

* * * * *

(b) *Wages paid by predecessor attributed to successor.* (1) If an employer (hereinafter referred to as a successor) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and if immediately after the acquisition the successor employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for purposes of the application of the annual wage limitation set forth in paragraph (a) of this section, any remuneration (exclusive of remuneration excepted from wages in accordance with paragraph (j) of § 31.3121(a)–1 or §§ 31.3121(a)(2)–1 to 31.3121(a)(12)–1, inclusive) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by the predecessor during such calendar year and prior to the acquisition shall be considered as having been paid by the successor.

* * * * *

PAR. 10. Section 31.3121(a)(10) is amended to read as follows:

§ 31.3121(a)(10) Statutory provisions; definitions; wages; payments to certain homeworkers.

SEC. 3121. *Definitions* — (a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

* * * * *

(10) Remuneration paid by an employer in any calendar quarter to an employee for service described in subsection (d)(3)(C) (relating to homeworkers), if the cash remuneration paid in such quarter by the employer to the employee for such service is less than $50;

[Sec. 3121(a)(10) as amended by sec. 4(b), P.L. 88–650 (78 Stat. 1077); sec. 313(c)(3), Social Security Amendments, 1965 (79 Stat. 383)]

PAR. 11. The following sections are inserted immediately following § 31.3121(a)(10)–1:

§ 31.3121(a)(11) Statutory provisions; definitions; wages; moving expenses.

SEC. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

* * * * *

(11) Remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217; or

[Sec. 3121(a)(11) as added by sec. 4(b), P.L. 88–650 (78 Stat. 1077); as amended by sec. 313(c)(3), Social Security Amendments, 1965 (79 Stat. 383)]

§ 31.3121(a)(11)–1 Moving expenses. [Reserved]

§ 31.3121(a)(12) Statutory provisions; definitions; wages; tips.

SEC. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

* * * * *

(12) (A) Tips paid in any medium other than cash;

(B) Cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is $20 or more.

[Sec. 3121(a)(12) as added by sec. 313(c)(3), Social Security Amendments, 1965 (79 Stat. 383)]

§ 31.3121(a)(12)–1 Tips.

The term "wages" does not include remuneration received by an employee after December 1965 in the form of tips if—

(a) The tips are paid in any medium other than cash, or

(b) The cash tips received by an employee in any calendar month in the course of his employment by an employer are less than $20.

The cash tips to which this section applies include checks and other monetary media of exchange. Tips received by an employee in any medium other than cash, such as passes, tickets, or other goods or commodities do not constitute wages. If an employee in any calendar month performs services for two or more employers and receives tips in the course of his employment by each employer, the $20 test is to be applied separately with respect to the cash tips received by the employee in respect of his services for each employer and not

to the total cash tips received by the employee during the month. As to the time tips are deemed paid, see § 31.3121(q)–1. For provisions relating to the treatment of tips received by an employee prior to 1966, see paragraph (j)(3) of § 31.3121(a)–1.

PAR. 12. The following sections are inserted immediately after § 31.3121(p):

§ 31.3121(q) Statutory provisions; definitions; tips included for employee taxes.

SEC. 3121. *Definitions.* * * *

(q) *Tips included for employee taxes.* For purposes of this chapter other than for purposes of the taxes imposed by section 3111, tips received by an employee in the course of his employment shall be considered remuneration for employment. Such remuneration shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received.

[Sec. 3121(q) as added by sec. 313(c)(4), Social Security Amendments, 1965 (79 Stat. 383)]

§ 31.3121(q)–1 Tips included for employee taxes.

(a) *In general.* Except as otherwise provided in paragraph (b) of this section, tips received after 1965 by an employee in the course of his employment shall be considered remuneration for employment. (For definition of the term "employee" see §§ 31.3121(d) and 31.3121(d)–1.) Tips reported by an employee to his employer in a written statement furnished to the employer pursuant to section 6053(a) (see § 31.6053–1) shall be deemed to be paid to the employee at the time the written statement is furnished to the employer. Tips received by an employee which are not reported to his employer in a written statement furnished pursuant to section 6053(a) shall be deemed to be paid to the employee at the time the tips are actually received by the employee. For provisions relating to the collection of employee tax in respect of tips from the employee, see § 31.3102–3.

(b) *Tips not included for employer taxes.* Tips received after 1965 by an employee in the course of his employment do not constitute remuneration for employment for purposes of computing wages subject to the taxes imposed by subsections (a) and (b) of section 3111.

(c) *Tips received by an employee in course of his employment.* Tips are considered to be received by an employee in the course of his employment for an employer regardless of whether the tips are received by the employee from a person other than his employer or are paid to the employee by the employer. However, only those tips which are received by an employee on his own behalf (as distinguished from tips received on behalf of another employee) shall be considered as remuneration paid to the employee. Thus, where employees practice tip splitting (for example, where waiters pay a portion of the tips received by them to the busboys), each employee who receives a portion of a tip left by a customer of the employer is considered to have received tips in the course of his employment.

(d) *Computation of annual wage limitation.* In connection with the application of the annual wage limitation (see § 31.3121(a)(1)–1), tips reported by an employee to his employer in a written statement furnished to the employer pursuant to section 6053(a) shall be taken into account for purposes of the tax imposed by section 3101. However, since tips received by an employee in the course of his employment do not constitute remuneration for employment for purposes of the tax imposed by section 3111, they are disregarded for purposes of the annual wage limitation in respect of such tax. Accordingly, separate computations for purposes of the annual wage limitation may be required in respect of an employee who receives tips. The provisions of this paragraph may be illustrated by the following example:

Example. During 1966, A is employed as a waiter by X restaurant and is paid wages by X restaurant at the rate of $100 a week. At the end of October 1966, A has been paid weekly wages in the amount of $4,300 and has reported tips in the amount of $2,200. On November 6, 1966, A is paid an additional week's wages in the amount of $100 and on November 9, 1966, A furnishes X restaurant a report of tips actually received by him during October. The annual wage limitation of $6,600 (weekly wages of $4,400 ($4,300 plus $100) and tips of $2,200) had been reached for purposes of the tax imposed by section 3101 prior to November 9 and, accordingly, no portion of the tips included in the report furnished on that date constitutes wages. However, since tips do not constitute remuneration for employment for purposes of the tax imposed by section 3111, the weekly wages paid to A during the remainder of 1966 will be subject to the tax imposed by section 3111.

PAR. 13. Section 31.3401(a)–1 is amended by revising paragraphs (a)(4) and (b)(11) to read as follows:

§ 31.3401(a)–1 Wages.

(a) *In general.* * * *

(4) Generally the medium in which remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as for example, stocks, bonds, or other forms of property. (See, however, § 31.3401(a)(11)–1, relating to the exclusion from wages of remuneration paid in any medium other than cash for services not in the course of the employer's trade or business, and § 31.3401(a)(16)–1, relating to the exclusion from wages of tips paid in any medium other than cash.) If services are paid for in a medium other than cash, the fair market value of the thing taken in payment is the amount to be included as wages. If the services were rendered at a stipulated price, in the absence of evidence to the contrary, such price will be presumed to be the fair value of the remuneration received. If a corporation transfers to its employees its own stock as remuneration for services rendered by the employee, the amount of such remuneration is the fair market value of the stock at the time of the transfer.

* * * * *

(b) *Certain specific items—* * * *

(11) *Tips or gratuities.* Tips or gratuities paid, prior to January 1, 1966, directly to an employee by a customer of an employer, and not accounted for by the employee to the employer are not subject to withholding. For provisions relating to the treatment of tips received by an employee after December 31, 1965, as wages, see §§ 31.3401(f)–1 and 31.3402(k)–1.

* * * * *

PAR. 14. Section 31.3401(a)(6) is amended to read as follows:

§ 31.3401(a)(6) Statutory provisions; definitions; wages; remuneration for services of certain nonresident alien individuals.

SEC. 3401. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration * * * for services performed by an employee for his employer * * *; except that such term shall not include remuneration paid—

* * * * *

(6) For services performed by a nonresident alien individual, other than—

(A) A resident of a contiguous country who enters and leaves the United States at frequent intervals; or

(B) A resident of Puerto Rico if such services are performed as an employee of the United States or any agency thereof; or

(C) An individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, if such remuneration is exempt, under section 1441(c)(4)(B), from deduction and withholding under section 1441(a), and is not exempt from taxation under section 872(b)(3); or

[Sec. 3401(a)(6) as amended by sec. 110(g)(1), Mutual Educational and Cultural Exchange Act 1961 (75 Stat. 537); sec. 313(d)(2), Social Security Amendment, 1965 (79 Stat. 384)]

PAR. 15. Section 31.3401(a)(12) is amended to read as follows:

§ 31.3401(a)(12) Statutory provisions; definitions; wages; payments from or to certain tax-exempt trusts, or under or to certain annuity plans or bond purchase plans.

SEC. 3401. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration * * * for services performed by an employee for his employer * * *; except that such term shall not include remuneration paid—

* * * * *

(12) To, or on behalf of, an employee or his beneficiary—

(A) From or to a trust described in section 401(a) which is exempt from tax under section 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust; or

(B) Under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a); or

(C) Under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a); or

[Sec. 3401(a)(12) as amended by sec. 201(c), Peace Corps Act (75 Stat. 625); sec. 7(e), Self-Employed Individuals Tax Retirement Act, 1962 (76 Stat. 830); sec. 313(d)(2),

Social Security Amendments, 1965 (79 Stat. 384)]

PAR. 16. The following sections are inserted immediately following § 31.3401(a)(13)–1:

§ 31.3401(a)(14) Statutory provisions; definitions; wages; group-term life insurance.

SEC. 3401. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration * * * for services performed by an employee for his employer * * *; except that such term shall not include remuneration paid—

* * * * *

(14) In the form of group-term life insurance on the life of an employee; or

[Sec. 3401(a)(14) as added by sec. 204(b), Rev. Act, 1964 (78 Stat. 36)]

§ 31.3401(a)(14)–1 Group-term life insurance. [Reserved]

§ 31.3401(a)(15) Statutory provisions; definitions; wages; moving expenses.

SEC. 3401. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration * * * for services performed by an employee for his employer * * *; except that such term shall not include remuneration paid—

* * * * *

(15) To or on behalf of an employee if (and to the extent that) at the time the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217; or

[Sec. 3401(a)(15) as added by sec. 213(c), Rev. Act, 1964 (78 Stat. 52); as amended by sec. 313(d)(2), Social Security Amendments, 1965 (79 Stat. 384)]

§ 31.3401(a)(15)–1 Moving expenses. [Reserved]

§ 31.3401(a)(16) Statutory provisions; definitions; wages; tips.

SEC. 3401. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration * * * for services performed by an employee for his employer * * *; except that such term shall not include remuneration paid—

* * * * *

(16) (A) As tips in any medium other than cash;

(B) As cash tips to an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is $20 or more.

[Sec. 3401(a)(16) as added by sec. 313(d)(2), Social Security Amendments, 1965 (79 Stat. 384)]

§ 31.3401(a)(16)–1 Tips.

Tips paid to an employee are excepted from wages and hence not subject to withholding if—

(a) The tips are paid in any medium other than cash, or

(b) The cash tips received by an employee in any calendar month in the course of his employment by an employer are less than $20.

The cash tips to which this section applies include checks and other monetary media of exchange. Tips received by an employee in any medium other than cash, such as passes, tickets, or other goods or commodities do not constitute wages. If an employee in any calendar month performs services for two or more employers and receives tips in the course of his employment by each employer, the $20 test is to be applied separately with respect to the cash tip received by the employee in respect of his services for each employer and not to the total cash tips received by the employee during the month. As to the time tips are deemed paid, see § 31.3401(f)–1. For provisions relating to the treatment of tips received by an employee prior to 1966, see paragraph (b)(11) of § 31.3401(a)–1.

PAR. 17. The following new sections are inserted immediately following § 31.3401(e)–1:

§ 31.3401(f) Statutory provisions; definitions; tips.

SEC. 3401. *Definitions.* * * *

(f) *Tips.* For purposes of subsection (a), the term "wages" includes tips received by an employee in the course of his employment. Such wages shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received.

[Sec. 3401(f) as added by sec. 313(d)(1), Social Security Amendments, 1965 (79 Stat. 383)]

§ 31.3401(f)–1 Tips.

(a) *Tips considered wages.* Tips received after 1965 by an employee in the course of his employment are considered to be wages, and thus subject to withholding of income tax at source. For an exception to the rule that tips constitute wages, see §§ 31.3401(a)(16) and 31.3401(a)(16)–1, relating to tips paid in a medium other than cash and cash tips of less than $20. For definition of the term "employee," see §§ 31.3401(c) and 31.3401(c)–1.

(b) *When tips deemed paid.* Tips reported by an employee to his employer in a written statement furnished to the employer pursuant to section 6053(a) (see § 31.6053–1) shall be deemed to be paid to the employee at the time the written statement is furnished to the employer. Tips received by an employee which are not reported to his employer in a written statement furnished pursuant to section 6053(a) shall be deemed to be paid to the employee at the time the tips are actually received by the employee.

PAR. 18. Section 31.3402(a) is amended by revising subsection (a) of section 3402 and the historical note. These revised provisions read as follows:

§ 31.3402(a) Statutory provisions; income tax collected at source; requirement of withholding.

SEC. 3402. *Income tax collected at source*—(a) *Requirement of withholding.* Every employer making payment of wages shall deduct and withhold upon such wages (except as provided in subsections (j) and (k)) a tax equal to 14 percent of the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in subsection (b)(1).

[Sec. 3402(a) as amended by sec. 2(a), Act of Aug. 9, 1955 (Pub. Law 306, 84th Cong., 69 Stat. 605); sec. 302(a), Rev. Act 1964 (78 Stat. 140); sec. 313(d)(3), Social Security Amendments, 1965 (79 Stat. 384)]

PAR. 19. Section 31.3402(a)–1 is amended by revising paragraph (c) to read as follows:

§ 31.3402(a)–1 Requirement of withholding.

* * * * *

(c) Except as provided in sections 3402 (j) and (k) (see §§ 31.3402(j)–1 and 31.3402(k)–1, relating to noncash remuneration paid to retail commission salesman and to tips received by an employee in the course of his employment, respectively), an employer is required to deduct and withhold the tax notwithstanding the wages are paid in something other than money (for example, wages paid in stocks or bonds; see § 31.3401(a)–1) and to pay over the tax in money. If wages are paid in property other than money, the employer should make necessary arrangements to insure that the amount of the tax required to be withheld is available for payment in money.

* * * * *

PAR. 20. Section 31.3402(h) is amended by revising subsection (h)(3) of section 3402 and by adding a historical note. These revised and added provisions read as follows:

§ 31.3402(h) Statutory provisions; income tax collected at source; withholding on basis of average wages.

SEC. 3402. *Income tax collected at source.* * * *

(h) *Withholding on basis of average wages.* * * *

(3) To deduct and withhold upon any payment of wages to such employee during such quarter (and, in the case of tips referred to in subsection (k), within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this subsection.

[Sec. 3402(h) as amended by sec. 313(d)(4), Social Security Amendments, 1965 (79 Stat. 384)]

PAR. 21. Section 31.3402(h)–1 is amended to read as follows:

§ 31.3402(h)–1 Withholding on basis of average wages.

(a) *In general.* The Commissioner may authorize the employer to withhold the tax under section 3402 on the basis of the employee's average estimated wages, with necessary adjustments, for any quarter. Before using such method the employer must receive authorization from the Commissioner. Applications to use such method must be accompanied by evidence establishing the need for the use of such method. This paragraph applies only where the method desired to be used includes wages other than tips (whether or not tips are also included).

(b) *Withholding on the basis of average estimated tips*—(1) *In general.* Subject to certain limitations and conditions, an employer may, at his discretion, withhold the tax under section 3402 in respect of tips reported by an employee to the employer on an estimated

basis. An employer who elects to make withholding of the tax on an estimated basis shall:

(i) In respect of each employee, make an estimate of the amount of tips that will be reported, pursuant to section 6053, by the employee to the employer in a calendar quarter.

(ii) Determine the amount which must be deducted and withheld upon each payment of wages (exclusive of tips) to be made during the quarter by the employer to the employee. The total amount which must be deducted and withheld shall be determined by assuming that the estimated tips for the quarter represent the amount of wages to be paid to the employee in the form of tips in the quarter and that such tips will be ratably (in terms of pay periods) paid during the quarter.

(iii) Deduct and withhold from any payment of wages (exclusive of tips) to such employee, or from funds referred to in section 3402(k) (see §§ 31.3402(k) and 31.3402(k)–1), such amount as may be necessary to adjust the amount of tax withheld on the estimated basis to conform to the amount required to be withheld in respect of tips reported by the employee to the employer during the calendar quarter in written statements furnished to the employer pursuant to section 6053(a). If an adjustment is required, the additional tax required to be withheld may be deducted upon any payment of wages (other than tips) to the employee during the quarter and within the first 30 days following the quarter or from funds turned over by the employee to the employer for such purpose within such period.

(2) *Estimating tips employee will report*—(i) *Initial estimate.* The initial estimate of the amount of tips that will be reported by a particular employee in a calendar quarter shall be made on the basis of the facts and circumstances surrounding the employment of that employee. However, if a number of employees are employed under substantially the same circumstances and working conditions, the initial estimate established for one such employee may be used as the initial estimate for other employees in that group.

(ii) *Adjusting estimate.* If the quarterly estimate of tips in respect of a particular employee continues to differ substantially from the amount of tips reported by the employee and there are no unusual factors involved (for example, an extended absence from work due to illness) the employer shall make an appropriate adjustment of his estimate of the amount of tips that will be reported by the employee.

(iii) *Reasonableness of estimate.* The employer must be prepared, upon request of the district director, to disclose the factors upon which he relied in making the estimate, and his reasons for believing that the estimate is reasonable.

PAR. 22. The following sections are inserted immediately following § 31.3402(j)–1:

§ 31.3402(k) Statutory provisions; income tax collected at source; tips.

SEC. 3402. *Income tax collected at source.* * * *

(k) *Tips.* In the case of tips which constitute wages, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that the tax can be deducted and withheld by the employer, at or after the time such statement is so furnished and before the close of the calendar year in which such statement is furnished, from such wages of the employee (excluding tips, but including funds turned over by the employee to the employer for the purpose of such deduction and withholding) as are under the control of the employer; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (16)(B) of section 3401(a) is applicable may deduct and withhold the tax with respect to such tips from any wages of the employee (excluding tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than $20. Such tax shall not at any time be deducted and withheld in an amount which exceeds the aggregate of such wages and funds (including funds turned over under section 3102(c)(2)) minus any tax required by section 3102(a) to be collected from such wages and funds.

[Sec. 3402(k) as added by sec. 313(d)(5), Social Security Amendments, 1965 (79 Stat. 384)]

§ 31.3402(k)–1 Special rule for tips.

(a) *Withholding of income tax in respect of tips*—(1) *In general.* Subject to the limitations set forth in subparagraph (2) of this paragraph, an employer is required to deduct and withhold from each of his employees tax in respect of those tips received by the employee which constitute wages. (For provisions relating to the treatment of tips as wages, see §§ 31.3401(a)(16) and 31.3401(f). The employer shall make the withholding by deducting or causing to be deducted the amount of the tax from wages (exclusive of tips) or other funds turned over by the employee to the employer (see subparagraph (3) of this paragraph) which are under the control of the employer.

(2) *Limitations.* An employer is required to deduct and withhold the tax on tips which constitute wages only in respect of those tips which are reported by the employee to the employer in a written statement furnished to the employer pursuant to section 6053(a). Subject to the provisions of paragraph (c) of this section, the employer is responsible for the collection of tax on tips reported to him only to the extent that the employer can, during the period beginning at the time the written statement is submitted to him and ending at the close of the calendar year in which the statement was submitted, collect the tax by deducting and withholding it from wages (not including tips) of the employee, or from funds referred to in subparagraph (3) of this paragraph, which are under his control during the period.

(3) *Furnishing of funds to employer.* If the amount of the tax in respect of tips reported by the employee to the employer in a written statement furnished pursuant to section 6053(a) exceeds the wages (excluding tips) of the employee (reduced by the amount of tax imposed by section 3101 (see § 31.3101) and section 3402 and required to be withheld by the employer in respect of such wages) from which the employer is required to withhold the tax in respect of such tips, the employee may furnish to the employer, within the period specified in subparagraph (2) of this paragraph, an amount of money equal to the amount of such excess.

(b) *Less than $20 of tips.* Notwithstanding the provisions of paragraph (a) of this section, if an employee furnishes to his employer a written statement—

(1) Covering a period of less than 1 month, and

(2) The statement is furnished to the employer prior to the close of the 10th day of the month following the month in which the tips were actually received by the employee, and

(3) The statement discloses tips in an amount less than $20,

the employer may deduct from wages (exclusive of tips) or other funds turned over by the employee to the employer which are under the control of the employer, amounts equivalent to the income tax which would be required to be deducted and withheld in respect of a payment of wages (other than tips) in a similar amount. (As to the exclusion from wages of tips of less than $20, see § 31.3401(a)(16)–1.)

(c) *Priority of tax collection.* In the case of a payment of wages (exclusive of tips), the employer shall deduct or cause to be deducted in the following order:

(1) The tax under section 3101 and the tax under section 3402 with respect to such wages.

(2) Any tax under section 3101 in respect of tips paid to the employee which the employer is required to collect but which has not been collected by the employer and which cannot be deducted from funds turned over by the employee to the employer for such purpose. (See § 31.3102–3, relating to collection of, and liability for, employee tax on tips.)

(3) Any tax under section 3402 in respect of tips paid to the employee which the employer is required to collect but which has not been collected by the employer and which cannot be deducted from funds turned over by the employee to the employer for such purpose.

PAR. 23. Paragraph (a) of § 31.6001–2 is amended by revising subparagraph (1)(iii) and by adding a new subparagraph (3). The revised and added provisions read as follows:

§ 31.6001–2 Additional records under Federal Insurance Contributions Act.

(a) *In general.* (1) * * *

(iii) The amount of each such remuneration payment which constitutes wages

subject to tax. See §§ 31.3121(a)–1 to 31.3121(a)(12)–1, inclusive.

* * * * *

(3) Every employer shall keep records of all remuneration in the form of tips received by his employees after 1965 in the course of their employment and reported to him pursuant to section 6053(a). The employer shall keep as part of his records employee statements of tips furnished him pursuant to section 6053(a) and copies of employer statements furnished employees pursuant to section 6053(b).

* * * * *

PAR. 24. Paragraph (a) of § 31.6001–5 is amended by revising that portion thereof which precedes subparagraph (1), by adding a new subparagraph (16) immediately after subparagraph (15), and by revising the flush material following subparagraph (16) (as added by this paragraph). The added and revised provisions read as follows:

§ 31.6001–5 Additional records in connection with collection of income tax at source on wages.

(a) Every employer required under section 3402 to deduct and withhold income tax upon the wages of employees shall keep records of all remuneration paid to (including tips reported by) such employees. Such records shall show with respect to each employee—

* * * * *

(16) In the case of tips received by an employee after 1965, in the course of his employment, copies of any statements furnished by the employee pursuant to section 6053(a).

The term "remuneration," as used in this paragraph, includes all payments whether in cash or in a medium other than cash, except that the term does not include payments in a medium other than cash for services not in the course of the employer's trade or business, and does not include tips received by an employee in any medium other than cash or in cash if such tips amount to less than $20 for any calendar month. See §§ 31.3401(a)(11)–1 and 31.3401(a)(16)–1, respectively.

* * * * *

PAR. 25. Section 31.6011(a)–1 is amended by revising paragraph (a)(1), redesignating paragraph (d) as paragraph (e), and by adding a new paragraph (d). The revised and added provisions read as follows:

§ 31.6011(a)–1 Returns under Federal Insurance Contributions Act.

(a) *Requirement*—(1) *In general.* Except as otherwise provided in § 31.6011(a)–5, every employer required to make a return under the Federal Insurance Contributions Act, as in effect prior to 1955, for the calendar quarter ended December 31, 1954, in respect of wages other than wages for agricultural labor, shall make a return for each subsequent calendar quarter (whether or not wages are paid in such quarter) until he has filed a final return in accordance with § 31.6011(a)–6. Except as otherwise provided in § 31.6011(a)–5, every employer not required to make a return for the calendar quarter ended December 31, 1954, shall make a return for the first calendar quarter thereafter in which he pays wages, other than wages for agricultural labor, subject to the tax imposed by the Federal Insurance Contributions Act as in effect after 1954, and shall make a return for each subsequent calendar quarter (whether or not wages are paid therein) until he has filed a final return in accordance with § 31.6011(a)–6. Except as otherwise provided in subparagraphs (3) and (4) of this paragraph, Form 941 is the form prescribed for making the return required by this subparagraph. Such return shall not include wages for agricultural labor required to be reported on any return prescribed by subparagraph (2) of this paragraph. The return shall include wages received by an employee in the form of tips only to the extent of the tips reported by the employee to the employer in a written statement furnished to the employer pursuant to section 6053(a).

* * * * *

(d) *Returns by employees in respect of tips.* If—

(1) An employee, during a calendar year, is paid wages in the form of tips which are subject to the tax under section 3101, and

(2) Any portion of the tax under section 3101 in respect of such wages cannot be collected by the employer from wages (exclusive of tips) of such employee or from funds turned over by the employee to the employer,

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

(e) *Time and place for filing returns.* For provisions relating to the time and place for filing returns, see §§ 31.6071(a)–1 and 31.6091–1, respectively.

PAR. 26. Section 31.6051 is amended by adding a new sentence at the end of subsection (a) of section 6051 and by revising the historical note. These added and revised provisions read as follows:

§ 31.6051 Statutory provisions; receipts for employees.

SEC. 6051. *Receipts for employees*—(a) *Requirement.* Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

(1) The name of such person,

(2) The name of the employee (and his social security account number if wages as defined in section 3121(a) have been paid),

(3) The total amount of wages as defined in section 3401(a),

(4) The total amount deducted and withheld as tax under section 3402,

(5) The total amount of wages as defined in section 3121(a), and

(6) The total amount deducted and withheld as tax under section 3101.

In the case of compensation paid for services as a member of a uniformed service, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(2). In the case of compensation paid for service as a volunteer or volunteer leader within the meaning of the Peace Corps Act, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(3). In the case of tips received by an employee in the course of his employment, the amounts required to be shown by paragraphs (3) and (5) shall include only such tips as are included in statements furnished to the employer pursuant to section 6053(a).

* * * * *

[Sec. 6051 as amended by sec. 412, Servicemen's and Veteran's Survivor Benefits Act (70 Stat. 879); sec. 202(a)(4), Peace Corps Act (75 Stat. 626); sec. 313(e)(1), Social Security Amendments, 1965 (79 Stat. 384)]

PAR. 27. Paragraph (a)(1) of § 31.6051–1 is amended by adding a new subdivision (vi) to read as follows:

§ 31.6051–1 Statements for employees.

(a) *Requirement if wages are subject to withholding of income tax*—(1) *General rule.* * * *

(vi) In the case of remuneration in the form of tips received by an employee in the course of his employment, the amounts required to be shown by paragraphs (3) and (5) of section 6051(a) (see subdivision (i) (c) and (e) of this subparagraph) shall include only such tips as are reported by the employee to the employer in a written statement furnished to the employer pursuant to section 6053(a).

* * * * *

PAR. 28. The following sections are inserted immediately after § 31.6051–1:

§ 31.6053 Statutory provisions; reporting of tips.

SEC. 6053. *Reporting of tips*—(a) *Reports by employees.* Every employee who, in the course of his employment by an employer, receives in any calendar month tips which are wages (as defined in section 3121(a) or section 3401(a)) shall report all such tips in one or more written statements furnished to his employer on or before the 10th day following such month. Such statements shall be furnished by the employee under such regulations, at such other times before such 10th day, and in such form and manner, as may be prescribed by the Secretary or his delegate.

(b) *Statements furnished by employers.* If the tax imposed by section 3101 with respect to tips reported by an employee pursuant to subsection (a) exceeds the tax which can be collected by the employer pursuant to section 3102, the employer shall furnish to the employee a written statement showing the amount of such excess. The statement required to be furnished pursuant to this subsection shall be furnished at such time, shall contain such other information, and shall be in such form as the Secretary or his delegate may by regulations prescribe. When required by such regulations, a duplicate of any such statement shall be filed with the Secretary or his delegate.

[Sec. 6053 as added by sec. 313(e)(2)(A), Social Security Amendments, 1965 (79 Stat. 384)]

§ 31.6053–1 Report of tips by employee to employer.

(a) *Requirement that tips be reported.* An employee who receives after 1965, in the course of his employment by an employer, tips which constitutes wages as defined in section 3121(a) or section 3401 shall furnish to his employer a written statement, or statements, disclosing a total amount of such tips received by the employee in the course of his employment by such employer. For provisions relating to the treatment of tips as wages for purposes of the tax under section 3101, see §§ 31.3121(a)(12) and 31.3121(q). For provisions relating to the treatment of tips as wages for purposes of the tax under section 3402, see §§ 31.3401(a)(16) and 31.3401(f). Tips received by an employee in a calendar month in the course of his employment by an employer which are required to be reported to the employer must be so reported on or before the 10th day of the following month. Thus, tips received by an employee in January 1966, are required to be reported by the employee to his employer on or before February 10, 1966.

(b) *Statement for use in reporting tips*—(1) *In general.* The written statement furnished by the employee to the employer in respect of tips received by the employee shall be signed by the employee and should disclose:

(i) The name, address, and social security number of the employee.

(ii) The name and address of the employer.

(iii) The period for which, and the date on which, the statement is furnished. If the statement is for a calendar month, the month and year should be specified. If the statement is for a period of less than 1 calendar month, the beginning and ending dates of the period should be shown (for example, January 1 through January 8, 1966).

(iv) The total amount of tips received by the employee during the period covered by the statement which are required to be reported to the employer (see paragraph (a) of this section).

(2) *Form of statement*—(i) *In general.* No particular form is prescribed which must be used in all cases in furnishing the statement required by this section. Unless some other form is provided by the employer for use by the employee in reporting tips received by him, Form 4070 may be used by the employee. Copies of Form 4070 will be furnished by district directors upon request.

(ii) *Forms provided by employers.* Subject to certain conditions and limitations, an employer may provide a form or forms for use by his employees in reporting tips received by them. Any such form provided for use by an employee, which is to be used solely for the purpose of reporting tips, shall meet all the requirements of subparagraph (1) of this paragraph, and a blank copy of the form shall be made available to the employee for completion and retention by him. In lieu of a special form for tip reporting, an employer may provide regularly used forms (such as time cards) for use by employees in reporting tips. Any such regularly used form must meet the requirements of subparagraph (1) of this paragraph, except that it need not disclose the address of the employee. However, a regularly used form may be used for the purpose of reporting tips only if, at the time of the first payment of wages (or within a short period thereafter) following the reporting of tips by the employee, the employee is furnished a statement suitable for retention by him showing the amount of tips reported by the employee for the period. This requirement may be met, for example, through the use of a payroll check stub or other payroll document regularly furnished by the employer to the employee showing gross pay, deductions, etc.

(c) *Period covered by, and due date of, tip statement*—(1) *In general.* In no event shall the written statement furnished by the employee to the employer in respect of tips received by him cover a period in excess of 1 calendar month. An employer may, in his discretion, require the submission of a written statement in respect of a specified period of time, for example, on a weekly or biweekly basis, regular payroll period, etc. An employer may specify, subject to the limitation in paragraph (a) of this section, the time within which, or the date on which, the statement for a specified period of time should be submitted by the employee. For example, a statement covering a payroll period may be required to be submitted on the first (or second) day following the close of such payroll period. However, a written statement submitted by an employee after the date specified by the employer for its submission shall be considered as a statement furnished pursuant to section 6053(a) and this section if it is submitted to the employer on or before the 10th day following the month in which the tips were received.

(2) *Termination of employment.* If an employee's employment is being terminated, a written statement in respect of tips shall be furnished by the employee to the employer at the time the employee ceases to perform services for the employer and prior to the final payment of wages by the employer to the employee.

§ 31.6053–2 Employer statement of uncollected employee tax.

(a) *Requirement that statement be furnished.* If—

(1) The amount of the employee tax imposed by section 3101 in respect of tips reported by an employee to his employer pursuant to section 6053(a) (see § 31.6053–1) exceeds

(2) The amount of employee tax imposed by section 3101 in respect of such tips which can be collected by the employer from wages (exclusive of tips) of such employee or from funds furnished to the employer by the employee,

the employer shall furnish to the employee a statement showing the amount of the excess. For provisions relating to the collection of, and liability for, employee tax on tips, see § 31.3102–3.

(b) *Form of statement.* Form W–2 is the form prescribed for use in furnishing the statement required by paragraph (a) of this section. A statement on Form W–2 is required under this section in respect of an excess referred to in paragraph (a) of this section, even though the employer may not be required to furnish a statement on Form W–2 to the employee under § 31.6051. Provisions applicable to the furnishing of a statement on Form W–2 under § 31.6051 shall be applicable to statements under this section.

(c) *Excess to be shown on statement.* If there is an excess in respect of the tips reported by an employee in two or more statements furnished pursuant to section 6053(a), only the total excess for the period covered by the statement on Form W–2 shall be shown on the Form W–2.

PAR. 29. Paragraph (a) of § 31.6071(a)–1 is amended by revising subparagraph (1) and by adding a new subparagraph (4). These revised and added provisions read as follows:

§ 31.6071(a)–1 Time for filing returns and other documents.

(a) *Federal Insurance Contributions Act and income tax withheld from wages*—(1) *Quarterly or annual returns.* Except as provided in subparagraph (4) of this paragraph, each return required to be made under § 31.6011(a)–1, in respect of the taxes imposed by the Federal Insurance Contributions Act, or required to be made under § 31.6011(a)–4, in respect of income tax withheld, shall be filed on or before the last day of the first calendar month following the period for which it is made. However, any such return may be filed on or before the 10th day of the second calendar month following such period if such return is accompanied by depositary receipts, Form 450, showing timely deposits in full payment of such taxes due for such period. For the purpose of the preceding sentence, a deposit which is not required to be made within such return period may be made on or before the last day of the first calendar month following the close of such period, and the timeliness of the deposit for any month will be determined by the earliest day stamped on the validated Form 450 by an authorized commercial bank or by a Federal Reserve bank.

* * * * *

(4) *Employee returns under Federal Insurance Contributions Act.* A return

of employee tax under section 3101 required under paragraph (d) of § 31.6011(a)–1 to be made by an individual for a calendar year on Form 1040 shall be filed on or before the due date of such individual's return of income (see § 31.6012–1 (Income Tax Regulations)) for the calendar year, or, if the individual makes his return of income on a fiscal year basis, on or before the due date of his return of income for the fiscal year beginning in the calendar year for which a return of employee tax is required. A return of employee tax under section 3101 required under paragraph (d) of § 31.6011(a)–1 to be made for a calendar year—

(i) On Form 1040SS or Form 1040PR, or

(ii) On Form 1040 by an individual who is not required to make a return of income for the calendar year or for a fiscal year beginning in such calendar year,

shall be filed on or before the 15th day of the fourth month following the close of the calendar year.

* * * * *

PAR. 30. The following sections are inserted immediately after § 31.6414–1:

§ 31.6652 Statutory provisions; failure to file certain information returns.

SEC. 6652. *Failure to file certain information returns.* * * *

(c) *Failure to report tips.* In the case of failure by an employee to report to his employer on the date and in the manner prescribed therefor any amount of tips required to be so reported by section 6053(a) which are wages (as defined in section 3121(a)), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be paid by the employee, in addition to the tax imposed by section 3101 with respect to the amount of tips which he so failed to report, an amount equal to 50 percent of such tax.

[Sec. 6652(c) as added by sec. 313(e)(3), Social Security Amendments, 1965 (79 Stat. 385)]

§ 31.6652(c)–1 Failure of employee to report tips for purposes of the Federal Insurance Contributions Act.

(a) *In general.* In the case of failure by an employee to furnish, pursuant to the provisions of section 6053(a), to his employer a report of tips received by him in the course of his employment, which constitute wages (as defined in section 3121(a)), there shall be paid by the employee, in addition to the tax imposed by section 3101 with respect to the amount of tips which he so failed to report, an amount equal to 50 percent of such tax. The additional amount imposed for such failure shall be paid in the same manner as tax upon notice and demand by the district director.

(b) *Reasonable cause.* Payment of an amount equal to 50 percent of the tax imposed by section 3101 with respect to the tips which the employee failed to report will not be required if it is established to the satisfaction of the district director or the director of the regional service center that such failure was due to reasonable cause and not due to willful neglect. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration that it is made under the penalties of perjury, setting forth all the facts alleged as a reasonable cause.

PAR. 31. Section 31.6674 is amended by revising section 6674 and by adding a historical note. The revised and added provisions read as follows:

§ 31.6674 Statutory provisions; fraudulent statement or failure to furnish statement to employee.

SEC. 6674. *Fraudulent statement or failure to furnish statement to employee.* In addition to the criminal penalty provided by section 7204, any person required under the provisions of section 6051 or 6053(b) to furnish a statement to an employee who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051 or 6053(b), or regulations prescribed thereunder, shall for each such failure be subject to a penalty under this subchapter of $50, which shall be assessed and collected in the same manner as the tax on employers imposed by section 3111.

[Sec. 6674 as amended by sec. 313(e)(2)(C), Social Security Amendments, 1965 (79 Stat. 385)]

PAR. 32. Section 31.6674–1 is amended to read as follows:

§ 31.6674–1 Penalties for fraudulent statement or failure to furnish statement.

Any person required to furnish a statement to an employee under the provisions of section 6051 or 6053(b) is subject to a civil penalty for willful failure to furnish such statement in the manner, at the time, and showing the information required under such section (or § 31.6051–1 or § 31.6053–2), or for willfully furnishing a false or fraudulent statement to an employee. The penalty for each such violation is $50, which shall be assessed and collected in the same manner as the tax imposed on employers under the Federal Insurance Contributions Act. See section 7204 for criminal penalty.

PAR. 33. Section 301.6652 is amended by revising subsection (b) of section 6652, by redesignating subsection (c) of section 6652 as subsection (d), by adding a new subsection (c) to section 6652, and by revising the historical note. These revised and added provisions read as follows:

§ 301.6652 Statutory provisions; failure to file certain information returns.

SEC. 6652. *Failure to file certain information returns.* * * *

(b) *Other returns.* In the case of each failure to file a statement of a payment to another person required under authority of section 6041 (relating to certain information at source), section 6042(a)(2) (relating to payments of dividends aggregating less than $10), section 6044(a)(2) (relating to payments of patronage dividends aggregating less than $10), section 6049(a)(2) (relating to payment of interest aggregating less than $10), section 6049(a)(3) (relating to other payments of interest by corporations), or section 6051(d) (relating to information returns with respect to income tax withheld), and in the case of each failure to furnish a statement required by section 6053(b) relating to statements furnished by employers with respect to tips), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing to so file the statement, $1 for each such statement not so filed, but the total amount imposed on the delinquent person for all such failures during the calendar year shall not exceed $1,000.

(c) *Failure to report tips.* In the case of failure by an employee to report to his employer on the date and in the manner prescribed therefor any amount of tips required to be so reported by section 6053(a) which are wages (as defined in section 3121(a)), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be paid by the employee in addition to the tax imposed by section 3101 with respect to the amount of tips which he so failed to report, an amount equal to 50 percent of such tax.

[Sec. 652 as amended by sec. 85, Technical Amendments Act, 1958 (72 Stat. 1664); sec. 19(d), Revenue Act, 1962 (76 Stat. 1057); sec. 313(e)(2)(B) and (3), Social Security Amendments, 1965 (79 Stat. 385)]

PAR. 34. Section 301.6652–1 is amended by revising paragraph (a)(2) and adding a new paragraph (f). These revised and added provisions read as follows:

§ 301.6652–1 Failure to file certain information returns.

(a) *Returns with respect to payments made in calendar years after 1962.* * * *

(2) *Other payments; statements with respect to tips.* In the case of each failure—

(i) To file a statement of a payment made after December 31, 1962, to another person required under authority of section 6041, relating to information returns with respect to certain information at source, or section 6051(d), relating to information returns with respect to payments of wages as defined in section 3401(a), or

(ii) To file a statement required under authority of section 6053(b), relating to statements furnished by employers with respect to tips, and the regulations under such section, within the time prescribed for filing such statement (determined with regard to any extension of time for filing),

there shall be paid by the person failing to so file the statement $1 for each such statement not so filed. However, the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $1,000.

* * * * *

(f) *Tips.* For regulations under section 6652(c) in respect of failure to report tips, see § 31.6652–1 of this chapter (Employment Tax Regulations).

PAR. 35. Section 301.6674 is amended by revising section 6674 and by adding a historical note. These revised and added provisions read as follows:

§ 301.6674 Statutory provisions; fraudulent statement or failure to furnish statement to employee.

SEC. 6674. *Fraudulent statement or failure to furnish statement to employee.* In addition to the criminal penalty provided by section 7204, any person required under the provisions of section 6051 or 6053(b) to furnish a statement to an employee who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051 or 6053(b), or regulations prescribed thereunder, shall for each such failure be subject to a penalty under this subchapter of $50, which shall be assessed and collected in the same manner as the tax on employers imposed by section 3111.

[Sec. 6674 as amended by sec. 313(e)(2)(C), Social Security Amendments, 1965 (79 Stat. 385)]

[F.R. Doc. 66-788; Filed, Jan. 24, 1966; 8:45 a.m.]

[26 CFR Part 48]

MANUFACTURERS AND RETAILERS EXCISE TAXES

Notice of Hearing on Proposed Regulations

The proposed amendment to the regulations under sections 4041 and 6421 of the Code, relating to diesel fuel, special motor fuels and gasoline sold for use or used in certain immobilized vehicles, was published in the FEDERAL REGISTER for November 30, 1965.

A public hearing on the provisions of this proposed amendment to the regulations will be held on Wednesday, February 9, 1966, at 10 a.m., e.s.t., in Room 2326, Internal Revenue Building, 12th and Constitution Avenue NW., Washington, D.C.

Persons who plan to attend the hearing are requested to notify the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C., 20224 by February 4, 1966. Telephone (Washington, D.C.) 964-3935.

[SEAL] MITCHELL ROGOVIN,
Chief Counsel.

By: JAMES F. DRING,
Acting Director,
Legislation and Regulations Division.

[F.R. Doc. 66-884; Filed, Jan. 24, 1966; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 970]

CARROTS GROWN IN SOUTH TEXAS

Expenses and Rate of Assessment

Consideration is being given to the approval of the expenses and rate of assessment for the fiscal period ending July 31, 1966, and the amended expenses for the fiscal period ended July 31, 1965. These proposals, hereinafter set forth, were recommended by the South Texas Carrot Committee, established pursuant to Marketing Agreement No. 142, and Order No. 970, both as amended (7 CFR Part 970), regulating the handling of carrots grown in designated counties in South Texas. This is a regulatory program issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same, in quadruplicate, with the Hearing Clerk, Room 112, U.S. Department of Agriculture, Washington, D.C., 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposals are as follows:

§ 970.205 Expenses amended.

The expenses for the fiscal period ended July 31, 1965, are hereby amended, pursuant to § 970.42(c) and recommendations of the committee, to approve an increase of $500.00, which will result in an approved total of $37,500.00 for such fiscal period. No change in the rate of assessment is necessary.

§ 970.206 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period August 1, 1965, through July 31, 1966, by the South Texas Carrot Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $36,000.00.

(b) The rate of assessment to be paid by each handler in accordance with the Marketing Agreement and this part shall be one-half cent ($0.005) per 50 pound sack of carrots, or the equivalent quantity thereof packed in other containers, handled by him as the first handler thereof during said fiscal period.

(c) Terms used in this section have the same meaning as when used in the said Marketing Agreement and this part.

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

Dated: January 19, 1966.

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

[F.R. Doc. 66-825; Filed, Jan. 24, 1966; 8:46 a.m.]

[7 CFR Parts 1003, 1016]

[Docket Nos. AO-293-A11, AO-312-A7]

MILK IN WASHINGTON, D.C., AND UPPER CHESAPEAKE BAY MARKETING AREAS

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in Conference Room No. 1, Sixth Floor, McCawley Building, 37 Commerce Street, Baltimore, Md., beginning at 10 a.m., e.s.t., on February 3, 1966, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Washington, D.C., and upper Chesapeake Bay marketing areas.

The public hearing is for the purpose of receiving evidence with respect to the economic and emergency marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Maryland Cooperative Milk Producers, Inc.:

Proposal No. 1. In § 1016.50(a), delete the words in the second proviso as follows: "That the Class I price during the period beginning with the effective date of this amendment through December 1963, shall be the average price determined pursuant to subparagraph (2) of this paragraph minus 7 cents:" and insert in place of the deleted proviso the following: "That the Class I price during each month of March, April, May and June of 1966 shall be the November 1965 Class I price minus 20 cents:".

Proposed by Maryland and Virginia Milk Producers' Association, Inc.:

Proposal No. 2. Amend § 1003.50 so that the price for March through June be set at the price provided under the Delaware Valley order for the same months.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 3. Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrator, Post Office Box 9245, Rosslyn Station, Arlington, Va., 22209; the Market Administrator, Post Office Box 6848, Towson Station, Baltimore, Md., 21204; or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C., 20250, or may be there inspected.

Signed at Washington, D.C., on January 20, 1966.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 66-840; Filed, Jan. 24, 1966; 8:48 a.m.]

[7 CFR Part 1013]

[Milk Order 13]

MILK IN SOUTHEASTERN FLORIDA MARKETING AREA

Termination of Proceedings To Suspend Certain Provision of Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), notice was issued by the Deputy Administrator, Regulatory Programs, on December 16, 1965, that suspension of a certain provision of the order regulating the handling of milk in the southeastern Florida marketing area was being considered.

The provision that was proposed to be suspended in § 1013.7 is "Provided, that after December 31, 1960, the definition 'producer' shall not mean any person who during the month produces milk on, in, or by the use of the same milking barns or premises from which milk is delivered to a nonpool plant except milk diverted to such nonpool plant by a handler pursuant to § 1013.13" and relates to the conditions for qualifying as a producer.

Interested persons were invited to submit to the Department not later than December 24, 1965, written data, views, or arguments in connection with the proposed suspension. On the basis of the views received from interested parties, it is determined that a suspension is not warranted at this time.

It is found and determined, therefore, that the proposed suspension of the aforesaid provision of the order relating to the conditions for qualifying as a producer should not be effectuated at this time; and the proceeding begun in this matter on December 16, 1965, is hereby terminated.

Signed at Washington, D.C., on January 20, 1966.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 66-841; Filed, Jan. 24, 1966; 8:48 a.m.]

Notices

FEDERAL POWER COMMISSION

[Docket Nos. G–6170, etc.]

SUPERIOR OIL CO. ET AL.

Findings and Order

JANUARY 17, 1966.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending certificates, permitting and approving abandonment of service, terminating certificates, substituting respondent, making successors corespondents, redesignating proceedings, accepting surety bond for filing, accepting agreements and understakings for filing, requiring filing of agreement and undertaking, and accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce, for permission and approval to abandon service, or a petition to amend an existing certificate authorization, all as more fully described in the respective applications and petitions (and any supplements or amendments thereto) which are on file with the Commission.

The Applicants herein have filed related FPC Gas Rate Schedules and propose to initiate or abandon, add or delete natural gas service in interstate commerce as indicated by the tabulation herein. All sales certificated herein are either equal to or below the ceiling prices established by the Commission's Statement of General Policy 61–1, as amended, or involve sales for which permanent certificates have been previously issued.

Apco Oil Corp., Applicant in Docket No. G–13369, proposes to continue the sale of natural gas heretofore authorized in said docket and made pursuant to Schermerhorn Oil Corp., et al., FPC Gas Rate Schedule No. 7. Said rate schedule will be redesignated as that of Apco. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI64–490. Apco has filed a motion to be substituted as respondent in said proceeding together with an agreement and undertaking to assure the refund of all amounts collected in excess of the amount determined to be just and reasonable in said proceeding. Accordingly, Apco will be substituted as respondent, the proceeding will be redesignated and the agreement and undertaking will be accepted for filing.

Massey and Smith, Applicants in Docket No. CI65–1297, propose to continue in part the sale of natural gas heretofore authorized in Docket No. G–18513 and made pursuant to Glenn F. Thomas and George W. Brewer, Jr., doing business as Thomas and Brewer (Operator), et al., FPC Gas Rate Schedule No. 1. The contract comprising said rate schedule will also be accepted for filing as Massey and Smith's rate schedule. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI63–43.[1] Applicants have submitted a surety bond to assure the refund of any amounts collected by them in excess of the amount determined to be just and reasonable in Docket No. RI63–43. Accordingly, Applicants will be made corespondents in the proceeding pending in Docket No. RI63–43, said proceeding will be redesignated and the surety bond will be accepted for filing.

W. J. Fellers (Operator), et al., Applicants in Docket No. CI66–366, propose to continue in part the sale of natural gas heretofore authorized in Docket No. G–5351 and made pursuant to Skelly Oil Co. FPC Gas Rate Schedule No. 28. The contract comprising said rate schedule will also be accepted for filing as Fellers' rate schedule. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI63–1.[1] Fellers, et al., have submitted an agreement and undertaking to assure the refund of any amounts collected by them in excess of the amount determined to be just and reasonable in Docket No. RI63–1. Accordingly, they will be made corespondents in said proceeding, the proceeding will be redesignated and the agreement and undertaking will be accepted for filing.

Cabot Corp. (SW) (Operator), Applicant in Docket No. CI66–441, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G–20224 and made pursuant to Shell Oil Co. FPC Gas Rate Schedule No. 224. The contract comprising said rate schedule will also be accepted for filing as Cabot's rate schedule. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI65–475. Accordingly, Cabot will be made a corespondent in said proceeding, the proceeding will be redesignated and Cabot will be required to file an agreement and undertaking.

After due notice, no petitions to intervene, notices of intervention, or protests to the granting of any of the respective applications or petitions in this order have been received.

At a hearing held on January 13, 1966, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the applications, amendments and exhibits thereto, submitted in support of the respective authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will therefore, be a "natural-gas company" within the meaning of said Act upon the commencement of the service under the respective authorizations granted hereinafter.

(2) The sales of natural gas hereinbefore described, as more fully described in the respective applications, amendments and/or supplements herein, will be made in interstate commerce, subject to the jurisdiction of the Commission, and such sales by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) The sales of natural gas by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefore should be issued as hereinafter ordered and conditioned.

(4) The respective Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificate heretofore issued to Socony Mobil Oil Co., Inc., et al., in Docket No. G–14223 should be amended to include the interest of Reuel W. Little, a signatory co-owner, and that the certificate heretofore issued to Little in Docket No. G–15041 should be terminated.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate authorizations heretofore issued by the Commission in Docket Nos. G–8524, G–8660, G–8735, G–13369, G–16139, G–17339, CI61–1385, CI63–1415, CI63–1440, CI64–189, CI64–976, CI64–1338, CI64–1355, CI64–1392, CI65–80, CI65–807, CI65–951, and CI65–1324 should be amended as hereinafter ordered and conditioned.

(7) It is necessary and appropriate in carrying out the provisions of the Nat-

[1] Consolidated with Docket No. AR64–1, et al.

ural Gas Act that the certificates issued in the following dockets should be amended to reflect the deletion of acreage where new certificates are issued herein or existing certificates are amended herein to authorize service from the subject acreage:

Amend to delete acreage	*New certificate and/or amendment to add acreage*
G–3146	CI65–807
G–5351	CI66–366
G–6170	CI65–807
G–6274	CI65–807
G–7168	CI64–189
G–8462	CI64–189
G–8816	CI64–189
G–8854	CI64–189
G–9160	CI64–189
G–10559	CI64–189
G–18513	CI65–1297
G–18719	CI66–395
G–20224	CI66–441
CI64–1142	CI66–377

(8) The sales of natural gas proposed to be abandoned by the respective Applicants, as hereinbefore described, all as more fully described in the tabulation herein and in the respective applications, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act, and such abandonments should be permitted and approved as hereinafter ordered.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates of public convenience and necessity heretofore issued to the respective Applicants herein relating to the abandonments hereinafter permitted and approved should be terminated.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Apco Oil Corp. should be substituted as respondent in the proceeding pending in Docket No. RI64–490, that said proceeding should be redesignated accordingly and that the agreement and undertaking submitted by Apco in said proceeding should be accepted for filing.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Massey and Smith should be made corespondents in the proceeding pending in Docket No. RI63–43, that said proceeding should be redesignated accordingly and that the surety bond submitted by Massey and Smith in said proceeding should be accepted for filing.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that W. J. Fellers (Operator), et al., should be made corespondents in the proceeding pending in Docket No. RI63–1, that said proceeding should be redesignated accordingly and that the agreement and undertaking submitted by them should be accepted for filing.

(13) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Cabot Corp. (SW) (Operator), et al., should be made a corespondent in the proceeding pending in Docket No. RI65–475, that said proceeding should be redesignated accordingly and that Cabot should be required to file an agreement and undertaking.

(14) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the respective related rate schedules and supplements as designated or redesignated in the tabulation herein should be accepted for filing as hereinafter ordered.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order, authorizing the sales by the respective Applicants herein of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary for such sales, all as hereinbefore described and as more fully described in the respective applications, amendments, supplements and exhibits in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's Regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against the respective Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the respective contracts, particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The grant of the certificates issued herein on all applications filed after April 15, 1965, is upon the condition that no increase in rate which would exceed the ceiling prescribed for the given area by paragraph (d) of the Commission's Statement of General Policy 61–1, as amended, shall be filed prior to the applicable dates, as indicated by footnotes 11 and 29 in the attached tabulation.

(E) Applicant in Docket No. CI66–398 is required to submit a statement of estimated sales and billing for the first month of service.

(F) A certificate is issued to Applicant in Docket No. CI66–408 authorizing the continuance of the related sale which was initiated without Commission authorization.

(G) The certificate heretofore issued to Socony Mobil Oil Co., Inc., et al., in Docket No. G–14223 is amended to include the interest of Reuel W. Little, a signatory co-owner, and the certificate issued to Little in Docket No. G–15041 is terminated.

(H) The certificates heretofore issued in Docket Nos. G–16139, G–17339, CI61–1385, CI63–1415, CI64–189, CI64–976, CI64–1338, CI64–1355, CI64–1392, CI65–80, CI65–807, CI65–951, and CI65–1324 are amended by adding thereto or deleting therefrom authorization to sell natural gas to the same purchasers and in the same areas as covered by the original authorizations, pursuant to the rate schedule supplements as indicated in the tabulation herein.

(I) The authorization granted in paragraph (H) above in Docket No. G–16139 is without prejudice to any action which the Commission may take in any subsequent proceeding involving either Applicant or its affiliated purchaser.

(J) The certificates heretofore issued in the following dockets are amended to reflect the deletion of acreage where new certificates are issued herein or existing certificates are amended herein to authorize service from the subject acreage:

Amend to delete acreage	*New certificate and/or amendment to add acreage*
G–3146	CI65–807
G–5351	CI66–366
G–6170	CI65–807
G–6274	CI65–807
G–7168	CI64–189
G–8462	CI64–189
G–8816	CI64–189
G–8854	CI64–189
G–9160	CI64–189
G–10559	CI64–189
G–18513	CI65–1297
G–18719	CI66–395
G–20224	CI66–441
CI64–1142	CI66–377

(K) The sales of natural gas authorized to James W. Harris (Operator), et al., in Docket No. CI65–807, acquired from Tidewater Oil Co. and the Superior Oil Co. in Docket Nos. G–6274 and G–6170, respectively, are subject to the rate suspension proceedings in Docket Nos. RI64–762 and G–14106, respectively.

(L) The certificates heretofore issued in Docket Nos. G–8524, G–8660, G–8735, G–13369, and CI63–1440 are amended by changing the certificate holders to the respective successors in interest as indicated in the tabulation herein.

(M) Permission for and approval of the abandonment of service by the respective Applicants, as hereinbefore described and as more fully described in the respective applications herein are granted.

(N) The certificates heretofore issued in Docket Nos. G–7533, G–8907, G–11237, G–11986, CI63–105, CI63–1176, CI63–1507, and CI64–1553 are terminated.

(O) Apco Oil Corp. is substituted in lieu of Schermerhorn Oil Corp., et al., as respondent in the proceeding pending in Docket No. RI64–490, said proceeding is

redesignated accordingly,[2] and the agreement and undertaking submitted by Apco in said proceeding is accepted for filing.

(P) Apco Oil Corp. shall comply with the refunding and reporting procedure required by the Natural Gas Act and section 154.102 of the regulations thereunder, and the agreement and undertaking filed by Apco in Docket No. RI64–490 shall remain in full force and effect until discharged by the Commission.

(Q) Massey and Smith are made corespondents in the proceeding pending in Docket No. RI63–43, said proceeding is redesignated accordingly [3] and the surety bond submitted by Massey and Smith in said proceeding is accepted for filing.

(R) Massey and Smith shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the surety bond submitted by them in Docket No. RI63–43 shall remain in full force and effect until discharged by the Commission.

(S) W. J. Fellers (Operator), et al., are made corespondents in the proceeding pending in Docket No. RI63–1, said proceeding is redesignated accordingly [4] and the agreement and undertaking submitted by them is accepted for filing.

(T) W. J. Fellers (Operator), et al., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreement and undertaking filed by them in Docket No. RI63–1 shall remain in full force and effect until discharged by the Commission.

(U) Cabot Corp. (SW) (Operator), et al., is made a corespondent in the proceeding pending in Docket No. RI65–475 and said proceeding is redesignated accordingly.[5]

(V) Within 30 days from the issuance of this order Cabot Corp. (SW) (Operator), et al., shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI65–475 to assure the refund of any amounts, together with interest at the rate of 7 percent per annum, collected by it for sales of gas from acreage acquired from Shell Oil Co. as authorized in Docket No. CI66–441, in excess of the amount determined to be just and reasonable in Docket No. RI65–475. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement shall be deemed to have been accepted for filing.

(W) Cabot Corp. (SW) (Operator), et al., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreement and undertaking filed by Cabot in Docket No. RI65–475 shall remain in full force and effect until discharged by the Commission.

(X) The respective related rate schedules and supplements as indicated in the tabulation herein are accepted for filing; further, the rate schedules relating to the successions herein are redesignated and accepted, subject to the applicable Commission Regulations under the Natural Gas Act to be effective on the dates as indicated in the tabulation herein.

By the Commission.

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

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
G–6170 D 11–22–65	The Superior Oil Co. (Operator), et al.	Southern Natural Gas Co., Gwinville Field, Jefferson Davis County, Miss.	Assignment 4–12–65 [1]	11	8
			Effective date: 4–12–65		
G–8524 E 11–12–65	Charles K. Williams (successor to J. F. Pritchard).	Mississippi River Fuel Corp., Ruston Field, Lincoln Parish, La.	J. F. Pritchard, FPC GRS No. 1.	1	
			Supplement Nos. 1–5	1	1–5
			Notice of succession (undated).		
			Assignment 7–27–65 [2]	1	6
			Effective date: 8–1–65		
G–8660 E 11–26–65	The Texstar Corp. (successor to Gulf Coast Leaseholds, Inc.).	Texas Eastern Transmission Corp, Clayton Field, Live Oak County, Tex.	Gulf Coast Leaseholds, Inc., FPC GRS No. 1.	5	
			Supplement Nos. 1–4	5	1–4
			Corporate Amendment 9–4–64 [3]	5	5
			Assignment 4–15–65 [4]	5	6
			Effective date: 4–1–65		
G–8735 E 11–5–65	Harry R. Cronin, Jr., et al., d.b.a. HRC Gas & Oil Associates (successor to the Manufacturers Light & Heat Co.).	Consolidated Gas Supply Corp., Proctor and Center Districts, Wetzel County, W. Va.	The Manufacturers Light & Heat Co., FPC GRS No. 1.	2	
			Notice of succession 11–3–65.		
			Assignment 9–1–65	2	1
			Effective date: 9–15–65		
G–13369 E 6–30–65	Apco Oil Corp. (successor to Schermerhorn Oil Corp., et al.).	El Paso Natural Gas Co., South Blanco-Pictured Cliffs Field, San Juan County, N. Mex.	Schermerhorn Oil Corp., et al., FPC GRS No. 7.	11	
			Supplement Nos. 1–2	11	1–2
			Notice of succession (undated).		
			Assignment 7–1–65 [5]	11	3
			Effective date: 7–1–65		
G–14223 (G–15041) 9–30–65 [6]	Socony Mobil Oil Co., Inc., et al.	Colorado Interstate Gas Co., Keyes Field, Cimarron County, Okla.	(7)	140	
G–16139 D 12–1–65	Gulf Oil Corp.	Transwestern Pipeline Co., Como Area, Ochiltree County, Tex.	Letter Agreement 9–23–65.[7] [8]	195	26
G–17339 D 11–18–65	The California Co., a division of Chevron Oil Co. (partial abandonment).	Consolidated Gas Supply Corp., South Bosco Field, Acadia and Lafayette Parishes, La.	Notice of Partial cancellation 11–15–65.[9]	14	7
CI61–1385 D 11–22–65	Sunray DX Oil Co. (partial abandonment).	Cities Service Gas Co., Dower Field, Barber County, Kans.	Notice of cancellation 11–16–65.[9] [10]	217	6
CI63–1415 C 11–23–65 [11]	Tenneco Oil Co.	Northern Natural Gas Co., Kiowa Creek Field, Lipscomb County, Tex.	Amendment 6–11–64 [12]	189	2
			Amendatory agreement 3–31–65.[13] [14]	189	3
CI63–1440 E 10–7–65	Quaker State Oil Refining Corp. (successor to Devonian Gas & Oil Co).	Equitable Gas Co., Birch District, Braxton County, W. Va.	Devonian Gas & Oil Co., FPC GRS No. 10.	13	
			Notice of succession (undated).		
			Assignment 8–19–65	13	1
			Effective date: 8–19–65		
CI64–189 C 11–15–65 F 11–15–65 (G–8462) (G–9160) (G–8854) (G–8816) (G–7168) (G–10559)	Robert A. Lee & Hilton L. Ladner (Operator), et al.	United Gas Pipe Line Co., Maxie-Pistol Ridge Field, Pearl River County, Miss.	Assignment 3–12–65 [15]	1	5
			Lease agreement 10–1–64. [16]	1	6
			Assignment 3–12–65 [17]	1	7
			Assignment 3–8–65 [18]	1	8
			Assignment 7–21–64 [19]	1	9
			Assignment 3–6–65 [20]	1	10
			Assignment 10–27–64 [21]	1	11
			Assignment 3–6–65 [22]	1	12
			Assignment 9–1–64 [23]	1	13
			Assignment 3–6–65[24]	1	14
			Assignment 2–15–65 [25]	1	15
			Amendment 9–27–65 [14] [26]	1	16
CI64–976 D 11–22–65	Texaco Inc. (Operator), et al.	Kansas-Nebraska Natural Gas Co., Inc., Bradshaw Gas Area, Hamilton County, Kans.	Amendment 11–8–65 [9] [27]	327	4
CI64–1338 D 11–8–65	Humble Oil & Refining Co.	Natural Gas Pipeline Co. of America, Crane Field, Custer County, Okla.	Assignment 9–8–65 [28]	351	3
			Effective date: 9–8–65		

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[2] Apco Oil Corp.

[3] Glenn F. Thomas, et al., doing business as Thomas and Brewer (Operator), et al., and Massey and Smith.

[4] Skelly Oil Co. and W. J. Fellers (Operator), et al.

[5] Shell Oil Co. and Cabot Corp. (SW) (Operator), et al.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI64-1355 C 11-17-65 [11]	Hays & Co., agent for D. A. Dorward, et al.	Consolidated Gas Supply Corp., Glenville District, Gilmer County, W. Va.	Letter agreement 5-10-65.[14]	202	2
CI64-1392 C 11-19-65 [29]	Monsanto Co. (Operator), et al.	Lone Star Gas Co., North Dibble and Southeast Boyle Areas, McClain County, Okla.	Amendatory agreement 11-10-65.[14]	78	4
CI65-80 C 11-29-65.[11]	J. C. Baker & Son, Inc.	Consolidated Gas Supply Corp., Salt Lick District, Braxton County, W. Va.	Letter agreement 4-28-65.[14]	1	1
CI65-807 C 9-22-65 (G-6274) [30] (G-6170) [31] (G-3146) [32]	James W. Harris (Operator), et al.	Southern Natural Gas Co., Gwinville Field, Jefferson Davis County, Miss.	Assignment 12-30-64 [30] Assignment 4-12-65 [31] Assignment 3-10-65 [32]	2 3 4	7 4 6
CI65-951 C 11-17-65 [11]	Trojan Coal & Petroleum Corp.	Consolidated Gas Supply Corp., Troy District, Gilmer County, W. Va.	Letter agreement 5-17-65.[14]	4	1
A CI65-1297 (G-18513) F 6-1-65 C 7-12-65	Massey and Smith (successor to Glenn F. Thomas and George W. Brewer, Jr., d.b.a. Thomas and Brewer (Operator), et al.).	Colorado Interstate Gas Co., Adams Ranch Field, Meade County, Kans.	Contract 3-6-59 [33] Assignment 5-15-65 [34] Assignment 7-1-65 [34] Amendment 10-7-65 [35] Effective date: 6-1-65	1 1 1 1	 1 2 3
CI65-1324 C 11-12-65 [11]	A. M. van Flick	Equitable Gas Co., Collins Settlement, Court House and Glenville Districts, W. Va.	Letter agreement 8-31-65. Supplemental agreement 9-22-65. Letter agreement 10-5-65.[14]	4 4 4	2 3 4
CI66-256 (G-11237) B 9-20-65	Banquete Gas Co., Inc.[36]	Transcontinental Gas Pipe Line Corp., South Clara Driscoll Field, Nueces County, Tex.	Notice of cancellation 11-30-65.[9 10]	1	1
CI66-350 A 10-28-65 [29]	Cities Service Oil Co.	Gas Gathering Corp., Bayou Henry Field Area, Iberville Parish, La.	Contract 10-12-65 [14]	206	
CI66-354 A 10-29-65	Peabody Coal Co.	Texas Gas Transmission Corp. Midland Field, Muhlenberg County, Ky.	Contract 8-12-65 [14]	1	
A CI66-366 (G-5351) F 11-4-65	W. J. Fellers (Operator), et al. (successor to Skelly Oil Co.).	Phillips Petroleum Co., Hugoton Field, Sherman County, Tex.	Contract 12-5-45 [37] Supplemental agreement 3-10-50. Contract (undated) Letter agreement 3-20-50. Letter agreement 6-15-60. Letter 10-8-53 Supplemental agreement 11-5-54. Farmout 6-21-65 [38] Assignment 10-12-65 [39]	3 3 3 3 3 3 3 3	 1 2 3 4 5 6 7 8
CI66-367 A 10-28-65	Margaret J. Wells, et al.	Kentucky West Virginia Gas Co., Joes Creek, Pike County, Ky.	Contract 10-6-50 [40] Assignment 1-51 [41 42]	2 2	 1
CI66-368 A 10-28-65	do	Kentucky West Virginia Gas Co., Johns Creek, Pike County, Ky.	Contract 12-28-50 [40] Assignment 10-20-51 [41 43]	3 3	 1
CI66-369 A 10-28-65	do	Kentucky West Virginia Gas Co., Shelby Creek and Burk Branch, Pike County, Ky.	Contract 9-15-51 [40] Supplemental agreement 1-25-52.[43] Assignment 1-52 [41] Assignment 12-30-52 [41 43]	4 4 4 4	 1 2 3
A CI66-377 (CI64-1142) F 11-5-65	Wind River Drilling Co., (Operator), et al. (successor to American Metal Climax, Inc., (Operator), et al.).	Kansas-Nebraska Natural Gas Co., Inc., North Shawnee-Flat Top Field, Converse County, Wyo.	Contract 3-10-64 [44] Assignment 9-15-65 [45] Assignment 9-15-65 [46] Assignment 10-25-65 [47] Assignment 10-25-65 [48] Designation 10-25-65 [49] Effective date: 9-15-65	1 1 1 1 1 1	 1 2 3 4 5
CI66-389 A 11-12-65 [11]	Fair Oil Co. (Operator), et al.	Texas Eastern Transmission Corp., Green Fox Field, Marion County, Tex.	Contract 10-1-65	2	
A CI66-395 (G-18719) F 11-9-65	H. K. Keesee (successor to M. J. Florance Trust).	El Paso Natural Gas Co., acreage in Sandoval County, N. Mex.	Contract 10-15-57 [50] Assignment 4-28-65 [51] Effective date: 4-1-65	1 1	 1
CI66-398 A 11-15-65 [11]	Oil Development Co., of Texas.	Panhandle Eastern Pipe Line Co., acreage in Ochiltree County, Tex.	Contract 10-13-65 [14]	6	
CI66-402 A 11-15-65 [29]	Pan American Petroleum Corp.	Cities Service Gas Co., Watonga Field, Woodward County, Okla.	Contract 10-14-65 [14]	427	
CI66-404 A 11-15-65	Ashland Oil & Refining Co.	Texas Gas Transmission Corp., acreage in Muhlenberg County, Ky.	Contract 10-18-65 [14]	175	
CI66-407 (G-7533) B 11-15-65	Pan American Petroleum Corp.	Michigan Wisconsin Pipe Line Co., Adams Ranch Field, Meade County, Kans.	Notice of cancellation 11-10-65.[9 10]	119	2
CI66-408 A 11-10-65 [11 52]	Marathon Oil Co.	El Paso Natural Gas Co., Argo No. 1 Well, San Juan Area, San Juan County, N. Mex.	Contract 10-21-59 Letter Agreement 7-5-60.[53] Effecti ve Date: January 1960.	96 96	 1
CI66-409 (CI63-1176) B 11-15-65	Shannon Oil Co. (Operator), et al.	Kansas-Nebraska Natural Gas Co., Inc., Mount Rogers Unit Area, Fremont County, Wyo.	Notice of cancellation 11-15-65.[9 10]	3	1
CI66-411 (CI63-105) B 11-12-65	Texam Oil Corp. (Operator), et al.	Coastal States Gas Producing Co., Tiger Field, Duval County, Tex.	Notice of cancellation (undated).[9 10]	3	
CI66-414 (CI63-1507) B 11-17-65	V-T Drilling Co. (successor to Prime Petroleum Co., et al.).	Consolidated Gas Supply Corp., Freemans Creek District, Lewis County, W. Va.	Assignment 8-6-64 [54] Notice of cancellation 11-16-65.[8 9]	3 3	1 2
CI66-415 A 11-18-65 [29]	Occidental Petroleum Corp.	Trunkline Gas Co., Mulvey Field, Vermilion Parish, La.	Contract 10-13-65	9	
CI66-417 A 11-5-65 [29]	Wood Oil Co.	Cities Service Gas Co., Eureka Field, Grant County, Okla.	Contract 3-28-57 [55] Contract 3-20-56 [14 56]	3 3	 1
CI66-426 A 11-22-65 [29]	Shell Oil Co.	Arkansas Louisiana Gas Co., Red Oak Field, Le Flore County, Okla.	Contract 10-13-65 Contract 3-15-62 Amendment 3-6-63 [14]	324 324 324	 1 2
CI66-431 (G-8907) B 11-22-65	Sunray DX Oil Co.	United Gas Pipe Line Co., North Charco Field, Goliad County, Tex.	Notice of cancellation 11-16-65.[9 10]	79	10
CI66-433 A 11-22-65	Robert Thorsen, et al.	Lake Shore Pipe Line Co., Bushnell (Pennsylvania) Field, Erie County, Pa.	Contract 8-31-65 [14]	1	
CI66-437 A 11-26-65 [11]	E. K. Edmiston	Cities Service Gas Co., acreage in Barber County, Kans.	Contract 10-29-65 [14]	5	

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
A CI66-441 (G-20224) F 11-26-65	Cabot Corp. (SW) (Operator), et al. (successor to Shell Oil Co.).	Natural Gas Pipeline Co. of America, acreage in Texas County, Okla.	Contract 3-27-59 [57]	80	
			Assignment 11-15-65 [1 58]	80	1
			Assignment 1-21-65 [58]	80	2
			Assignment 4-22-65 [58 59]	80	3
			Assignment 4-22-65 [58 60]	80	4
			Assignment 7-22-65 [58]	80	5
			Assignment 9-23-65 [61]	80	6
			Assignment 10-14-65 [62]	80	7
			Assignment 11-9-65 [14 62]	80	8
CI66-444 (G-11986) B 11-22-65	Socony Mobil Oil Co., Inc.	Arkansas Louisiana Gas Co., Rodessa Field, Marion County, Tex.	Notice of cancellation 11-19-65.[9 10]	44	4
CI66-445 (CI64-1553) B 11-22-65	do	Transcontinental Gas Pipe Line Corp., West Leleux Field, Acadia Parish, La.	Notice of cancellation 11-19-65.[9 10]	357	1
CI66-448 A 11-30-65 [11]	W. H. Hildreth, et al. d.b.a. W. A. Smith Lease.	United Fuel Gas Co., Union District, Clay County, W. Va.	Contract 8-4-65 [14]	6	

[1] Assigns interest to James W. Harris (Docket No. CI65-807) in certain acreage insofar as it pertains to the Paluxy Formation encountered between 10,610 to 12,620 feet.
[2] Conveys acreage from J. F. Pritchard to Charles K. Williams.
[3] Change of corporate name from Gulf Coast Leaseholds, Inc., to Coronet Petroleum Corp. by resolution of the Board of Directors on Aug. 11, 1964.
[4] Assignment from Coronet Petroleum Corp. to the Texstar Corp.
[5] From Schermerhorn to Apco. Apco also acquired the interest of Kenwood Oil Co. who was a signatory co-owner.
[6] Applicant requests that its certificate be amended to include the interest of Reuel W. Little, a signatory co-owner. Such interest was previously covered by Little's certificate in Docket No. G-15041 (FPC GRS No. 1); therefore, Docket No. G-15041 will be terminated.
[7] Deletes casinghead gas only.
[8] Production of gas no longer economically feasible.
[9] Effective date: Date of this order.
[10] Source of gas depleted.
[11] Jan. 1, 1968, moratorium date pursuant to Commission's Statement of General Policy 61-1, as amended.
[12] Adds casinghead gas acreage.
[13] Supp. No. 3 deletes a portion of the casinghead gas acreage added in Supp. No. 2 (net increase is 20 acres).
[14] Effective date: Date of initial delivery.
[15] Assignment of interest to Ladner from G. D. Hunt and Bonnie C. Whitaker involves a portion of the interests previously dedicated to George D. Hunt, et al., FPC GRS No. 1 (Docket No. G-8462).
[16] Lease obtained by Ladner from George D. Hunt.
[17] Assignment of interests to Ladner from George D. Hunt which represents a portion of the interests previously dedicated to George D. Hunt, et al., FPC GRS No. 1 (Docket No. G-8462).
[18] Assignment of interests to Ladner from J. C. Vaughn, Jr. This interest is a portion of the interests previously dedicated to J. C. Vaughn, Jr., FPC GRS No. 1 (Docket No. G-9162).
[19] Assignment of interest to Ladner and James H. Stewart, Jr., which is a portion of the interests previously dedicated to C. R. and W. B. Ridgway, FPC GRS No. 1 (Docket No. G-8854).
[20] Assignment of James H. Stewart, Jr.'s, interest in the July 21, 1964 assignment (Supp. No. 9) to Ladner.
[21] Assignment of interest to James H. Stewart, Jr., from Humble Oil & Refining Co. Such interest being a portion of the total interest dedicated to Humble's FPC GRS No. 110 (Docket No. G-8816).
[22] Assignment of interest from James H. Stewart, Jr., to Ladner which represents the interest Stewart acquired from Humble Oil & Refining Co. (Supp. No. 11).
[23] Assignment of a portion of Gulf Oil Corp.'s interest to Ladner, Stewart, and Charles F. Passel, previously dedicated under Gulf's FPC GRS No. 77 (Docket No. G-7168).
[24] Assignment of Stewart's and Charles F. Passel's interests to Ladner. Such interests acquired from Gulf (Supp. No. 13).
[25] Assignment of a portion of David Crow's interest to Ladner. Said interest being a part of that dedicated to James D. Madole, et al., FPC GRS No. 1 (Docket No. G-10559).
[26] Agreement whereby the farmout acreage acquired by the above instruments (Supp. Nos. 5-15) is dedicated to the basic contract. These related assignments cover interests from previously nonproductive acreage dedicated to various producers FPC Gas Rate Schedules.
[27] Deletes 1,120 acres as pertains to all formations above the base of the Chase Group. Acreage is nonproductive, leases have expired and have been released.
[28] Conveys acreage from Humble to W. C. Pickens (by letter dated Dec. 7, 1965, Pickens informed staff that an oil well was drilled on the subject property and that no gas sales are contemplated).
[30] Assigns Tidewater Oil Co.'s interest in production below the Paluxy Formation (encountered at 10,681) but not below 14,247 (Docket No. G-6274).
[31] Assigns The Superior Oil Co.'s interest in production from Paluxy Formation (between depths of 10,610 and 12,620 feet) (Docket No. G-6170).
[32] Assigns Sinclair Oil & Gas Co.'s interest in production from Paluxy Formation (between depths of 10,600 and 12,700 feet) (Docket No. G-3146).
[33] Also on file as Glenn F. Thomas and George W. Brewer, Jr., doing business as Thomas and Brewer (Operator), et al., FPC GRS No. 1.
[34] Conveys to Applicant a part of the properties dedicated to Glenn F. Thomas and George W. Brewer, Jr. (Operator), et al., FPC GRS No. 1 as authorized in Docket No. G-18513.
[35] Provides for measurement of B.t.u. content of gas on a wet basis.
[36] Filing completed by Landa Oil Co., successor to Texas Gas Producing Co., who initially filed the application to abandon. Texas Gas Producing Co. previously acquired all the interest of Banquete Gas Co., Inc.
[37] Between Skelly Oil Co. and Phillips; on file as Skelly Oil Co., FPC GRS No. 28.
[38] From Skelly to Amarillo Natural Gas Co. which is covered by Applicant's filing.
[39] From Amarillo Natural Gas Co. to Applicant conveying ½₂ interest in acreage Amarillo received from Skelly.
[40] Contract between Oliver Jenkins and Kentucky West Virginia Gas Co.; Oliver Jenkins never made filings or received authorization to make the sale.
[41] Transfer of acreage from Oliver Jenkins to Margaret J. Wells, et al.
[42] Effective date: Date of transfer of properties.
[43] Additional acreage dedication.
[44] Contract between American Metal Climax, Inc., and Kansas-Nebraska; on file as American Metal Climax, Inc. (Operator), et al., FPC GRS No. 6.
[45] From American to G. R. Veronda of partial interest in U.S. Oil and Gas Lease Cheyenne 079360.
[46] From American to G. R. Veronda of partial interest in U.S. Oil and Gas Lease Cheyenne 081428.
[47] From G. R. Veronda to Wind River Drilling Co. of 75 percent of its interest in U.S. Oil and Gas Lease Cheyenne 079360.
[48] From G. R. Veronda to Wind River Drilling Co. of 75 percent of its interest in U.S. Oil and Gas Lease Cheyenne 081428.
[49] By G. R. Veronda, nonoperator co-owner, of Wind River Drilling Co. as operator of its 25 percent interest in both leases.
[50] Between M. J. Florance and El Paso Natural Gas Co. (M. J. Florance, Trust, FPC GRS No. 3).
[51] Assignment of interest in acreage to H. K. Kessee.
[52] Application for authorization to continue a sale erroneously believed to have been authorized by co-owner's certificate issued in Docket No. G-19798.
[53] Provides period of measurement of gasoline content at 6-month instead of 3-month intervals.
[54] Transfer of interest from Prime Petroleum Co., et al., to V-T Drilling Co.
[55] Adopts basic contract dated Mar. 20, 1956, between Viersen & Cochran and Cities Service Gas Co.
[56] Basic contract between Viersen & Cochran and Cities Service.
[57] On file as Shell Oil Co., FPC GRS No. 224.
[58] Conveys acreage from Shell Oil Co. to D. D. Harrington and Stanley Marsh, Jr.
[59] Applies to Sec. 26, T. 5 N., R. 16 E., Texas County, Okla.
[60] Applies to various acreage in Texsa County, Okla.
[61] Between Cabot and Marsh, provides for assignments of acreage by Marsh to Cabot at such time as Cabot will drill a well on the acreage.
[62] Conveys acreage from Stanley Marsh, Jr., to Cabot Corp.

[F.R. Doc. 66-758; Filed, Jan. 24, 1966; 8:45 a.m.]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

STATEMENT OF ORGANIZATION

Lists of Ports of Entry

Effective upon publication in the FEDERAL REGISTER, the following amendments to subparagraph (2) *Ports of entry for aliens arriving by vessel or by land transportation* of paragraph (c) *Suboffices* of sec. 1.51 *Field Service* of the Statement of Organization of the Immigration and Naturalization Service (19 F.R. 8071, December 8, 1954), as amended, are prescribed:

1. The list of Class A ports of entry in District No. 6—Miami, Fla., is amended by deleting "Apalachicola, Fla."

2. The list of Class C ports of entry in District No. 6—Miami, Fla., is amended by deleting "Carrabelle, Fla."

3. The list of Class A ports of entry in District 12—Seattle, Wash., is amended by deleting "*Northport, Wash." and by adding "*Frontier, Wash." and "*Boundary, Wash." in alphabetical sequence.

Dated: January 20, 1966.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 66-827; Filed, Jan. 24, 1966; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. S-340]

PAUL C. SMITH

Notice of Loan Application

Paul C. Smith, 540 South East 4th Street, Newport, Oreg., 97365, has applied for a loan from the Fisheries Loan Fund to aid in financing the construction of a new 50-foot steel vessel to engage in the fishery for salmon, crab, shrimp, and tuna.

Notice is hereby given pursuant to the provisions of Public Law 89–85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised August 11, 1965) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C., 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic injury or hardship.

DONALD L. MCKERNAN,
Director,
Bureau of Commercial Fisheries.

JANUARY 20, 1966.

[F.R. Doc. 66–831; Filed, Jan. 24, 1966; 8:47 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

REGIONAL COMMISSIONERS OF CUSTOMS AND DISTRICT DIRECTORS OF CUSTOMS

Notice of Distribution of Functions

There is published below notice of changes made in Bureau of Customs Circular (MAN–9–CC) relating to the distribution of functions delegated to Regional Commissioners of Customs and District Directors of Customs, which was published in the FEDERAL REGISTER on October 29, 1965 (30 F.R. 13790).

Dated: January 19, 1966.

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

[Notice: MAN–9–CC]

DECEMBER 30, 1965.

To: Regional Commissioners and other Principal Customs Field Officers.

Subject: Management; Amendment of distribution of functions of region, district and port officers.

References: Circular: MAN–9–CC, dated October 26, 1965.

1. *Purpose.*—To make changes in the referenced circular.

2. *Background.*—It was stated in Circular: MAN–9–CC, October 26, 1965, that, although regional commissioners of customs and district directors of customs have legal authority to perform any functions heretofore vested in collectors of customs and appraisers of merchandise, it was deemed advisable that, until further notice, the functions be distributed as set forth in that circular. Upon further consideration, the Bureau now deems it advisable that some of the liquidation functions directed by Circular: MAN–9–CC to be performed at the district headquarters level should be perfomed at the regional level, and that decisions on petitions for remission or mitigation of penalties or forfeitures, directed by that circular to be made at the regional level, should be made at the district headquarters level.

3. *Action.*—Amend paragraph A(1) of Circular: MAN–9–CC dated October 26, 1965, to read as follows:

A. *Functions to be performed at the regional level.* (1) Liquidation of the following types of entries: (a) Complex change entries; (b) quantity change entries (including $3 or more, in duty or tax); (c) drawback entries; (d) warehouse entries; (e) vessel repair entries; (f) bonded wool entries; and (g) such other entries as may be directed by the Bureau or regional headquarters;

Delete paragraph A(4) and renumber the succeeding subparagraphs accordingly.

Amend paragraph B(12) to read as follows:

B. *Functions to be performed at the customs district headquarters level.* (12) Liquidation of entries, except the types listed in paragraph A(1);

Delete "and" at the end of paragraph B(12), change the period at the end of paragraph B(13) to a semicolon, add the word "and" and add a new paragraph B(14) reading as follows:

(14) Decisions on all petitions for remission or mitigation of penalties or forfeitures, within the limits of the district director's delegated authority under Customs Delegation Order No. 22.

4. *Effective date.*—This notice shall be effective upon receipt.

5. *Expiration date.*—Upon completion of the required action or for record purposes on June 30, 1966.

File: CC 191.8 C.

LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 66–834; Filed, Jan. 24, 1966; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

PUERTO RICO; 1966–67 CROP PROPORTIONATE SHARES

Notice of Hearing

Notice is hereby given that the Secretary of Agriculture, acting pursuant to the Sugar Act of 1948, as amended, is preparing to conduct a public hearing to receive views and recommendations from all interested persons on the possible need for establishing proportionate shares for the 1966–67 sugarcane crop in Puerto Rico.

In accordance with the provisions of paragraph (1), subsection (b) of section 302 of the Sugar Act of 1948, as amended, the Secretary must determine for each crop year whether the production of sugar from any crop of sugarcane in Puerto Rico will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

The hearing on this matter will be conducted in Room 2W, Administration Building, U.S. Department of Agriculture, Washington, D.C., beginning at 2 p.m., on February 4, 1966.

Views and recommendations are desired on all phases of the proportionate share program. They may be submitted in writing, in triplicate, at the hearing, or may be mailed to the Director, Sugar Policy Staff, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C., 20250, postmarked not later than February 18, 1966. Interested persons will be given the opportunity at the hearing to appear and submit orally data, views, and arguments in regard to the establishment of proportionate shares.

Restrictions on the marketing of sugarcane in Puerto Rico have not been in effect since the 1955–56 crop. The area has not marketed all of its mainland basic sugar quota in recent years. Prospects for the 1965–66 crop, the harvest of which is now starting, indicate that production will again fall short of the area's mainland basic quota.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on January 19, 1966.

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

[F.R. Doc. 66–821; Filed, Jan. 24, 1966; 8:46 a.m.]

Office of the Secretary

MINNESOTA, MONTANA, AND NORTH DAKOTA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Minnesota, Montana, and North Dakota natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

MINNESOTA

Beltrami.	Kittson.
Yellow Medicine.	

MONTANA

Carter.	Glacier.
Custer.	Powder River.
Dawson.	Prairie.
Fallon.	Rosebud.
Flathead.	Wibaux.

NORTH DAKOTA

Cass.	Oliver.
Mercer.	Traill.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1966, except to applicant who previously received emergency or special livestock loan assistance and who can qualify

under established policies and procedures.

Done at Washington, D.C., this 19th day of January 1966.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 66-826; Filed, Jan. 24, 1966; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Bureau of the Census

DETERMINATION OF THE DIRECTOR REGARDING VOTING RIGHTS

In accordance with section 4(b)(2) of the Voting Rights Act of 1965 (Public Law 89-110) and the determination of the Attorney General made pursuant to section 4(b)(1) of that Act, published in the August 7, 1965, issue of the FEDERAL REGISTER (30 F.R. 9897), I have determined that in the following political subdivision considered as a separate unit less than 50 per centum of the persons of voting age residing therein voted in the presidential election of November 1964:

Yuma County, Ariz.

This determination supplements my determinations published in the FEDERAL REGISTER on August 7, 1965 (30 F.R. 9897), November 19, 1965 (30 F.R. 14505), and January 4, 1966 (31 F.R. 19).

Current studies of other political subdivisions will be completed as soon as the relevant data are obtained and in accordance with the Voting Rights Act of 1965. I will make additional determinations for such political subdivisions in which less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or in which less than 50 per centum of such persons voted in the presidential election of November 1964.

Dated: January 21, 1966.

A. ROSS ECKLER,
Director,
Bureau of the Census.

[F.R. Doc. 66-885; Filed, Jan. 24, 1966; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 16879; Order E-23131]

EASTERN AIR LINES, INC.

Fares for First-Class and Coach Jet Service; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of January 1966.

Eastern Air Lines, Inc. (Eastern), has filed numerous tariff revisions [1] marked to become effective January 23, 1966, proposing: (1) To add 154 jet first-class and 143 jet coach fares; (2) to increase 61 jet first-class and 58 jet coach fares presently in effect at the level of propeller fares; and (3) to add 6 jet night coach fares. The proposed fares would be applicable to jet service from 10 cities to various other points on Eastern's system. These 10 cities are: Augusta, Charleston, S.C., Chattanooga, Columbia, Columbus, Ohio, Melbourne, Nashville, Richmond, Va., Sarasota, and Toledo. The proposed tariff revisions do not bear an expiration date. No complaints have been filed.

In support of the proposals, Eastern contends that proposed jet fares are no different from other jet fares permitted by the Board in past years; that its past and present earnings when related to a reasonable period of time are lower than the standards established by the Board; that its proposed fares are not unreasonable; and that it will pass to the public the benefits of lower cost jet service in the form of a greater number of available seats and a greater share of the seats offered in the lower priced coach section of the aircraft. Eastern alleges that if the Board permits an orderly transition of propeller fares to jet differential fare levels in all of its remaining markets, the charges to the traveling public would not increase but decrease by approximately $1,000,000, annually; that if the Board suspends the jet fares that have been or will be filed, Eastern will experience a revenue loss of $6,350,000 per year; and that this amount would represent approximately 25 percent of Eastern's reported net income for the most recent 12-month period.

We note from data filed with the Board that, although Eastern has experienced losses in previous years, it reported a small profit in the year 1964 and its earnings in 1965 have been steadily increasing and cannot now be considered as substandard. It is anticipated that the carrier's earnings will continue to increase.

The carrier has shown no basis, or economic justification, for increasing its fares, based upon the normal jet differential formula, for service which will be provided by jet aircraft. At this time, with favorable earnings and earnings trend, and a continuing growth in traffic, it does not appear that Eastern has a need to increase fares, using the jet differential formula, to maintain its financial position. The Board, upon consideration of all relevant matters, finds that these proposed jet fare increases may be unjust and unreasonable, appear unwarranted, and should be suspended and investigated. This finding is consistent with the Board's recent actions regarding other tariff filings proposing fare increases.[2] We will permit, however, the proposed night coach fares to become effective, in order to prevent higher fare charges to the public or an absence of jet service during the off-peak hours, provided such fares are marked to expire with March 31, 1966.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix A attached hereto,[3] and rules, regulations, or practices affecting such fares and provisions, are or will be, unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful to determine and prescribe the lawful fares and provisions, and rules, regulations, and practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A attached hereto are suspended and their use deferred to and including April 22, 1966, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order of special permission of the Board;

3. This investigation be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

4. A copy of this order be filed with the aforesaid tariff and be served on Eastern Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 66-835; Filed, Jan. 24, 1966; 8:47 a.m.]

[Docket No. 16873; Order E-23128]

FRONTIER'S STANDBY FARES

Order of Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of January 1966.

By tariff [1] bearing a posting date of December 10, 1965, and marked to become effective January 24, 1966, Frontier Airlines, Inc. (Frontier) proposes local one-way standby fares between 20 selected points on its route system.[2] Transportation is on a space available basis only on flights other than nonstop flights between such points. The proposed standby fares are equal to 50 percent of the normal adult one-way first class fare, with a minimum established fare of $10.00. The fares are not applicable to or from intermediate points and passengers will be enplaned on a flight subject to availability of space at departure time, and only after all passengers having reservations for such flight have been enplaned.

[1] Revisions to Airline Tariff Publishers, Inc., agent, CAB No. 44, bearing a filing date of Dec. 23, 1965.

[2] Orders E-22483, E-22587, E-22773, E-22783, E-22816, E-22819, E-22844, E-22878, and E-22886.

[3] Appendix filed as part of original.

[4] Dissent of Member Gillilland filed as part of original.

[1] Frontier Airlines, Inc., CAB No. 42.

[2] Frontier has stated that it will revise this tariff to bear an expiry date of Apr. 23, 1966.

In support of its tariff filing, Frontier filed a justification stating that the proposed fares are designed to fill empty seats on less desirable flights; that the tariff is experimental in nature and is intended to develop facts as to the stimulative effect of reduced fares in developing increased traffic; and that Frontier does not intend to continue the fares after July 31, 1966, unless the traffic and revenue results indicate that the fares are economical. Frontier's justification also asserts that there is ample precedent for the proposed standby fares; that they are based on the same principle under which the Board has permitted reduced night coach and other off-peak fares, which are justified on the ground that the passenger will utilize space which will otherwise go unused and the service can accordingly be treated on an added cost basis; and that it is believed a substantial number of potential passengers not now using air transportation would take advantage of such services at the lower rates.

Timely complaints requesting investigation and suspension of Frontier's reduced standby fares have been filed by Bonanza Air Lines, Inc. (Bonanza), Northwest Airlines, Inc. (Northwest), United Air Lines, Inc. (United), Western Air Lines, Inc. (Western), and by members of the National Trailways Bus System (Trailways).[3]

In general these complaints allege inter alia, that the only limitation on the proposed fare is the no-reservation service; that this distinction is meaningless because of Frontier's low load factors, and the standby service is like and contemporaneous with the full-fare service and is therefore unjustly discriminatory. United states that Frontier's system load factor for the year ending September 30, 1965, was 41 percent and Northwest notes that Frontier's load factor on flights between Billings and Great Falls during October 1965 was less than 20 percent and thus availability of space will not be a factor in utilizing the standby service. As for the fares being offered only on trips other than nonstop, United says "it is clear that in many cases the substantial dollar savings will more than offset the somewhat slower service proposed by Frontier in the opinion of many cost-conscious passengers."

Complainants also contend that the 50-percent discount fares are economically unsound; that these fares will not only cause diversion from other carriers but will also result in significant self-diversion making it necessary for Frontier to generate over two new passengers for every passenger diverted. Complainants feel that this diversion will be considerable because few people will pay a 100 percent differential for a reservation and that Frontier's overall revenues will decrease resulting in increased subsidy. Bonanza directs its complaint only to the Phoenix-Salt Lake City and Tucson-Salt Lake City markets and believes that because of the potential self-diversion, the fares should be costed on a fully allocated cost basis; that, even accepting Frontier's available seat mile costs of 3.85 cents on its Convair 580, the yields of 3.74 cents between Phoenix-Salt Lake City and 3.62 cents between Tucson-Salt Lake City would not be compensatory even assuming 100 percent load factors. Trailways states that while it is sometimes suggested that a standby fare should be evaluated on an added cost technique, this is erroneous because a stand by fare which is successful from the traffic standpoint will eventually result in the addition of flights; that even if load factors were improved without increasing frequency, Frontier's standby fares are so diversionary that its overall revenues would not increase and not even the additional incremental costs for the added service would be covered.

The complaining carriers state that the military standby fares are not precedent for Frontier's proposal because the national interest and the morale of our servicemen which were important factors in establishing these fares have no applicability to civilian standby fares. Further, it is asserted that standby fares are manageable when available to a limited group, but making fares available to the general public will result in confusion and chaos at flight time. Western states that flights would have to be closed out 20 or more minutes before flight time and even then it will be difficult loading baggage on the same plane; that if it is necessary to off-load a standby because of a last minute arrival of a reservation passenger, returning the standby's baggage will be impossible; that meal service would be disrupted; and that passengers would incur expenses and may be seriously inconvenienced if denied space. Also, it is contended that the proposed service will lead to much abuse; that passengers will make confirmed covering reservations on a Frontier flight and then stand by for half-fare service; or make reservations on either Frontier or another carrier and try to catch an earlier Frontier flight out as a standby, and that the passenger would later get a refund on his unused ticket and if a credit card was used he would not be obligated to put out any cash.

It is further asserted by complainants that Frontier's fares are unduly preferential and prejudicial because they apply only in selected markets; that these markets were selected on the basis of diverting traffic from other carriers; and that some passengers will be paying more to travel a shorter distance. Western states that a passenger could pay a $26.00 "standby fare" between Denver and Phoenix, get off the plane at Flagstaff and save $21.00 from the regular $47.00 Denver-Flagstaff fare. Western sets forth 48 separate examples of situations in which the proposed standby fares would break Frontier's fare structure at intermediate points.

Finally, the complaining carriers allege that Frontier's reliance on the case of Pittsburgh-Philadelphia No-Reservation Fare Investigation, 34 CAB 508 (1961) as a precedent for its present proposal is not well taken; that in fact the case is precedent that neither a 41 percent nor a 31.6 percent discount from first-class fares is lawful, and that Frontier has made no attempt to show that the larger 50-percent discount is reasonably related to costs.

Frontier has also filed an answer denying in detail the allegations of the complaints.[4] In addition, Frontier reaffirms its contention that the fares, except in one instance, do not apply to prime services in the market;[5] and not only must the standby passenger forego the convenience of a reservation, he must also use a service which involves substantially more travel and more en route stops than alternate service. The answer contends further that the discount from available coach fares of other carriers ranges from 24 percent to 37 percent, and the discount from Frontier's existing round-trip excursion fares ranges from $1.00 to $13.70. Frontier believes the standby fare constitutes a worthwhile promotional fare that compares favorably with other promotional fares that have proved successful; that the fares are designed to fill empty seats and are thus properly priced on an added cost basis. Frontier also states that the complaints against its proposed fares are similar to complaints which were made against coach fares, family fares, youth fares, military standby and other promotional fares now in effect; that its proposal is so designed to prevent revenue loss to other carriers; that they will increase Frontier's revenues and reduce its subsidy need; and that if the fares should turn out to be unworkable or uneconomic, Frontier will permit the fares to expire on the expiry date, July 31, 1966,[6] or will cancel them prior to that time. Finally, Frontier is of the opinion that the proposed standby fares are in keeping with the Board's policy to encourage experimental promotional fares by local service carriers and the only way to test the fares is by actual experience.

Along with its answer Frontier filed a motion to strike Western's complaint on the ground that it "contains numerous offensive and intemperate characterizations which assert in essence, that Frontier and/or its officers have misrepresented the facts * * *," contrary to provisions of the Board's Rules of Conduct (Part 300 of the Board's Procedural Regulations). While Western's complaint does contain statements that appear unnecessarily strong and may strain the limits of advocacy, we will deny Frontier's motion. However, our action herein is not to be taken as condonation of any practice which may be in contravention of the Boards' Rules of Conduct.

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[3] The complaint states that 5 of the 46 members of Trailways are subject to point-to-point competition from Frontier's proposed fares.

[4] Frontier was granted an extension of time in which to answer United's complaint.

[5] The discount is available on Frontier's best service between Chadron/Alliance and Denver, which the carrier states is included as a test of traffic development. The service is three-stop and two-stop respectively, with DC-3 equipment.

[6] Note that Frontier will revise this date and mark the tariff to expire in 90 days on Apr. 23, 1966.

Upon full consideration of the tariff filings, complaints, answers and other matters of record, the Board concludes that it should not suspend the proposed tariff. In view of the potential benefits to the traveling public and to the carrier which may result from these fares, we believe that it is worthwhile to permit them to become effective on an experimental basis for a 90-day period in the limited number of markets here involved.

Although the complainants allege that these fares will result in considerable diversion and a reduction in total revenues, such allegations can neither be supported nor rebutted in the absence of data based upon actual experience. While some diversion from regular fares may be anticipated because of the sharp reduction here involved, we have no available means of measuring either the extent of such diversion or the extent to which these fares would generate additional traffic. Under these circumstances we cannot assume that these standby fares will not increase net revnues and the resolution of this question, as well as the propriety of applying that test to the proposed fares, must await an evaluation of the facts to be adduced in the investigation ordered herein.

In some respects Frontier's proposed standby service is similar to the service of Allegheny involved in the Pittsburgh-Philadelphia No-Reservation Fare Case, supra, where the Board noted that Allegheny's fare represented "a worthwhile experiment in promotional fares and a lower cost type of service." In the instant case Frontier has also proposed to offer to the general public a less desirable service at a savings to the passenger. A somewhat similar service has been successfully offered to individual servicemen. The fare levels appear adequate to cover the carrier's incremental costs and make a contribution to overhead and, in view of the potential benefits to the carrier (filling otherwise unused capacity) and to the public (lower fares), we have decided not to suspend the proposed standby fares of Frontier.

While we will permit Frontier to pursue this experiment, we believe that the complaints have raised questions as to the lawfulness of the proposed fares which are substantial enough to make it appropriate for us to order an investigation. This will enable the Board to maintain a surveillance and to evaluate the results of this tariff on the basis of actual experience to determine whether it has the substantial beneficial effects to the traveling public and the carrier anticipated by Frontier or, on the other hand, has the untoward results feared by complainants. In our view this experiment must be strictly controlled and it should not be spread to any other markets of Frontier during the experimental period. Additionally, for the purpose of evaluating this experiment in the investigation, we will require Frontier to make a complete record of traffic and revenues by type of traffic for each flight and market here involved, as set forth more completely in the attachment to this order, and to file a monthly report containing that information with the Docket Section of the Board. We would also expect competing air carriers to compile similar records to show the impact, if any, of the standby fares upon their traffic and revenues, and it would be helpful if such records were also filed monthly in this docket.

The Board finds that its action herein is necessary and appropriate in order to carry out the provisions and objectives of the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, and 1002 thereof.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions set forth in Frontier Airlines, Inc., CAB No. 42, including subsequent revisions and reissues thereof, are or will be, unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and if found to be unlawful to determine and prescribe the lawful fares and provisions.

2. The motion to strike Western's complaint is denied.

3. The investigation of Frontier's CAB No. 42 be assigned Docket 16873.

4. The complaints in Dockets 16780, 16783, 16786, 16787, and 16785 be dismissed, except to the extent granted herein.

5. The investigation be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated.

6. Until final decision Frontier shall keep complete records and shall file in this docket the information described in the attachment to this order[7] within 20 days after the last day of each month.

7. A copy of this order be served upon Frontier Airlines, Inc., Bonanza Air Lines, Inc., Northwest Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., and National Trailways Bus System which are made parties to the investigation ordered herein.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 66-836; Filed, Jan. 24, 1966; 8:47 a.m.]

[Docket No. 16880; Order E-23135]

TRANS WORLD AIRLINES, INC., AND UNITED AIR LINES, INC.

Rate on Magazines From Chicago to Los Angeles; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of January 1966.

By tariff revision filed bearing the posting date of December 21, 1965, and marked to become effective February 4, 1966, Trans World Airlines, Inc. (TWA), proposes to extend the application of its rate on magazines and parts thereof for shipments of 40,000 pounds or over from Chicago to Los Angeles. The current rate applies to shipments tendered to the carrier between the hours (inclusive) 12:01 a.m., Saturday and 11:59 p.m., the following Monday. TWA's proposal extends this period to between the hours (inclusive) 12:01 a.m., Friday and 11:59 p.m., the following Monday. By tariff revision filed January 7, 1966, and marked to become effective February 6, 1966, United Air Lines, Inc. (United), filed the identical proposal.

In support of its proposal and in its answer to the complaint filed by the Flying Tiger Line, Inc. (Tiger), discussed below, TWA declares that the proposal does not present a new rate level, but merely an extension of the applicability of the present rate to an additional day. TWA further asserts that the current rate for shipments with a minimum weight of 20,000 pounds is also applicable Fridays through Mondays; that Tiger does not allege any injury from a previous extension of the 40,000-pound rate from Saturday and Sunday to include Monday or from the current proposal; and that Friday should not be considered any different from Monday, Saturday, or Sunday. Finally, TWA declares that, while there will be some diversion from shipments currents made by air during the earlier days of the week, a substantial amount of traffic currently moving by surface modes will move by air under the proposal; and that the Board's previous limitation of the applicability of magazine rates was intended only to minimize diversion and not permanently to restrict magazine rates; and that the experiment in magazine rates has proved successful by attracting significant volumes of traffic to TWA, and probably to other carriers as well. United asserted that its filing was made to meet competition.

Tiger's complaint, requesting investigation and suspension of TWA's proposal, asserts that the proposal is unduly low for a westbound movement and that Friday is a peak day for magazines and other air freight.

Upon consideration of the complaints and other relevant matters, the Board finds that the proposed tariff revisions may be unjust, unreasonable, or unduly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be investigated. The current rate for 40,000-pound shipments of magazines in this market was permitted by the Board to become effective at the same level as herein proposed, $7.40 per 100 pounds (Order E-20631, dated March 31, 1964) applicable to consignments tendered Saturdays and Sundays only. The Board stated that this rate, yielding 8.5 cents per ton-mile, would be effective during weekends when the volume of cargo is normally well below weekday levels. Consequently, the traffic that would be developed would result in better utilization of air cargo facilities and improved overall economics in air cargo transportation.

[7] Attachment and dissents of members Gillilland and Adams filed as part of original.

Subsequently, this period was extended from Saturdays and Sundays to include Mondays by tariffs filed by TWA and United. No complaint was filed against this extension.

The proposed extension of the foregoing period to embrace Fridays would result in shipments being made during periods of relatively heavy traffic activity at a rate for such periods which is unduly low. The carriers do not present facts indicating that traffic volume is below normal on Fridays as compared to other days of the week, nor have they presented any other cost justification for their proposals.

TWA's current rate on magazines in this market for 20,000-pound shipments was permitted by the Board to apply during the same 4 days of the week as herein proposed (Order E–21695, dated January 19, 1965). This rate was subsequently met by other carriers. However, this rate is at a significantly higher level, yielding 9.7 cents per ton-mile, over 14 percent above the yield of 8.5 cents for the rate for 40,000-pound shipments. TWA makes no claim that additional cost savings would result from the larger size of shipment to justify the lower rate on Fridays.

In view of the potential significant impact upon carriers' revenues that may well result from the application of the proposals, the Board has also concluded to suspend them pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the rates and provisions described in Appendix A attached hereto,[1] and rules, regulations, or practices affecting such rates and provisions, are or will be, unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates and provisions, and rules, regulations, and practices affecting such rates and provisions;

2. Pending hearing and decision by the Board, the rates and provisions described in Appendix B hereto[2] are suspended and their use deferred to and including May 4, 1966, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The complaint of the Flying Tiger Line, Inc., in Docket 16827 is dismissed, except to the extent granted herein;

4. The proceeding herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

5. Copies of this order shall be filed with the tariff and served upon the Flying Tiger Line, Inc., Trans World Airlines, Inc., and United Air Lines, Inc., which are hereby made parties to this proceeding.

[1] Appendix filed as part of original.
[2] Appendix filed as part of original.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 66–837; Filed, Jan. 24, 1966; 8:48 a.m.]

[Docket No. 16754; Order E–23130]

WEST COAST AIRLINES, INC., AND NORTHWEST AIRLINES, INC.

Application for Approval of Authority Transfer; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of January 1966.

On December 10, 1965, West Coast Airlines, Inc. (West Coast), and Northwest Airlines, Inc. (Northwest), filed with the Board a joint application for approval of a transfer to West Coast of Northwest's authority to serve Yakima, Wash. In essence, approval of the agreement would grant to West Coast Northwest's existing authority between Yakima and the adjacent points on Northwest's system, such as Yakima-Spokane, Yakima-Seattle, Yakima-Portland, all on a nonstop basis, and in return West Coast will purchase at the agreed price of $3,000 all the tangible property and equipment of Northwest at Yakima and will pay to Northwest an agreed amount for any necessary transfers of Northwest personnel from Yakima.[1]

On the same day that the application was filed the two carriers filed a motion for expedited treatment of their transfer agreement. In support of their request for expedited treatment, the carriers allege that as a result of the transfer West Coast's breakeven need will be reduced by $93,000 and the overall service quality at Yakima will eventually increase.[2]

The carrier's $93,000 breakeven reduction is calculated as follows: Yakima traffic on Northwest in both directions during 1964 totaled 9,480, and projecting to 1966 West Coast estimates that with normal growth this traffic would amount to 10,425 passengers all of which would accrue to West Coast if the transfer is approved and Northwest is deleted at Yakima. This traffic would produce for West Coast $144,000 in new revenues. The expenses to be incurred as a result of handling this additional traffic are estimated by West Coast to be $51,000, consisting of $45,000 in additional regional and system expenses and $6,120 in additional station expenses.[3]

Alleged improvement in the overall quality of service at Yakima as a result of the transfer is the introduction of pure jet equipment[4] and increased capacity by the fall of 1966.[5]

Based upon these considerations and other information submitted by the carriers as well as pertinent data available to the Board, we have decided to expedite the application and we tentatively find and conclude that approval of the transfer agreement is consistent with the public interest and that Northwest's authority at Yakima should be deleted from its certificate.[6]

The real issue raised by the transfer agreement is whether Northwest's certificate for Route 3 should be amended so as to delete Yakima therefrom and thereby reduce the carriers serving Yakima from two to one. However, the considerations governing deletion of trunkline authority at a point served in common with a local service carrier and those governing transfer of route authority in circumstances such as we have here are nearly identical. In either instance, the principal considerations are (1) the extent to which duplicative services would be eliminated; (2) the net effect on the quality and quantity of service; (3) the degree of any inconvenience that would result to either local or long-haul traffic; (4) operational and financial benefits to the carriers; and (5) the actual or potential subsidy reduction involved.[7]

Application of these criteria to the facts here presented establishes that continuation of Northwest's service at Yakima is not required.

Much of the Yakima service provided by the two carriers is duplicative. For example, West Coast provides direct service between Yakima on the one hand and Seattle, Spokane, and Portland on the other hand, the three principal destinations for Northwest's Yakima traffic. While the immediate effect on service will be a slight reduction in schedules and available seats, within a short period West Coast will offer improved service with the inauguration of jet schedules and with greater capacity than is available today.

Approval of the transfer and deletion of Northwest will not result in any significant inconvenience to either the local or long-haul Yakima traffic. Northwest's Yakima traffic amounts to only 13 percent of the total at that station and it is predominantly local traffic which can be conveniently served by West

[1] The transfer agreement also provides for appropriate labor protective provisions.
[2] Section 399.60 of the Board's Policy Statements includes among the pertinent considerations for determining priority of hearing: "Whether a proposal might reduce subsidy or increase economy of operations."
[3] West Coast contends that no additional flying operations and maintenance expense will be incurred because of the ample capacity now operated and the additional capacity programmed, including jet service, in the fall of 1966 regardless of effectuation of the transfer.
[4] Both Northwest and West Coast serve Yakima with prop-jet equipment in addition to West Coast's DC–3 service.
[5] West Coast presently provides 600 seats at Yakima. In the fall of 1966 these will be increased to 1,005 seats (of which more than one-half will be jet), or more than are now provided by both Northwest and West Coast.
[6] Certificate changes that are necessary to effectuate a route transfer or to permit deletion of particular points are made pursuant to section 401(g) of the Act.
[7] See Order E–20480, Feb. 13, 1964.

Coast.[8] Approximately 94 percent of the Northwest passengers which now have single-plane service will have available the same service on West Coast. The remaining 6 percent totalled only 1,130 passengers (both directions) in 1964, distributed nearly evenly among Minneapolis, Billings, Great Falls, and Missoula, or less than 1 passenger a day in both directions in the four markets. Presumably, reasonable connecting schedules will be available for these few passengers. In any event, the city of Yakima supports the proposed transfer and poses no objection to the elimination of Northwest's service. In fact, no objections to the proposed transfer have been submitted.

Deletion of Northwest at Yakima will be operationally beneficial for Northwest and will lessen West Coast's dependence on federal subsidy. The average haul for both Northwest's and West Coast's Yakima passengers in 1964 was only 191 miles. This is subtantially less than Northwest's average passenger haul of 625 miles but it comports favorably with West Coast's average passenger haul of 227 miles. Northwest is presently converting most of its remaining piston fleet to medium and long-range jet aircraft and the short-haul operations at Yakima will be more suitable for West Coast's proposed short-haul jets. West Coast is a carrier which is specialized in short-haul air transportation and now serves the great majority of the Yakima passengers, most of which are short-haul.

The carriage of Northwest's share of Yakima traffic will result in a reduction in West Coast's breakeven need thereby reducing its requirement for federal subsidy. West Coast estimates an operating breakeven need reduction of $93,000 annually. Included in this estimate is the additional cost of operating its Yakima station, $6,120 for one additional station employee. We believe this cost may be understated. The Board, in similar circumstances, has found that a more realistic appraisal of additional station costs is one in which such costs are based upon the additional tons enplaned at the station. If this approach were used here the additional station costs would be approximately $40,000, resulting in a breakeven need reduction of approximately $59,000. However, whichever method is used here we are convinced that a reduction in the carrier's breakeven need of between $59,000 and $93,000 annually is substantial under the circumstances present and that such a savings in conjunction with the other benefits which will accrue from the transfer justifies approval of the application.

Based upon all of the foregoing considerations, we tentatively find and conclude that approval of the transfer agreement between Northwest and West Coast is in the public interest.

We also tentatively find and conclude that the public convenience and necessity require that the certificates of Northwest and West Coast be amended in order to effectuate the proposed transfer. Northwest's certificate of public convenience and necessity for Route 3 should be amended so as to delete therefrom Yakima as an intermediate point on all segments and West Coast's certificate of public convenience and necessity should be amended so as to delete therefrom the restriction pertaining to the pair of points Spokane and Yakima in Condition 4(c). Although West Coast seeks transfer of Northwest's Yakima-Portland/Seattle nonstop rights, West Coast today has such authority in these markets and the only new authority it seeks pursuant to the transfer agreement is Yakima-Spokane nonstop authority. Removal of the one-stop restriction in Condition 4(c) of the carrier's certificate will accomplish this objective.[9] We believe that such a certificate amendment is required by the public convenience and necessity. At present the Yakima-Spokane market consists of approximately 5,000 O&D passengers annually of which West Coast carries nearly half. Northwest's nonstop authority in this market predates the 1938 Act and the carrier has been providing nonstop service for many years. Removal of Northwest from this market without at the same time authorizing nonstop rights to West Coast would deprive a substantial number of passengers of expedited service to which they have become accustomed.

Accordingly, it is ordered, That:

1. All interested persons be and they hereby are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and

(a) Amending the certificate of public convenience and necessity of Northwest for Route 3 so as to delete therefrom Yakima as an intermediate point on all segments;

(b) Amending the certificate of public convenience and necessity of West Coast for Route 77 so as to delete therefrom the restriction pertaining to the pair of points Spokane, Wash., and Yakima, Wash., in Condition 4(c).

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and the certificate amendments set forth herein shall, within 10 days from the service date, file with the Board, and serve upon all persons hereafter made parties to this proceeding, a statement of objections;[10]

3. If proper objections are filed within the 10-day period specified above, this proceeding shall be set for hearing, and the hearing shall be limited, to the extent practicable and consistent with the public interest, to consideration of issues raised by the objections filed;

4. If no objections are filed within the 10-day period specified above, further procedural steps shall be deemed waived and the matter submitted to the Board for final decision;

5. Copies of this order shall be served upon Northwest Airlines, Inc., West Coast Airlines, Inc., and the City of Yakima, Wash., all of whom are hereby made parties to the proceeding herein; and

6. This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[11]

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 66-838; Filed, Jan. 24, 1966; 8:48 a.m.]

[8] Approximately 15 Yakima passengers a day are enplaned by Northwest (5.2 per flight). West Coast's present unused capacity at Yakima is more than adequate to handle this traffic, most of which is destined for Spokane, Seattle, and Portland, points served by West Coast.

[9] West Coast's certificate (Condition 4(b)) requires that two stops be made between Spokane and Portland. The transfer agreement does not expressly seek modification of this restriction and we know of no reason why it should be modified herein. (The question of one-stop authority by West Coast in the Spokane-Portland market is in issue in the pending West Coast "Use It or Lose It" case, (Docket 13415)). Therefore, under our proposed action herein West Coast's flights between Spokane and Portland, including those via Yakima, must continue to provide a minimum of two stops.

[10] The Board will not separately entertain petitions for reconsideration of this order. All requests for relief from, or modification of, this order shall be submitted with such objections as may be made to the issuance of an order making final the proposed findings, conclusions and the certificate amendments set forth herein.

[11] Specimen certificates as amended, filed as part of original.

FEDERAL AVIATION AGENCY

[OE Docket No. 65-EA-11]

OHIO POWER CO.

Affirmation of Determination of No Hazard to Air Navigation

The Federal Aviation Agency was notified by Form FAA-117 dated May 18, 1965, that the Ohio Power Co., Canton, Ohio, proposed the construction of a 138,000-volt electric transmission line from latitude 40°48'00" N., longitude 84°01'47" W. to latitude 40°41'09" N., 83°59'48" W. approximately 6,800 feet east of the approach end of Runway 27 of Allen County Airport, Lima, Ohio. The overall height of the supporting structures would vary from 1,015 feet to 1,111 feet above mean sea level (AMSL) (a maximum of 121 feet above ground level (AGL)).

On September 22, 1965, the Eastern Regional Office of the Federal Aviation Agency issued a determination that the proposed construction would not be a hazard to air navigation (Aeronautical Study No. EA-OE-65-80). The determination was premised on the disclosure in the aeronautical study that there would be no adverse effect on aeronautical operations, procedures or minimum flight altitudes.

On October 20, 1965, Mr. Parmlee P. Whittenburg, Airport Manager, Allen County Airport, Lima, Ohio, submitted a petition for review of the determination pursuant to § 77.37 of the Federal Avia-

tion Regulations. On November 17, 1965, notice was given that the petition was granted and a review would be conducted on the basis of written materials (30 F.R. 14609).

The petition set forth the following issues:

1. The determination is erroneous since the proposed transmission line would be a hazard to air navigation on the departure end of Runway 9.

2. The determination is erroneous since the proposed transmission line would be a hazard should engine failure or malfunction occur on takeoff from Runway 9.

3. The determination is erroneous since the proposed transmission line would have an adverse effect on future plans to reduce the landing minimums for Runway 27.

In evaluating the claims made in the petition, consideration was given to the plans for the Allen County Airport contained in the Airport Master Plan as well as to the airport's present configuration. In the Master Plan Runway 9/27 is extended 525 feet to the east to increase its length from 5,150 feet to an ultimate length of 5,700 feet.

The transmission line at its maximum height would be approximately 35 feet below an acceptable departure slope of 40 : I as applied to the current runway and approximately 24 feet as applied to the ultimate runway length. Therefore, the construction is not considered unduly restrictive or hazardous to operations in the area at the departure end of Runway 9 or to departures from that runway.

No material was submitted by the petitioner or other interested persons and there is nothing in the file to substantiate the claim that the transmission line would have an adverse effect on plans to reduce the landing minimums for Runway 27. The transmission line would not exceed the non-ILS approach surface (§ 77.27(c)) for the runway at its present length or if extended to its ultimate length. The transmission line would exceed the most restrictive approach surface (ILS) (§ 77.27(b)). However, the airport does not meet the Agency's standards for the installation of an ILS and there are no known plans for such an installation.

Based on the review, it is concluded the determination issued by the Agency's Eastern Region reflected properly the effect the tower would have on aeronautical operations, procedures or minimum flight altitudes. Accordingly, it is the finding of the Agency that the proposed structure would have no substantial adverse effect upon aeronautical operations in the Allen County Airport area and the finding of "no hazard to air navigation" issued by the Eastern Region is affirmed.

Therefore, pursuant to the authority delegated to me by the Administrator (30 F.R. 13023), the Determination of No Hazard to Air Navigation issued by the Eastern Region on September 22, 1965, is affirmed, effective this date.

Issued in Washington, D.C., on January 18, 1966.

A. D. HARVEY,
Acting Director,
Air Traffic Service.

[F.R. Doc. 66-814; Filed, Jan. 24, 1966; 8:45 a.m.]

[OE Docket No. 65-CE-14]

QUINCY CABLEVISION, INC.

Grant of Further Extension of Comment Period

On November 29, 1965, a notice of grant of discretionary review was issued in response to petitions received by the Federal Aviation Agency in opposition to a 400-foot AGL (1,000-foot AMSL) microwave tower near Keokuk, Iowa, proposed by Quincy Cablevision, Inc.

On December 27, 1965, prior to the expiration of the 30-day period for submission of relevant information for consideration in this review, the proponent, through his attorney, requested a 15-day extension of the comment period. On December 30, 1965, a grant of extension of comment period was issued extending the comment period to expire on January 15, 1966.

The proponent, through his attorney, has requested an additional extension of time for the filing of relevant material. The grant of a further extension is considered to be in the public interest.

Therefore, pursuant to the authority delegated to me by the Administrator, notice is hereby given that the comment period for submitting relevant information for consideration in this review to the Federal Aviation Agency, Air Traffic Service, Obstruction Evaluation Branch, 800 Independence Avenue SW., Washington, D.C., 20553, is extended to expire on February 1, 1966. Submission must be in triplicate and be relevant to the effect of the proposed structure on safe air navigation.

Issued in Washington, D.C., on January 19, 1966.

ARCHIE W. LEAGUE,
Director, Air Traffic Service.

[F.R. Doc. 66-815; Filed, Jan. 24, 1966; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 16258; FCC 66-55]

AMERICAN TELEPHONE & TELEGRAPH CO.

Memorandum Opinion and Order

In the matter of American Telephone & Telegraph Co. and the Associated Bell System Cos., Docket No. 16258; charges for interstate and foreign communications service.

1. The Commission has under consideration its memorandum opinion and order released December 23, 1965 (FCC 65-1143), dealing with the procedures to be followed in the present proceeding. We wish to amplify and clarify that earlier memorandum opinion and order so that insofar as possible all parties may be fully apprised at the outset of the procedures to be followed.

2. The Telephone Committee has been designated to preside at this hearing, and the full panel or any member of it may do so. The hearing examiner, whom we are designating in this memorandum opinion and order, is expected to sit with and assist the panel at all times, but will assume the duties of presiding officer only when such duties are not being exercised by the panel or one of its members.

3. Where a single Commissioner or the examiner is presiding, any party wishing to appeal an adverse ruling shall note that fact on the record, and shall defer the appeal until the panel of Commissioners has had an opportunity to consider the ruling. The time specified in § 1.301(b) of the rules for taking such appeals shall run from the date of the panel's ruling or statement on the matter. If, following such ruling or statement, a party decides to file an appeal, because of its belief that the appeal is appropriate under § 1.301,[1] such appeal would then be acted upon by the Commission, pursuant to § 1.301(a).

4. We believe that we should clarify the role of the cooperating Commissioners designated by the NARUC for this proceeding. The cooperating Commissioners will sit with the Commission's presiding officers, and will have full opportunity to ask questions during the course of the hearing in the interest of developing as full a record as possible. However, in view of the fact that the NARUC as well as many of the State regulatory commissions have availed themselves of our invitation to become parties to this proceeding, Subpart H of Part 1 of the Commission's rules, concerning ex parte communications, will be applicable to the cooperating Commissioners. The latter will have an opportunity to file on the record their comments or views with respect to any recommended decision in this proceeding, and, in aid of such opportunity, shall be served with copies of all pleadings or other submissions filed in the proceeding.

It is ordered, That the Commission's memorandum and opinion concerning procedures in this proceeding is supplemented and modified as set forth herein; and

It is further ordered, That Hearing Examiner Arthur A. Gladstone is hereby

[1] Attention is drawn to the note to § 1.301, which provides that "unless the ruling complained of is fundamental and affects the conduct of the entire case, appeals should be deferred and raised as exceptions."

designated to sit with and assist the panel of Commissioners and to preside in their absence.

Adopted: January 19, 1966.

Released: January 20, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-843; Filed, Jan. 24, 1966; 8:48 a.m.]

[Docket No. 15986; FCC 66M-120]

CONTINENTAL BROADCASTING OF CALIFORNIA, INC. (KDAY)

Order Regarding Further Postponement of Hearing

In re application of Continental Broadcasting of California, Inc. (KDAY), Santa Monica, Calif., Docket No. 15986, File No. BMP-11408; for modification of construction permit (File No. BP-15963).

The Hearing Examiner having under consideration the "Request for Further Postponement of Hearing" filed by Continental Broadcasting of California, Inc., on January 17, 1966, requesting a further postponement of commencement of the hearing from January 24, 1966, to March 23, 1966 (60-day postponement);

It appearing, that the local zoning proceedings involving approval for a different transmitter site from the one specified in the above-referenced application, which proceedings resulted in earlier postponements of hearing, are still pending decision by the local zoning authorities, and that in no event could procedural arrangements be made at this time for introduction of evidence on January 24, 1966;

It further appearing, that the decision of the zoning authorities could materially affect the future course of this proceeding, as explained in the Examiner's previous postponement order herein of September 30, 1965, and that the above-mentioned circumstances relied on by Continental establish "good cause" for granting the further postponement now sought; and

It further appearing, that the time factor involved has been found by the Examiner to require action on the subject request prior to the expiration of the time for filing responsive pleadings (§ 1.298(a) of the Commission's rules):

Accordingly, it is ordered, This 20th day of January 1966, that the "Request for Further Postponement of Hearing" filed on January 17, 1966, by Continental Broadcasting of California, Inc., is granted, and the date for commencement of hearing is further postponed from January 24, 1966, to March 23, 1966, at 10 a.m., in the offices of the Commission at Washington, D.C.

[2] Commissioner Loevinger abstaining from voting.

Released: January 20, 1966.

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

[F.R. Doc. 66-844; Filed, Jan. 24, 1966; 8:48 a.m.]

[Docket Nos. 13243, 13248; FCC 66-61]

TIDEWATER BROADCASTING CO., INC., AND EDWIN R. FISCHER

Memorandum Opinion and Order Remanding Proceeding to Hearing Examiner

In re applications of The Tidewater Broadcasting Co., Inc., Smithfield, Va., Docket No. 13243, File No. BP-12814; Edwin R. Fischer, Newport News, Va., Docket No. 13248, File No. BP-13114; for construction permits.

1. This proceeding involves the applications of The Tidewater Broadcasting Co., Inc. (Tidewater), and Edwin R. Fischer (Fischer) to establish new standard broadcast stations at Smithfield and Newport News, Va., respectively, each to operate as a Class II station on the frequency of 940 kc, with a power of 10 kw, daytime only.

2. An Initial Decision, FCC 61D-102, released July 11, 1961, and a Supplemental Initial Decision, FCC 65D-16, released April 19, 1965, proposed grant of the Tidewater application for Smithfield. Oral Argument on exceptions to the Initial and Supplemental Decisions was heard before the Commission en banc on December 9, 1965.

3. Although, as will appear hereinafter, this proceeding must be remanded for further hearing in light of our new policy on section 307(b) considerations,[1] we think that we should resolve at this juncture an outstanding multiple ownership question so that the parties hereto may be aware of the Commission's disposition of this matter. The multiple ownership question treated in the Supplemental Initial Decision is whether grant of the Tidewater proposal would be contrary to the provisions of § 73.35 (a) of the Commission's rules and whether circumstances exist which would justify waiver of the rule. The Examiner concluded, among other things, that the provisions of § 73.35(a) should be waived. Her findings and conclusions in the Supplemental Initial Decision are adopted, except for the ordering clause. Fischer exceptions to the Supplemental Initial Decision Nos. 1-4 inclusive, 6-9 inclusive, and No. 10 to the extent that it disagrees with the Examiner's conclusion to waive the multiple ownership rule, are denied. Exception No. 1 of the Chief, Broadcast Bureau and Tidewater exceptions Nos. 1 and 2 to the Supplemental Initial Decision are also denied.

4. After the inclusion on April 30, 1964, of the multiple ownership issue in the proceeding, the Commission issued its Report and Order (Docket No. 14711, FCC 64-445, released June 9, 1964) amending its multiple ownership rules. Although the Commission later released a Public Notice (FCC 64-636, July 9, 1964) relaxing the applicability of the new rules to applications which were in hearing status and which were the subjects of initial decisions prior to June 9, 1964, the relaxation did not apply to the instant case because the 1961 Initial Decision did not consider the multiple ownership question. The Examiner allowed an evidentiary showing under both the old and new multiple ownership rules, and in her Supplemental Initial Decision made findings under both. While we are of the view that the new rules with their more stringent requirements apply to this proceeding, we agree with the Examiner's conclusion that waiver of these rules (§ 73.35(a)) is warranted. The overlap of the 1 mv/m contour of the Tidewater proposal for Smithfield and that of Station WESR, Tasley, Va., in which two of Tidewater's principals own interests, will occur mainly over a large body of water and adjacent, uninhabited marsh lands. The overlap was occasioned in large measure by the substantial salt water paths of high conductivity which occur between Smithfield and Tasley. Moreover, separated as they are by large bodies of water, Smithfield and Tasley are clearly separate and distinct communities. Thus, we hold that the overlap of 1 mv/m contour does not bar a grant of the Tidewater application.

5. Our examination of the Tidewater and Fischer applications discloses that both applicants' proposed 5 mv/m daytime contours will penetrate the geographic boundaries of at least one other community of over 50,000 persons and with a population at least twice as large as that of each applicant's specified station location. Accordingly, we are persuaded for the reasons enunciated in our Policy Statement, supra, that a determination should be made in the proceeding whether each of these suburban proposals will realistically serve its own specified station location or some other larger community. We shall therefore revise the issues in this proceeding so that, in addition to the usual 307(b) evidence concerning the independence of a suburban community from its central city (much of which has already been adduced), the parties may fully explore all matters relating to the need for each of these proposals. Thus, each of the applicants will be expected to show the extent to which it has ascertained that its specified station location has separate and distinct programming needs, the extent to which these needs are not being met by existing standard broadcast stations, and the extent to which its pro-

[1] Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities (FCC 65-1153), released Dec. 27, 1965.

gram proposals will meet these needs. Additionally, each of the applicants will be expected to adduce evidence as to whether the projected sources of advertising revenues from within its specified station location are adequate to support its proposals as compared with its projected sources from all other areas.

6. An applicant who fails to establish that it will realistically serve its specified station location under the programming and revenues issue will be deemed to propose to serve the most populous community whose geographic boundaries are penetrated by its 5 mv/m daytime contour, unless the evidence establishes that it will realistically serve a third community whose boundaries are penetrated by its 5 mv/m daytime contour.[3] Accordingly, an issue will also be added to determine whether these applicants meet all of the technical provisions of our rules, including §§ 73.30, 73.31, and 73.188(b) (1) and (2), for a station assigned to the appropriate larger community. Finally, the burden of proof with respect to these additional issues will be upon the individual applicants in each instance.[3]

Accordingly, it is ordered, This 19th day of January 1966, that this proceeding is remanded to Hearing Examiner Elizabeth C. Smith for further hearing and for preparation of a Supplemental Initial Decision consistent with this Memorandum Opinion and Order; and

It is further ordered, That the issues in this proceeding are hereby enlarged as follows:

(a) To determine whether each of the proposals will realistically provide a local transmission facility for its specified station location or for another larger community, in light of all of the relevant evidence, including, but not necessarily limited to, the showing with respect to:

(1) The extent to which each specified station location has been ascertained by each applicant to have separate and distinct programming needs;

(2) The extent to which the needs of each specified station location are being met by existing standard broadcast stations;

(3) The extent to which each applicant's program proposal will meet the specific, unsatisfied programming needs of its specified station location; and

(4) The extent to which the projected sources of each applicant's advertising revenues within its specified station location are adequate to support its proposal, as compared with its projected sources from all other areas.

(b) To determine, in the event that it is concluded pursuant to the foregoing issue (a) that one or both of the proposals will not realistically provide a local transmission service for its specified station location, whether each such proposal meets all of the technical provisions of the rules, including §§ 73.30, 73.31, and 73.188(b) (1) and (2), for standard broadcast stations assigned to the most populous community for which it is determined that the proposal will realistically provide a local transmission service.

Released: January 20, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[4]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-846; Filed, Jan. 24, 1966; 8:48 a.m.]

[FCC 66-63]

TECHNICAL VIOLATIONS BY STANDARD BROADCAST LICENSEES

Warning of Forfeitures Due to Increase in Violations

JANUARY 20, 1966.

A recent analysis by the Field Engineering Bureau of technical violations by standard broadcast licensees during the last 6 months of fiscal 1965 as compared to the same period of fiscal 1964 indicates that many types of violations have markedly increased. For example, although only 73 citations were issued during the last half of fiscal year 1964 for violations of § 73.114 of the rules (maintenance log), 232 citations were issued during the same period in fiscal year 1965, and although only 77 citations were issued during the last half of fiscal year 1964 for violation of § 73.47 (equipment performance measurements), 166 such citations were issued during the last 6 months of fiscal year 1965.

As we have often stated, we expect all licensees to comply with all of our rules, technical or otherwise. In view of the number of technical violations noted above (and numerous additional ones in other categories) we believe that increased enforcement action is required.

Therefore, we have instructed the Chief of the Broadcast Bureau to begin issuing Notices of Apparent Liability under authority delegated to him by § 0.281 (x) of the rules for repeated or willful violations which may in the past have resulted only in the issuance of Violation Notices. Notices of Apparent Liability will be issued for violations of such rules as those relating to equipment performance measurements (§ 73.47), maintenance logs (§§ 73.114 and 73.284) and indicating instruments (§ 73.39). It is our belief that more general use of the forfeiture authority granted by the Congress in sections 503 and 504 of the Communications Act will bring about a higher level of compliance by broadcast licensees and thus improve the quality of service to the public.

Adopted: January 19, 1966.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-845; Filed, Jan. 24, 1966; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3991]

ASSOCIATED OIL AND GAS CO.

Order Suspending Trading

JANUARY 19, 1966.

The common stock, $0.01 par value, of Associated Oil and Gas Co., being listed and registered on the American Stock Exchange and having unlisted trading privileges on the Detroit Stock Exchange, and the 6 percent convertible subordinated debentures due July 1, 1975, and 6 percent convertible subordinated debentures due July 1, 1977, being listed and registered on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15 (c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange, the Detroit Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 19, 1966, through January 28, 1966, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 66-818; Filed, Jan. 24, 1966; 8:46 a.m.]

PINAL COUNTY DEVELOPMENT ASSOCIATION

Order Suspending Trading

JANUARY 19, 1966.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the 5⅞ percent Industrial Development Revenue Bonds of Pinal County Development Associa-

[2] See paragraph 11 and especially footnote 1 appended thereto of our Policy Statement, supra, for the effect of such service to a third community.

[3] The Commission notes that Fischer in a letter of Jan. 3, 1966, has alleged, on the basis of information set forth therein, that grant of his proposal is consonant with our Policy Statement, supra, and remand is unnecessary. However, Fischer's contentions are premised upon his view that the Tidewater application must be denied because of the multiple ownership question, and that since he is a "fully qualified applicant all section 307(b) considerations would normally be rendered moot; and the Fischer application for Newport News would be automatically granted." Since we hold that Tidewater is not disqualified under the multiple ownership issue, and that waiver of the provisions of § 73.35(a) is warranted, we are of the view that remand and further hearing is required as to both the Tidewater and Fischer proposals.

[4] Dissenting statement of Commissioner Bartley filed as part of original document; Commissioner Cox not participating.

tion due April 15, 1989, otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934 that trading in such bonds be summarily suspended, this order to be effective for the period January 20, 1966, through January 29, 1966, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 66-819; Filed, Jan. 24, 1966; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 561]

CALIFORNIA

Declaration of Disaster Area

Whereas, it has been reported that during the month of December 1965, because of the effects of certain disasters, damage resulted to residences and business property located in Los Angeles and Ventura Counties in the State of California;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Executive Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the Office below indicated from persons or firms whose property, situated in the aforesaid counties and areas adjacent thereto, suffered damage or destruction resulting from a flood and landslide and accompanying conditions occurring on or about December 26, 1965.

OFFICE

Small Business Administration Regional Office, 312 West Fifth Street, Los Angeles, Calif.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to July 31, 1966.

Dated: January 6, 1966.

ROSS D. DAVIS, *Executive Administrator.*

[F.R. Doc. 66-820; Filed, Jan. 24, 1966; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[No. 20769]

CHARGES FOR PROTECTIVE SERVICE TO PERISHABLE FREIGHT

Modified Procedure in Proceeding

It appearing, that by petition filed on August 30, 1965, the eastern railroads and other carriers operating in Illinois, seek authority to publish tariff supplements on statutory notice increasing by 25 percent certain charges for protective service, published in Perishable Protective Tariff No. 18, Agent Jamison, ICC No. 37, section 4, and rule 240 thereof; and that by petition filed on November 15, 1965, the Louisville & Nashville Railroad Co. seeks similar authority to increase by 25 percent charges for protective service published in section 2 and other sections based thereon, of the said tariff, from origins served by that petitioner; It further appearing, that petitioners request, among other things, that all outstanding orders affecting such charges entered in Docket No. 20769, Charges for Protective Service to Perishable Freight, 215 ICC 684, 241 ICC 503, and 253 ICC 351 (as modified by Ex Parte No. 162, Increased Railway Rates, Fares, and Charges, 1946, 266 ICC 537; Ex Parte No. 166, Increased Freight Rates, 1947, 270 ICC 403; Docket No. 31342, Proposed Increased Refrigeration Charges, 297 ICC 505, and by order in Docket No. 20769, supra, dated April 5, 1963), be further modified so as to permit the proposed increased charges to be established and maintained:

It is ordered, That the said petitions be, and they are hereby, set for hearing under modified procedure for the purpose of determining whether the outstanding orders should be further modified; that the filing and service of statements shall be as follows: (a) Opening statements of facts and argument by petitioners and any party in support thereof on or before 30 days from the date of this order; (b) statement of facts and argument by any party in opposition 30 days after that date; and (c) reply to any statement filed under (b) 10 days thereafter.

It is further ordered, That anyone in opposition shall advise the following persons and the Commission, within 15 days of the service date of this order of his identity, and address, with an indication of the number of copies of petitioners' statements which are desired, and to whom the copies are to be sent:

W. T. Jamison, Chairman, National Perishable Freight Committee, 308 Union Station Building, Chicago, Ill., 60606.
Clarence Raymond, 908 West Broadway, Louisville, Ky., 40201.

And it is further ordered, That a copy of this order shall be filed with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 14th day of January A.D. 1966.

By the Commission, Commissioner Freas.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-828; Filed, Jan. 24, 1966; 8:47 a.m.]

[Notice 121]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 20, 1966.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules in Ex Parte No. MC 67 (49 CFR Part 240), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined, at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 18534 (Sub-No. 1 TA), filed January 18, 1966. Applicant: BENNIE E. KARDELL, doing business as BEN KARDELL, Audubon, Iowa, 50025. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Steel agricultural implement parts,* other than hand, from Audubon, Iowa, to Columbus, Ohio; Indianapolis, Ind.; Lincoln, Nebr.; Kansas City, Mo.; Sioux Falls, S. Dak.; Battle Creek, Mich.; Oconomowoc, Wis.; and Ephrata, Pa., for 180 days. Supporting shipper: Emmert Manufacturing Co., Inc., Emmert M. Anderson, owner, Post Office Box 89, Audubon, Iowa, 50025. Send protests to: Keith P. Kohrs, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 705 Federal Office Building, Omaha, Nebr., 68102.

No. MC 95876 (Sub-No. 49 TA), filed January 18, 1966. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. Applicant's representative: Harold E.

Anderson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sectional wooden fencing*, including *wooden posts*, set up or knocked down, from Red Lake, Minn., and 20 miles thereof, to points in Arkansas, Illinois, Iowa, Upper Peninsula of Michigan, Minnesota, Missouri, Nebraska, and Wisconsin, and (2) from Gladstone, Mich., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin, and *damaged and rejected shipments*, on return, for 180 days.

No. MC 109443 (Sub-No. 14 TA), filed January 18, 1966. Applicant: SEABOARD TANK LINES, INC., 2202 Riverside Drive, Scranton, Pa. Applicant's representative: Walter P. Orzolak (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline and fuel oil*, in bulk, in tank vehicles, from Dupont, Pa., to Barryville, N.Y., for 150 days. Supporting shipper: Agway, Inc., Terrace Hill, Ithaca, N.Y., 14851. Send protests to: Paul J. Kenworthy, Safety Inspector, Bureau of Operations and Compliance, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa., 18503.

No. MC 116063 (Sub-No. 87 TA), filed January 18, 1966. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., 2400 Cold Springs Road, Post Office Box 270, Fort Worth, Tex., 76111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Syrup*, in bulk, in tank vehicles, from Lafayette, La., to points in Texas, for 180 days. Supporting shipper: Corn Products Co., Dallas, Tex. Send protests to: Ralph Bezner, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 816 T & P Building, Fort Worth, Tex., 76102.

No. MC 117836 (Sub-No. 9 TA), filed January 18, 1966. Applicant: H. J. NOLL, 6706 Avenue E, Houston, Tex., 77011. Applicant's representative: Joe G. Fender, 2033 Norfolk Street, Houston, Tex., 77006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Galveston, Tex., to Carlsbad, N. Mex., for 180 days. Supporting shippers: West Indies Fruit Co., Post Office Box 396, Pier 20, Galveston, Tev. (General Manager B. E. Klein); and Wester Bros., Inc. (H. H. Wester), 402 South Sixth Street, Carlsbad, N. Mex. Send protests to: John C. Redus, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Post Office Box 61212, Houston, Tex., 77061.

No. MC 125243 (Sub-No. 3 TA), filed January 18, 1966. Applicant: JINX GRAHAM, doing business as J & L VAN LINES, Post Office Box 584, Hollywood, N. Mex., 88335. Applicant's representative: Ronald R. Calhoun, 608 Southwest National Bank Building, El Paso, Tex., 79901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Race horses*, and in connection therewith, *personal effects of attendants, equipment, supplies, and mascots*, used in the care, racing, and exhibition of such animals, (1) between points in New Mexico, on the one hand, and, on the other, Las Vegas, Nev.; Hot Springs, Ark., and points in Texas, Oklahoma, California, and Louisiana, and (2) between Hot Springs, Ark.; Las Vegas, Nev., and points in Arizona, Colorado, Nebraska, Texas, Oklahoma, California, and Louisiana, for 180 days. Supporting shippers: James W. Curry, 4448 Finchway, El Paso, Tex.; C. D. Wooten, 4432 Finchway, El Paso, Tex.; Ted W. Wells, Jr., 4700 Emory Road, El Paso, Tex.; Jake Cascio, 4954 Doniphan Drive, El Paso, Tex.; E. L. Bassford, Post Office Box 454, San Ysidro, Calif.; and Ike Danley, 4505 Bobolink, El Paso, Tex. Send protests to: Jerry R. Murphy, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 109 U.S. Courthouse, Albuquerque, N. Mex., 87101.

No. MC 127582 (Sub-No. 1 TA), filed January 18, 1966. Applicant: W. J. LANFORD and K. W. LANFORD, doing business as ROCKET VAN & STORAGE, 19078 Old Trails Highway, Post Office Box 96, Oro Grande, Calif. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C., 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in San Bernardino County, Calif., and points within a 70-mile radius of Victorville, Calif., restricted to shipments having a prior or subsequent movement beyond said points, in containers, and further restricted to pickup and delivery service incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments, for 180 days. Supporting shippers: Astron Forwarding Co., Post Office Box 161, Oakland, Calif., 94604; and, Vanpac Carriers, Inc., 2114 Macdonald Avenue, Richmond, Calif., 94802. Send protests to: Charles M. Sands, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif., 90012.

No. MC 127787 (Sub-No. 1 TA) (Correction), filed December 27, 1965, published FEDERAL REGISTER, issue of January 12, 1966, and republished as corrected this issue. Applicant: MICHAEL J. POLITO, doing business as M. J. P. TRUCKING & RENTAL SERVICE, 217 Post Avenue, Lyndhurst, N.J., 07070. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J., 07306. NOTE: The purpose of this republication is to correct the spelling of applicant's name as shown above, in lieu of MICHAEL J. POLITE, as shown in previous publication, in error.

No. MC 127855 TA, filed Januray 18, 1966. Applicant: REX L. HODGES, INC., 1724 West 21st Street, Long Beach, Calif. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C., 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Los Angeles, Orange, San Diego, Kern, Ventura, and Santa Barbara Counties, Calif., restricted to shipments having a prior or subsequent movement beyond said counties, in containers, and further restricted to pickup and delivery service incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments, for 180 days. Supporting shipper: Astron Forwarding Co., Post Office Box 161, Oakland, Calif., 94604. Send protests to: Charles M. Sands, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif., 90012.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 66-829; Filed, Jan. 24, 1966; 8:47 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 20, 1966.

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. 40250—*Vegetable oils and relater articles in the South*. Filed by O. W. South, Jr., agent (No. A4829), for interested rail carriers. Rates on vegetable oils and related articles, in carloads and tank carloads, between Boyles, Ala., on the one hand, and specified points in southern territory, on the other.

Grounds for relief—Market competition.

Tariff—Supplement 28 to Southern Freight Association, agent, tariff ICC S-537.

FSA No. 40251—*Joint motor-rail rates—Southern Motor Carriers*. Filed by Southern Motor Carriers Rate Conference, agent (No. 132), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in southern territory.

Grounds for relief—Motortruck competition.

Tariff—Supplement 21 to Southern Motor Carriers Rate Conference, agent, tariff MF-ICC 1351.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 66-830; Filed, Jan. 24, 1966; 8:47 a.m.]

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