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Agencies in this issue—

The President
Agricultural Stabilization and
Conservation Service
Agriculture Department
Atomic Energy Commission
Civil Aeronautics Board
Civil Service Commission
Consumer and Marketing Service
Customs Bureau
Federal Aviation Agency
Federal Communications Commission
Federal Home Loan Bank Board
Fish and Wildlife Service
Food and Drug Administration
General Services Administration
Interagency Textile Administrative
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Securities and Exchange Commission
Small Business Administration
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Title 3—THE PRESIDENT

Executive Order 11303

MODIFYING EXECUTIVE ORDER NO. 9721, AS AMENDED BY EXECUTIVE ORDER NO. 10103, PROVIDING FOR THE TRANSFER OF PERSONNEL TO CERTAIN PUBLIC INTERNATIONAL ORGANIZATIONS

By virtue of the authority vested in me by the Civil Service Act (22 Stat. 403) and Section 1753 of the Revised Statutes, and as President of the United States, it is ordered that Executive Order No. 9721 of May 10, 1946, as amended by Executive Order No. 10103 of February 1, 1950, providing for the transfer of personnel to public international organizations in which the United States Government participates be, and it is hereby, modified as follows:

The limitation in Section 1 relating to the period during which an employee shall be considered as on leave of absence from his employment with the Federal Government is waived with respect to Reginald C. Price, and he shall be considered to have been on leave of absence for the period March 9, 1954, through September 12, 1957, for the purpose of all rights and benefits provided by Executive Order No. 9721, as amended.

LYNDON B. JOHNSON

THE WHITE HOUSE,
September 12, 1966.

[F.R. Doc. 66-10084; Filed, Sept. 12, 1966; 12:25 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

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

SUBCHAPTER A—AGRICULTURAL CONSERVATION PROGRAM

[ACP-1967, Supp. 1]

PART 701—NATIONAL AGRICULTURAL CONSERVATION

Subpart—1967

STATE FUNDS

Paragraph (a) of § 701.2 is amended, for purposes of the 1967 program to read as follows:

§ 701.2 State funds.

(a) Funds available for conservation practices will be distributed among States on the basis of conservation needs, but the proportion allocated for use in any State shall not be reduced more than 15 percent from its proportionate 1966 distribution. The allocation of funds among the States is as follows:

Alabama	\$5,824,000
Alaska	67,000
Arizona	1,708,000
Arkansas	4,761,000
California	5,584,000
Colorado	3,939,000
Connecticut	457,000
Delaware	308,000
Florida	3,455,000
Georgia	6,997,000
Hawaii	176,000
Idaho	2,095,000
Illinois	8,391,000
Indiana	5,473,000
Iowa	9,189,000
Kansas	6,898,000
Kentucky	6,789,000
Louisiana	4,352,000
Maine	1,076,000
Maryland	1,279,000
Massachusetts	532,000
Michigan	4,887,000
Minnesota	6,370,000
Mississippi	6,265,000
Missouri	8,622,000
Montana	5,064,000
Nebraska	6,116,000
Nevada	649,000
New Hampshire	512,000
New Jersey	701,000
New Mexico	2,377,000
New York	4,806,000
North Carolina	6,249,000
North Dakota	5,340,000
Ohio	5,780,000
Oklahoma	6,958,000
Oregon	2,551,000
Pennsylvania	4,620,000
Puerto Rico	823,000
Rhode Island	76,000
South Carolina	3,478,000
South Dakota	4,392,000
Tennessee	5,183,000
Texas	19,787,000

Utah	\$1,362,000
Vermont	1,056,000
Virginia	4,337,000
Virgin Islands	13,000
Washington	2,720,000
West Virginia	1,584,000
Wisconsin	5,576,000
Wyoming	2,126,000
Total	209,730,000

Signed at Washington, D.C., on September 8, 1966.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 66-9982; Filed, Sept. 12, 1966; 8:47 a.m.]

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1967 Crop of Upland Cotton; Acreage Allotments and Marketing Quotas

Basis and purpose. The provisions of §§ 722.467 and 722.468 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.) (referred to as the "act"), with respect to the 1967 crop of upland cotton. The findings and determinations in §§ 722.467 and 722.468 have been made on the basis of the latest available statistics of the Federal Government. The following matters are included in §§ 722.467 and 722.468:

(a) Establishment of a national domestic allotment, projected national and State yields and a farm domestic allotment percentage.

(b) Establishment of a national export market acreage reserve.

Notice that the Secretary was preparing to make the determinations with respect to these matters was published in the FEDERAL REGISTER on July 2, 1966 (31 F.R. 9138), in accordance with section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). No written submissions were received in response to such notice.

In order that farmers may be informed as soon as possible of the farm domestic allotments for 1967 and the amount of the national export market acreage reserve for 1967 so that they may make plans accordingly, it is essential that §§ 722.467 and 722.468 be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest and §§ 722.467 and 722.468 shall be effective upon filing this document with the Director, Office of the Federal Register.

Sec.

722.467 National domestic allotment, projected national and State yields and farm domestic allotment percentage for the 1967 crop of upland cotton.

722.468 National export market acreage reserve for the 1967 crop of upland cotton.

AUTHORITY. The provisions of §§ 722.467 and 722.468 issued under secs. 301, 346(e), 350, 375, 52 Stat. 38, as amended; 79 Stat. 1192, 1193; 52 Stat. 66, as amended; 7 U.S.C. 1301, 1346(e), 1350, 1375.

§ 722.467 National domestic allotment, projected national and State yields and farm domestic allotment percentage for the 1967 crop of upland cotton.

(a) *Amount of national domestic allotment.* Under section 350 of the act, the Secretary is required to determine a national domestic allotment for the 1967 crop of cotton equal to the estimated domestic consumption of cotton (standard bales of 480 pounds net weight) for the marketing year beginning August 1, 1967. Such estimated domestic consumption is hereby determined to be 4.56 billion pounds. The national domestic allotment for the 1967 crop of cotton is hereby established as 4.56 billion pounds of cotton (net weight).

(b) *Projected national yield.* The projected national yield for the 1967 crop of cotton under section 301(b)(13)(L) of the act is hereby determined to be 545 pounds per acre on the basis of the average yield per harvested acre in the United States during 1961, 1962, 1963, 1964, and 1965, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

(c) *Projected State yields.* The projected State yields for the 1967 crop of cotton under section 301(b)(13)(L) of the act, are hereby determined as listed below, on the basis of the average yield per harvested acre in the State during 1961, 1962, 1963, 1964, and 1965, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

State	Projected yield (pounds per acre)
Alabama	525
Arizona	1,130
Arkansas	627
California	1,123
Florida	377
Georgia	489
Illinois	521
Kansas	212
Kentucky	653
Louisiana	586
Mississippi	696
Missouri	620
Nevada	870

State	Projected yield (pounds per acre)
New Mexico.....	744
North Carolina.....	444
Oklahoma.....	310
South Carolina.....	504
Tennessee.....	658
Texas.....	396
Virginia.....	414

(d) *Farm domestic allotment percentage.* Under section 350 of the act, the Secretary is required to determine a farm domestic acreage allotment percentage for the 1967 crop of cotton which shall be the larger of (1) 65 percent of the 1967 farm acreage allotment established under section 344 of the act, or (2) the percentage obtained by dividing (i) the national domestic allotment (in net weight pounds) by (ii) the total for all States of the product of the State acreage allotment (established under § 722.466 (31 F.R. 10568) in first column headed "State's share of national allotment") and the projected State yield (established under paragraph (c) of this section). It is hereby determined that the farm domestic allotment percentage for the 1967 crop of cotton shall be 65 percent which is larger than the percentage calculated under subparagraph (2) of this paragraph. This determination is based on the following data:

Determinations for purpose of:

- (i) Section 722.467(d) (2) (i)—4.56 billion pounds.
- (ii) Section 722.467(d) (2) (ii)—8.49 billion pounds.
- (iii) Section 722.467(d) (2)—54 percent.

§ 722.468 National export market acreage reserve for the 1967 crop of upland cotton.

Under section 346(e) of the act, the national export market acreage reserve for the 1967 crop of cotton is required to be determined on the basis of the following formula:

If the carryover on July 31, 1967, is estimated to be less than the carryover on Aug. 1, 1966 by—	The national export market acreage reserve for the 1967 crop shall be—
At least 1,000,000 bales.....	250,000 acres.
At least 750,000 bales, but not as much as 1,000,000 bales.	187,500 acres.
At least 500,000 bales, but not as much as 750,000 bales.	125,000 acres.
At least 250,000 bales, but not as much as 500,000 bales.	62,500 acres.
Less than 250,000 bales.....	None.

It is hereby determined that the estimated carryover on July 31, 1967, in the amount of 12,400,000 running bales or the equivalent will be less than the carryover on August 1, 1966, in the amount of 16,400,000 running bales or the equivalent by 4,000,000 running bales or the equivalent. Accordingly, the national export market acreage reserve for the 1967 crop of cotton is hereby established as 250,000 acres.

Effective date. Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on September 8, 1966.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 66-9983; Filed, Sept. 12, 1966; 8:47 a.m.]

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

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

[§ 855.10, Rev. 1, Amdt. 7]

PART 855—MAINLAND CANE SUGAR AREA

Proportionate Shares for Farms; 1965 Crop

Pursuant to the provisions of section 302 of the Sugar Act of 1948, as amended, subparagraph (1) of paragraph (h) of § 855.10, Rev. 1 (29 F.R. 13595, 14102, 17029; 30 F.R. 7988, 9673, 15648) is amended to read as follows:

§ 855.10 Proportionate shares for sugarcane farms in the Mainland Cane Sugar Area for the 1965 Crop.

(h) *Eligibility for payment under the act.* * * *

(1) The total acreage of 1965-crop sugarcane on the farm harvested for seed or marketed (or processed) for the production of sugar or liquid sugar shall not exceed the share determined in accordance with this section, except that any sugarcane grown on acreage in excess of such share may be marketed (or processed) for the extraction of sugar or liquid sugar for livestock feed or for the production of livestock feed, if the operator of the farm furnishes weight tickets to the county committee evidencing that such sugarcane was sold by him, or was processed by or for him for the extraction of sugar or liquid sugar for livestock feed or the production of livestock feed, and if so sold, was purchased by the processor for such purpose. Notwithstanding the foregoing provisions of this subparagraph, the producer shall be deemed to have met the requirements for payment with respect to marketings (or processings) within the share where sugarcane was marketed (or processed) for sugar or liquid sugar from an acreage on the farm exceeding the share: *Provided*, That (i) such excess acreage is not more than the larger of two-tenths acre or 2 percent of the share but not in excess of 3 acres, (ii) the county committee finds that the farm operator did not intentionally market (or process) sugarcane from an acreage in excess of the share for the farm and the State committee concurs in such findings, and (iii) within 1 year from the date of the processing of such excess sugarcane, the operator has arranged for the raw value equivalent of sugar produced from sugarcane in the

Mainland Cane Sugar Area, which had not been marketed to fill a quota for such area as provided in Part 816 of this chapter, to be made subject to a bond given pursuant to the provisions of Part 816 of this chapter which provides that a condition of such bond be that the sugar shall be used for livestock feed or for the production of livestock feed. The Sugar Act payment in any such case shall be limited to the amount of sugar commercially recoverable from the sugarcane marketed (or processed) from the acreage within such share.

Statement of bases and considerations. The original regulation provided that producers marketing sugarcane from acreage in excess of the proportionate share established for their farm can be deemed to have met the requirements for earning a Sugar Act payment if (1) the excess acreage is not more than the larger of two-tenths acre or 1 percent of the farm's share but not in excess of 3 acres, (2) the county ASCS committee with the concurrence of the State ASC committee determines that the excess marketings were not intentional, and (3) an amount of sugar equivalent to that produced from the sugarcane harvested on excess acres is placed under bond and that such sugar will be used for livestock feed.

One of the State ASC committees reported that during the harvest of the 1965 sugarcane crop a producer who received a notice of the 1966-crop proportionate share for his farm mistakenly believed that it represented an adjustment in the 1965-crop proportionate share and as a result harvested four-tenths of an acre in excess of the 1965 proportionate share (including permitted tolerance). Upon contacting the county ASC office a few days later, the producer learned of his mistake. Had the mistake not occurred, the excess sugarcane could have been marketed for the production of sugar for livestock feed. Had the producer been fully aware of the regulations regarding sugar for livestock feed, it is still possible that at the time the mistake became known it would not have been too late to have made arrangements for the small quantity of excess sugarcane to have been marketed for the production of sugar for livestock purposes. Under these circumstances, the original regulation would impose an unwarranted hardship upon the producer by voiding the Sugar Act payment on his entire crop. Therefore, this amendment increases the acreage tolerance for excess marketings to be not more than the larger of two-tenths acre or 2 percent of the farm's share but not in excess of 3 acres. The other provisions requiring determinations by the respective committees that such marketings were unintentional and the placing of the sugar under bond remain unchanged. Also payment will continue to be limited to the sugar production from the cane marketed within the share.

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

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

Effective date: Date of publication.

Signed at Washington, D.C. on September 8, 1966.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 66-9984; Filed, Sept. 12, 1966;
8:48 a.m.]

PART 855—MAINLAND CANE SUGAR AREA

Proportionate Shares for Farms; 1967 Crop

Sec.	
855.23	Definitions.
855.24	General provisions.
855.25	State acreage allocations.
855.26	Determination of farm bases for old-producer farms.
855.27	Establishment of shares for old-producer farms.
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855.32	Establishment of shares for new-producer farms.
855.33	Appeals.
855.34	Eligibility for payment under the Act.
855.35	Disposition of excess acreage.
855.36	Failure to file timely or accurate report of acreage in certification counties.

AUTHORITY: §§ 855.23 to 855.36 issued pursuant to section 302 of the Sugar Act of 1948, as amended. (Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 301, 302, 61 Stat. 929, 930, as amended; 7 U.S.C. 1131, 1132.)

§ 855.23 Definitions.

For the purpose of this part, the terms:

(a) "Act," "Secretary," "Deputy Administrator," "State Committee," "County Committee," "Producer," and "Operator" shall have the meaning set forth in Part 892 of this chapter.

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

(c) "Cane" means sugarcane.

(d) "Share" or "Farm Share" means a farm proportionate share.

(e) "Old-Producer farm" means a farm including land that comprised a farm or part of a farm for which a share was established pursuant to §§ 855.14, 855.15, 855.16, 855.19, and 855.10, Revision 1.

(f) "New-Producer farm" means any farm that is not an old-producer farm.

(g) "Sugar" means sugar processed from cane marketed within a farm share, including liquid sugar.

(h) "Livestock Sugar" means that sugar for livestock feed or for the production of livestock feed processed from cane marketed for such purposes in excess of the farm share.

(i) "Accredited Acres" or "Accredited Acreage" shall have the meaning set forth in Part 892 of this Chapter.

§ 855.24 General provisions.

General conditional payments provisions, including instructions for filing applications for payment, are set forth in Part 892 of this chapter. Provisions governing requests for reconsideration and review of determinations by county and State committees or the Deputy Administrator are set forth in Part 780 of this title. Provisions pertaining to certification of acreage and land use in lieu of farm inspection and measurement are set forth in Part 718 of this title.

§ 855.25 State acreage allocations.

The acreage allocation for each State shall be the sum of the acreages specified for the State in the following paragraphs:

(a) 197,400 acres for Florida and 315,600 acres for Louisiana.

(b) Any acreage used to establish shares for new-producer farms pursuant to § 855.32 within a set-aside of 500 acres for Florida and 800 acres for Louisiana.

(c) Any acreage used to adjust shares of old-producer farms pursuant to § 855.33 within a set-aside of 200 acres for Florida and 320 acres for Louisiana.

§ 855.26 Determination of farm bases for old-producer farms.

County committees shall determine a farm base for each old-producer farm or a portion thereof, as follows:

(a) For each old-producer farm, as constituted for the 1966 crop at the time the 1967-crop share is established, such base shall be the 1966-crop accredited acreage record of the farm, except that if the county committee determines that the 1966-crop accredited acreage is less than the original 1966-crop share established pursuant to §§ 855.14, 855.15, 855.16, or 855.19 for the farm because of reasons beyond the control of the operator, or if the 1966-crop accredited acreage record of the farm is less than such share but is at least 90 percent of such share, the farm base will be such 1966 share. If it is known at the time farm bases are to be determined that there will not be acreage for 1967 harvest on any farm for which a base could be established, and the land was not acquired under right of eminent domain, a base will not be established.

(b) For each old-producer farm which was removed from sugarcane production in its entirety or in part by acquisition after the 1963-crop was harvested from such land, but before 1966-crop harvest, by a Federal, State or other agency or entity entitled to exercise the right of eminent domain and the owner did not have the State committee establish a 1965 or 1966 crop share on the basis of the sugarcane record of such land, for use on other land owned by such owner, the base shall be the 1965-crop share which was established or would have been established pursuant to paragraph (d) of § 855.10, Revision 1 for the farm as constituted at time of acquisition.

In determining such share, when there was no cane production on the farm or production was reduced thereon for the 1964 crop year because of the acquisition of the farm or part thereof, the county committee shall consider that the accredited acreage of the farm would have been the same for that crop as for the 1963 crop.

§ 855.27 Establishment of shares for old-producer farms.

The county committee shall establish a share for any farm for which a farm base is determined by applying to such farm base an adjustment factor determined by the State committee by dividing the acreage made available to the State in paragraph (a) of § 855.25 by the total of the bases of all farms in the State.

§ 855.28 Eminent domain.

The share established pursuant to § 855.27 for a farm which was removed from cane production in its entirety or in part by acquisition after the 1963 crop was harvested from such land by a Federal, State or other agency or entity entitled to exercise the right of eminent domain, shall, upon application by the owner of the land so removed to the appropriate ASCS State office, be added to the 1967-crop share, if any, established pursuant to § 855.27 for any land owned by the owner to the extent requested in the application but not in excess of the difference between the share established pursuant to § 855.27 for the farm from which production was removed and the 1967-crop share established for the part of the farm not lost by the acquisition. Where application is not made as provided in this section for the entire share or part thereof established for the farm, the share or part thereof not applied for shall be reserved by the State committee for 3 years after the date of acquisition or until application is made by the owner of the land removed, whichever is earlier; *Provided*, That such reserved share or part thereof shall be subject to any adjustments required to be made in establishing shares for old-producer farms under the regulations applicable to the crop year for which the owner makes application for the share or part thereof reserved. The acreage of such reserved shares not used for the 1967 crop will not be reallocated to other old-producer farms pursuant to § 855.31.

§ 855.29 Shares for reconstituted farms.

If the county committee determines, after a 1967-crop share is established, that the farm was not properly constituted for the 1967 crop pursuant to the definitions of a farm and an operator, the farm or farms involved shall be reconstituted in accordance with such definitions. A share shall be determined as follows for the reconstituted farm.

(a) *Subdivisions.* The share for each subdivision of a farm which is subdivided shall be the portion of the 1967-crop share established for the farm pursuant to § 855.27 including any adjustments

made in such share pursuant to §§ 855.31 or 855.33, determined for each subdivision in accordance with the method used for dividing the accredited acreage record of the farm set forth in paragraph (d) of § 892.1. However, if the share prorated to a subdivision would preclude the harvest of acreage growing for 1967-crop harvest on any subdivision, the county committee shall adjust the shares for the subdivisions, by considering the acreage growing on each subdivision. The sum of the adjusted shares of the subdivisions shall not exceed the parent farm's share before division.

(b) *Combinations.* The share for a farm consisting of a combination of old-producer farms, subdivisions of such farms or combination of such farms and such subdivisions shall be the sum of the 1967-crop shares for such farms and subdivisions of such farms.

(c) *New-producer farm.* The share for a new-producer farm which is subdivided shall be prorated to the subdivisions by the percentage ratio that the acreage of cane growing on each subdivision is to the total acreage of cane on the farm. If a new-producer farm or subdivision thereof is combined with an old-producer farm or subdivision thereof, the new-producer share or portion determined for the subdivision shall be canceled and the share established for the old-producer farm or subdivision thereof shall be the share for the reconstituted farm.

§ 855.30 Redetermination of bases and shares because of use of incorrect data.

Where incorrect or estimated data were used in determining a farm base or establishing a share, the base shall be recomputed in accordance with § 855.26 using the correct data and a new share shall be established for the farm by applying the factor obtained pursuant to § 855.27 to the new farm base. Any acreage by which the incorrect share exceeds the newly established share shall be reallocated under the provisions of § 855.31.

§ 855.31 Reallocation of unused acres.

(a) *Eligibility.* The operator of any old-producer farm may request an increase in the share established for his farm.

(b) *Filing requests for additional acreage.* Requests shall be filed at the ASCS county office in which the farm headquarters is located (in Florida, at the Glades-Hendry ASCS Office) not later than a date set by the State committee. Such date is to become effective when published in the FEDERAL REGISTER. Late requests may be accepted prior to harvest if the State committee determines that the persons delayed filing for reasons beyond their control or there is acreage still available after filling all timely filed requests.

(c) *Increasing shares.* Acreage to be reallocated pursuant to paragraph (d) of this section shall be used to increase the shares of old-producer farms whereon additional acreage may be used and requests have been filed pursuant to paragraph (b) of this section by considering

the ability of the farm operator to use additional acreage in light of (1) availability and suitability of land, (2) availability of production and marketing facilities, (3) rotation practices, (4) maintenance of a proper relationship between total cane acreage and suitable cropland, and (5) the need for minimum acreages in a mill area.

(d) *Methods for reallocating unused acreage.* In consideration of the criteria set forth in paragraph (c) of this section, unused old-producer farm proportionate share acreage when determined, but excepting those farms for which a farm base was determined pursuant to paragraph (b) of § 855.26 shall be used to increase shares as follows: (1) In Florida, the State committee shall determine and inform the county committees of increases to be made in shares. (2) In Louisiana, the county committee of each county will determine the increases to be made in shares from the unused proportionate share acreage on farms. Any such unused acreage remaining in a county after all requests have been satisfied shall be released to the State committee for distribution to other counties in the State where the total additional acreage requested exceeds the unused acreage. Such distribution by the Louisiana State Committee shall be made by the percentage ratio that the total of the shares established pursuant to § 855.27 for all farms in each county where the acreage requested exceeds the unused acreage bears to the total shares so established for all farms in all counties where the acreage requested exceeds the unused acreage: *Provided*, That the acreage distributed to a county shall not exceed the total acreage needed to increase shares to the extent requested for all farms in the county for which requests were timely filed.

(e) *Reduction in shares.* If the county committee determines for any old-producer farm, excluding those farms for which a base was determined pursuant to paragraph (b) of § 855.26, that the total of the 1967-crop acreage of cane to be harvested for sugar and seed and that which has been determined to be bona fide abandoned is less than the farm's 1967-crop share, including any adjustment made pursuant to this section, the share shall be reduced to the level of such total 1967-crop acreage.

§ 855.32 Establishment of shares for new-producer farms.

(a) *Filing requests.* A person desiring a share for a new-producer farm shall file a request at the local county office (in Florida, at the Glades-Hendry ASCS Office) not later than a date set by the State committee. Such date is to become effective when published in the FEDERAL REGISTER. Late requests may be accepted if the State committee determines that the persons delayed filing for reasons beyond their control or there is acreage still available after filling all timely filed requests.

(b) *Rating of applicants.* Subject to review and redetermination by the State committee the county committee shall rate the applicant as "qualified" or "not

qualified" to utilize a new-producer farm share by considering (1) the availability and suitability of land, (2) availability of production and marketing facilities, and (3) whether the land on which cane will be grown is under his control through ownership or lease and such land was not included in an old-producer farm: *Provided*, That no applicant will be rated as "qualified" unless the county committee determines he will be the operator of the farm as defined in paragraph (a) of § 892.1.

(c) *Size of share.* Each share shall be 50 acres, or a lesser acreage if requested or if the county or State committee determines the available cropland will not support a share of 50 acres.

(d) *Establishing shares.* The State committee shall establish a share for the new-producer farm of each "qualified" applicant if the acreage provided in paragraph (b) of § 855.25 is sufficient to establish such shares. If there is insufficient acreage, selection of "qualified" applicants to receive shares shall be by lot. Each drawing shall be supervised by a representative of the State committee. Persons included in a drawing shall be given advance notice and an opportunity to attend. Names (or farm numbers) shall be placed in a container and shall be indistinguishable to the person making the "draws." The person in charge shall announce the method of selection before the drawing.

(e) *Use of set-aside.* All acreage set-aside for new producers shall be allotted to qualified new-producers, if there are sufficient requests for such acreage.

§ 855.33 Appeals.

After the county committee has acted on its own initiative or on a request for reconsideration of the establishment of a share for an old-producer farm and has found that such share was in error because of the use of incorrect data or misapplication of these regulations, the State committee upon its own initiative or upon application of the operator, may within the acreage available under paragraph (c) of § 855.25 increase the share for such farm to a level so as to give effect to the use of correct data or proper application of these regulations.

§ 855.34 Eligibility for payment under the Act.

In addition to the conditions of payment set forth in Part 892 of this chapter, a producer must comply with the following provisions to be eligible for payment under the Act.

(a) The total acreage of 1967-crop cane on the farm harvested for seed, and harvested and marketed (or processed) for sugar production (except livestock sugar) shall not exceed the final share determined for the farm. The acreage of cane harvested for seed purposes from a farm and planted as seed on another farm will be considered as acreage of the latter farm harvested for seed for purposes of compliance with the proportionate share established for such latter farm, except where the seed cane was harvested within the share established for the farm on which grown or from an

experimental farm operated by a State or Federal Agency. Where such seed cane was grown on a farm for which a 1967-crop share was not established the operator of the farm on which the seed cane is planted shall notify the committee prior to the acquisition of the seed cane so that the committee may determine, at the expense of the operator, the acreage to be harvested for such purpose, or in the absence of such notification the county committee shall determine the acreage harvested for seed from information available to it at the expense of the operator. The producer shall be deemed to have met the requirements for payment with respect to marketings (or processings) within the share where cane was marketed (or processed) for sugar or for sugar and seed from an acreage on the farm (including acreage of seed cane attributed to such farm under this paragraph) in excess of the share: *Provided*, That (1) such excess acreage is not more than the larger of four-tenths acre or 2 percent of the share but not in excess of 5 acres, (2) the county committee finds and the State committee concurs that such marketings (or processings) were unintentional and (3) within 1 year after the processing of such excess cane the operator arranges for the raw value equivalent of sugar produced from cane in the Mainland Cane Sugar Area, and not marketed to fill a quota for such area as provided in Part 816 of this chapter, to be made subject to a bond given pursuant to Part 816 of this chapter which provides that a condition of such bond shall be that the sugar shall be used for livestock feed. The Sugar Act payment in any such case shall be limited to the amount of sugar commercially recoverable from cane marketed (or processed) from the acreage within such share.

(b) Unless approved by the county committee, the number of share tenants or sharecroppers engaged in 1967-crop cane production on the farm shall not be reduced below the number so engaged for the previous crop. In considering such approval, the county committee shall be guided by whether the reduction resulted from voluntary action of the tenants or sharecroppers, or was otherwise beyond the producer's control.

(c) The producer shall not have entered into any leasing or cropping agreement to divert payments to him which share tenants or sharecroppers would be entitled if their leasing or cropping agreements for the previous crop were in effect.

§ 855.35 Disposition of excess acreage.

The provisions of this section apply if the county committee determines there is acreage of cane on a farm in excess of the share.

(a) Excess acreage which the operator elects to plow out, abandon, or harvest for purposes other than for sugar (except livestock sugar) or seed may be disposed of at any time. Notification must be given by the operator when and how disposition will be made to permit verification by a county committee representative of the action taken. Excess acreage of cane disposed of concurrently

with acreage harvested within the share must be clearly identified by a county committee representative. Such excess acreage must be so located that it may be disposed of without interfering with the harvest of the proportionate share acreage. The identity of such excess acreage must be maintained after harvest to assure that proper disposition was made: *Provided*, That if cane is harvested from excess acreage for sirup concurrently with the harvest of cane for seed or sugar other than for livestock sugar, and such acreage is not identified as provided above, the producer shall not market a quantity of cane for sugar production or seed greater than the total of the tonnages of cane marketed for sugar, seed, and sirup multiplied by the percentage that the acreage harvested for sugar and seed on the farm is of the total acreage of all cane so marketed.

(b) An estimate of the average tons of cane per acre growing on excess acreage which has been identified and designated for harvest for sirup or livestock sugar must be made before such harvest by a county committee representative and the farm operator. The estimate must be signed by the operator and filed at the county office.

(c) Any operator who markets cane for livestock sugar or sirup from excess acreage must furnish weight tickets to the county committee evidencing that such cane was sold by him or processed by or for him for such purposes. Where excess acreage is identified by a county committee representative and an estimate made, as provided in paragraph (b) of this section, if the average tonnage of cane per acre grown on such excess acreage, as computed by dividing the total tonnage of cane marketed for livestock sugar or sirup by the excess acreage, is less than 80 percent of the estimate made pursuant to paragraph (b) of this section, no payment shall be made until the operator furnishes acceptable proof to the county committee that the cane from all excess acreage on the farm was marketed or disposed of other than for seed or sugar production except for livestock sugar.

(d) The operator must maintain a record of the excess acreage in each field or parts of fields and the method and purpose of disposal of cane grown on such acreage until receipt of the Sugar Act payment for the 1967 crop.

§ 855.36 Failure to file timely or accurate report of acreage in certification counties.

If the operator of a farm, located in a county designated in Part 718, of this title, as a county in which farm operators' certification of the acreage and land use may be accepted in lieu of farm inspection and measurements, fails to file a report in compliance with paragraph (b) (6) of § 718.8 or files a timely report showing that the acreage of cane is within the share for the farm and the county or State committee later determines that such acreage is in excess of the share and was knowingly reported incorrectly by the operator, no payment shall be made with respect to such farm.

Statement of bases and considerations—Sugar Act requirements. The provisions with respect to producer compliance with the conditions for receiving payment, the basis for such payment, considerations required for establishing individual shares, and the protection of interests of new and small producers, tenants, and sharecroppers are set forth in sections 301 and 302 of the Act. (7 U.S.C. 1131, 1132.)

General. Pursuant to the foregoing provisions of the Act, shares are required in any area for a given crop when the Secretary determines that production will be greater than the quantity needed to enable the area to meet the 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.

Shares were required in the Mainland Cane Sugar Area for the 1965 and 1966 crops. The total acreage allocated to the area for the 1965 crop was about 12 percent less than the unrestricted 1964 crop. For the 1966 crop, the total of the shares allocated to each State was slightly in excess of that made available for the previous crop. The effective inventory of sugar on January 1, 1966, was 670,000 tons. Sugar production from the 1966 crop is presently estimated at between 1,150,000 and 1,200,000 tons. Thus, the effective inventory of sugar on January 1, 1967, may be increased by 50,000 to 100,000 tons or to a level representing 65 to 70 percent of the area's 1967 marketing quota of 1,100,000 tons. In the absence of restrictions, 1967 crop acreage would probably exceed this year's. In view of the foregoing it is hereby determined that the production of sugar from the 1967 crop of sugarcane will be in excess of the quantity needed to enable the Mainland Cane Sugar Area to meet its quota and provide a normal carryover inventory, and consequently, it is necessary to restrict 1967-crop acreages.

Public Hearing. On June 14, 1966, an informal public hearing was held in Miami Beach, Fla., to obtain the views and recommendations of interested persons on all matters relating to the establishment of 1967-crop shares. In a press release announcing the hearing, the Department proposed as a basis for discussion that separate State allocations be established at the total of final 1966-crop shares in each State factored to the level of the acreage required to bring sugar supplies into line with quota and carryover requirements. Views were requested as to the level of such acreage. The Department proposed to set aside acreage within each State allocation for making adjustments in shares, establishing shares for new farms and handling appeals. Recommendations were requested as to the level of these set asides. For illustration, several methods for establishing farm bases were proposed with the request that each State recommend the most suitable for conditions in the State. The Department suggested that an appropriate adjustment factor

be applied to the farm base to compute each share, except that farm bases of 50 acres or less would not be factored. Views were also requested concerning a method which would permit each State to utilize the total of the proportionate share acreage allotted. A full discussion was requested on the crediting of sugarcane acreage history of reconstituted farms.

About 60 persons attended the public hearing.

The spokesman for the Florida Sugarcane League, representing all the sugarcane processors in Florida and 98 percent of the producers in the State, made several recommendations including the following: (1) That the 1967 crop be restricted at the level of the 1966 crop; (2) that State allocations not be established, but that if the Department decided to establish them, that no State be permitted to exceed its allocation; (3) that the farm base for each old-producer farm be the 1966 share originally established, plus that part of any adjustment in such share that was actually planted for 1966-crop harvest; (4) that each share be established at 100 percent of the farm base; (5) that no provision such as reallocation of unused acreage or a reserve be included, since it would increase the risk of overproduction and future acreage cuts; and (6) that small set asides be established for new producers, adjustments and handling appeals.

The spokesman for the American Sugarcane League, representing all the sugarcane processors in Louisiana and farmers who produce more than 95 percent of the sugarcane in the State and also the Louisiana Farm Bureau Federation made several recommendations including the following: (1) That the 1967 crop be restricted at an acreage level equaling the actual 1966-crop acreage; (2) that separate State acreage objectives and allocations be established with a provision to permit each State to reach its objective; (3) that the objective or desirable acreage to produce sugarcane be the sum of (a) the 1966 State allocation, (b) acreage needed for eminent domain purposes, (c) 100 acres for Florida and 150 acres for Louisiana for increasing shares granted on appeals, rectifying misapplication of the regulation or errors and for other contingencies, and (d) 125 acres for Florida and 200 acres for Louisiana for new-producer shares of 25 acres each; (4) that the acreage allocation consist of the items included in the acreage objective plus an additional acreage for Louisiana not to exceed 5,000 to represent an estimate of the unused acres to be allotted prior to October 1, 1966; (5) that a compensating adjustment be made in the 1968-crop acreage objective if an error is made in estimating 1967-crop unused acreage causing the State to exceed or fall short of its 1967-crop objective; (6) that the farm share be the 1966-crop share originally established plus any adjustment in such share that was utilized; and (7) that the acreage becoming available from the new-producer set-aside which is not used for

that purpose, the estimate of unused acres, and the acreage covered by shares which is lost to industrial or residential development be used to increase shares of other farms.

Both spokesmen stated that the industry would be willing to carry any surplus stocks of sugar which might result from the establishment of 1967 acreages at the same level as for 1966.

A full discussion was held on the crediting of a farm's sugarcane acreage record when the farm is reconstituted. One of the spokesmen for the American Sugarcane League recommended that if all parties having an interest in the subdivision agree in writing as to the manner in which the history will be credited to parts of the parent farm, that such agreement be approved by the county committee. A spokesman representing various companies in Florida recommended that (1) anyone desiring to grow sugarcane be allowed to buy a share, since the Sugar Act is designed to protect the industry and not perpetuate a vested right in any individual, and (2) an operator of a farm be permitted to move a share to any other lands under his control without retaining the land from which the share was removed for 3 years. In answer to a question by a Department representative, the spokesman stated that it should be permissible to purchase land for the purpose of acquiring acreage history and then to immediately sell such land after planting sugarcane acreage on other lands under his control equal to the history obtained. He further suggested that guidelines be set so as to prevent the dealing in acreage history by someone not interested in growing sugarcane.

Regulation. This regulation provides separate State allocations for Louisiana and Florida within which shares may be established. For each State the allocation will represent the sum of (1) the 1966-crop allocation and (2) the acreage used for 1967 within specific set-asides for establishing shares for new-producer farms and increasing shares of old-producer farms upon appeal to the State committee to correct errors.

A base will be determined for each farm as constituted for the 1966 crop at the level of the 1966-crop accredited acreage record of the farm, except that if the farm operator was prevented from utilizing the 1966-crop share originally established for the farm for reasons beyond his control or he utilized at least 90 percent of such share the base will be determined at the level of such 1966 share. Thus, the base for each farm will not be less than the original 1966-crop share for the farm unless the 1966-crop accredited acreage record for the farm was less than 90 percent of such share and the farm operator willingly underplanted. The method adopted is slightly more restrictive than that proposed by the Louisiana and Florida groups in that protection would not be accorded to producers who voluntarily failed to utilize at least 90 percent of their 1966-crop share. It is believed inequitable to permit these producers to

receive the same consideration as that given producers who made an effort to maintain their acreages. A base will also be determined for any farm for which production was lost or reduced after 1963-crop harvest but before 1966-crop harvest through the transfer of acreage to an agency having the right of eminent domain, provided such acreage has not been used to increase the 1965- or 1966-crop share for any land owned by the same person.

The use of the foregoing method in determining farm bases will necessitate the application of an adjustment factor so that the total of shares for old-producer farms will not exceed the State allocation. Based on reliable estimates of the 1966-crop plantings in each State, it is expected that the reduction from 1966-crop shares will be minimal. Because of this minor cutback farm bases of 50 acres or less are not exempt from factoring as was suggested by the Department. If it is known at the time farm bases are determined that cane will not be grown for 1967 harvest on a farm, the base determined for such farm will not be used in computing the adjustment factor. This will further minimize the reduction from the 1966-crop level and will make the acreage for any farm going out of production available to other farms. The shares determined for land lost because of eminent domain, if not used for the 1967 crop, will be held for future use of the owner for 3 years following its acquisition.

Utilization of the total of the shares in each State is made possible through the reallocation of unused acres on old-producer farms (except for some eminent domain cases) to other farms whereon additional acreages may be used. The county committees in Louisiana are authorized to immediately assign unused acreage on farms to other farms within the same counties as soon as underplantings are known. This procedure should expedite the reallocation of this acreage. If the underplantings in a county exceed the demand for additional acreage, the excess will be made available to the State committee for distribution to other counties. Since underplantings heretofore have been distributed throughout Louisiana, this provision should help alleviate the loss of cane supplies in particular areas in Louisiana where significant acreages have been taken out of production. In Florida, where the sugarcane is grown in one large area of the State and unused acreage is not substantial, provision is made for the State committee to reallocate unused acreage without regard to county lines. Guidelines are provided to the committees for consideration in reallocation of the unused acreages.

The 500 acres being made available to Florida and the 800 acres being made available to Louisiana for the establishment of new-producer shares in 1967, represent approximately one-quarter of 1 percent of the acreage allocation for such States. Shares for new producers will be established at a level of 50 acres or a lesser acreage, if requested. In view of the economic factors involved in beginning a new sugarcane operation, in-

cluding the purchase of specialized farm equipment, it is believed that a proportionate share at a 50 acre level is appropriate.

Small acreages are provided each State committee to correct, upon appeal, any errors made in establishing shares caused by the use of incorrect data or the improper application of the provisions of the regulations. Any of the acreages set aside specifically for establishing new-producer shares or for correcting errors which is not used for these purposes may not be distributed to other farms.

Unlike prior regulations, a specific set aside for making adjustments in shares is not provided. The need for providing such acreage is minimized, since the method used for establishing farm bases will assure that those operators who planted at least 90 percent of the 1966 share for their farms or those planting a lesser percentage because of acceptable reason will not be penalized.

This regulation provides that seed cane planted on a farm which is obtained from another farm for which a share is not established will be considered as having been grown on the farm on which the cane is used. Seed cane has normally been grown on the farm on which it is planted for sugar and has been included in its acreage record on which the share is based. If producers are permitted to purchase seed cane from nonparticipating farms without a compensating adjustment in their own acreage, the effect would be to permit them to market sugarcane for sugar which normally would be used for seed. If this practice were to be carried out extensively a larger carry-over inventory would result and it would be necessary to reduce shares generally to compensate for the additional production.

The other provisions of this regulation are generally similar to those which were in effect for the 1966 program.

The 1967-crop sugarcane acreages resulting from this regulation should provide a quantity of sugarcane which will enable the area to meet its quota under the Act and provide a normal carryover inventory.

The provisions of this regulation provide an equitable basis for establishing shares for farms in the area for the 1967 crop of sugarcane.

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

Effective date: Date of publication.

Signed at Washington, D.C., on September 8, 1966.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 66-9985; Filed, Sept. 12, 1966; 8:48 a.m.]

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

[Orange Reg. 54]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos 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 committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, except Temple and Murcott Honey oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation 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 as hereinafter set forth. Shipments of oranges, including Temple and Murcott Honey oranges, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on September 6, 1966, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of oranges, except Temple

and Murcott Honey oranges, and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 905.484 Orange Regulation 54.

(a) *Order.* (1) During the period beginning at 12:01 a.m., e.s.t., September 12, 1966, and ending at 12:01 a.m., e.s.t., August 1, 1967, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any oranges, except Temple and Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 1;

(ii) Any oranges, except Temple and Murcott Honey oranges, grown in the production area, which are of a size smaller than 2 $\frac{1}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Oranges and Tangelos: *Provided*, That in determining the percentage of oranges in any lot which are smaller than 2 $\frac{1}{16}$ inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size 2 $\frac{1}{16}$ inches in diameter or smaller.

(2) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the applicable meaning given to the respective term in the U.S. Standards for Florida Oranges and Tangelos (§§ 51.1140-51.1178 of this title); or in Regulation 105-1.02, as amended, effective January 1, 1966, of the regulations of the Florida Citrus Commission.

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

Dated: September 9, 1966.

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

[F.R. Doc. 65-10016; Filed, Sept. 9, 1966; 2:26 p.m.]

[Grapefruit Reg. 63]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos 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 committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation 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 as hereinafter set forth. Shipments of all grapefruit, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on September 6, 1966, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit, and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 905.485 Grapefruit Regulation 63.

(a) *Order.* (1) During the period beginning at 12:01 a.m., e.s.t., September 12, 1966, and ending at 12:01 a.m., e.s.t., August 1, 1967, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any seeded grapefruit, grown in the production area, which does not grade at least U.S. No. 1 Golden;

(ii) Any seeded grapefruit, grown in the production area, which are smaller than $3\frac{1}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of

seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the U.S. Standards for Florida Grapefruit; or

(iii) Any seedless grapefruit, grown in the production area, which does not grade at least Improved No. 2; or

(iv) Any seedless grapefruit, grown in the production area, which are smaller than $3\frac{1}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in said U.S. Standards for Florida Grapefruit.

(2) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Florida Grapefruit (§§ 51.750-51.783 of this title); "Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color.

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

Dated: September 9, 1966

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

[F.R. Doc. 66-10017; Filed, Sept. 9, 1966; 2:26 p.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[20.165]

PART 531—STATEMENTS OF POLICY

Continued Inclusion of Time Deposits as Cash

SEPTEMBER 6, 1966.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of amending § 531.6 of the regulations for the Federal Home Loan Bank System, relating to the continued inclusion of time deposits as cash, to liberalize the basis under which members of the Federal Home Loan Bank System count certificates of deposit as cash, and for the purpose of effecting such amendment, hereby amends § 531.6 of the regulations for the Federal Home Loan Bank System (12 CFR 531.6) to read as follows:

§ 531.6 Continued inclusion of time deposits as cash.

(a) Under § 523.12(b) of this chapter of the regulations for the Federal Home Loan Bank System, "cash" is defined as cash on hand, unpledged deposits in a Federal Home Loan Bank or a State bank performing similar reserve functions, and unpledged demand deposits in banks not in the possession of appropriate supervisory authorities.

(b) Members of the Federal Home Loan Bank System had, under a former ruling of the Board, been permitted to count time deposits open account and time certificates of deposit as cash within specified limits.

(c) In the circumstance, the Board has determined, as a matter of policy, to allow time deposits open account and time certificates of deposits to be counted as cash according to the following schedule and extent:

(1) Time certificates of deposit made or renewed prior to May 20, 1966, may be counted as cash until July 1, 1967, or their expiration date (or first alternative maturity after September 30, 1966), whichever is earlier, except that such time certificates of deposit which have multiple maturity dates of not more than 90 days may be counted as cash until July 1, 1968;

(2) Time certificates of deposit dated on or after May 20, 1966, which have a single maturity date of not more than 90 days or multiple maturity dates of not more than 90 days, may be counted as cash until July 1, 1968, but only to the extent such certificates evidence the reinvestment of funds theretofore evidenced by time certificates of deposit or time deposits open account;

(3) Time deposits open account subject to a notice period of not more than 30 days and representing the reinvestment of funds theretofore evidenced by certificates of deposit or time deposits open account may be counted as cash until July 1, 1968; and

(4) No time deposit open account or deposit evidenced by a certificate of deposit shall be considered as cash unless (i) the association itself made the deposit in question, (ii) the deposit, together with all other time deposits of the association in the same bank, does not exceed the greater of one-fourth of 1 percent of such bank's total deposits as of the bank's last published statement of condition or \$10,000, and (iii) no consideration was received from a third party in connection with the making of the deposit.

(Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

By the Federal Home Loan Bank Board.

[SEAL]

HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 66-9992; Filed, Sept. 12, 1966; 8:49 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 6; Amdt. 3]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of "Affiliates" as Applicable to Franchisees

On March 10 and 11, 1966, a hearing was held pursuant to notice published in the FEDERAL REGISTER on December 15, 1965 (30 F.R. 15438), on the size standards for determining whether a concern operating under a franchise agreement is a small business concern. Interested persons were invited to testify at the hearing and to file written comments.

The primary purpose of the hearing was to determine what changes, if any, should be made in the Small Business Administration rules for determining the eligibility of a franchisee as a small business concern, in view of the growing role of franchising in today's economy, and its effect on the competitive strength of small business.

It was the consensus of those participating in the hearing either in person or by submission of written statements, that franchising contributes significantly to the ability of small concerns to compete effectively with larger organizations; that it offers a relatively safe and promising haven for the small businessman; that it provides business opportunities, otherwise unavailable, for many persons including members of minority groups, and that it is a socially preferable alternative to the further vertical integration of the American economy since it brings to the economy and society most of the benefits and few of the evils thereof. It was also recommended by the great majority of those submitting information that the small Business Administration should consider franchisees as small business concern regardless of the nature of the restrictions in their franchise agreements so long as the right to profit, with ownership, and risk of loss is substantially that of an otherwise eligible small business concern.

After consideration of all views expressed in connection with the hearing, and all views previously submitted to the Small Business Administration on this issue, the amendment set forth below is hereby adopted.

The Small Business Size Standards Regulation (Rev. 6) (31 F.R. 9721), as amended (31 F.R. 10114, 11651) is hereby further amended by revising § 121.3-2(a) as follows:

§ 121.3-2 Definition of terms used in this part.

(a) "Affiliates." Concerns are affiliates of each other when either directly or indirectly (1) one concern (other than an investment company licensed under the Small Business Investment Act of

1958 or registered under the Investment Company Act of 1940, as amended), controls or has the power to control the other, or (2) a third party or parties (other than an investment company licensed under the Small Business Investment Act of 1958 or registered under the Investment Company Act of 1940, as amended), controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships: *Provided, however,* That restraints imposed on a franchisee by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his effort, commensurate with ownership, and bears the risk of loss or failure.

This amendment shall become effective upon publication in the FEDERAL REGISTER except that for the purposes of §§ 121.3-8, 121.3-9, and 121.3-12 it shall become effective 60 days after publication.

Dated: September 8, 1966.

BERNARD L. BOUTIN,
Administrator.

[F.R. Doc. 66-9993; Filed, Sept. 12, 1966; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Docket No. 7111, Amdt. 39-286]

PART 39—AIRWORTHINESS DIRECTIVES

Dowty Rotol Propellers

Amendment 39-210 (31 F.R. 4447), AD 66-9-1, requires application of primer on propeller blades before application of the primer and deicer boots on Dowty Rotol propellers. Subsequent to the issuance of Amendment 39-210, the Agency has determined that the serial number A.105040 listed in the AD is a blade serial number, rather than a propeller serial number. Therefore, the AD is being amended to apply to certain Dowty Rotol propellers with blade serial numbers below A.105040.

Since this amendment provides a clarification only, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-210 (31 F.R. 4447), AD 66-9-1 is amended by amend-

ing the applicability statement to read as follows:

Applies to the following Dowty Rotol propellers with propeller blade serial numbers below A.105040: (c) R175/4-30-4/13E installed on Fairchild F-27 and F-27B; (c) R193/4-30-4/50, installed on Fairchild F-27A, F-27F, and F-27G; (c) R186/4-30-4/16, installed on Armstrong Whitworth Argosy Type AW650 Series 101; (c) R184/4-30-4/50, installed on Grumman G-159; (c) R148/4-20-4/21E, installed on Viscount 744; (c) R130/4-20-3/12E, installed on Viscount 745D; and (c) R179/4-20-4/33, installed on Viscount 810.

This amendment becomes effective September 13, 1966.

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

Issued in Washington, D.C., on September 6, 1966.

W. E. ROGERS,
Acting Director,
Flight Standards Service.

[F.R. Doc. 66-9958; Filed, Sept. 12, 1966; 8:45 a.m.]

[Airspace Docket No. 66-SO-70]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Anniston, Ala., transition area.

The Anniston transition area is described in § 71.181 (31 F.R. 2149).

The airspace, as currently designated, is predicated, in part, on the 232° bearing from the Anniston radio beacon. Relocation of the radio beacon and realignment of the instrument approach course necessitates alteration of the transition area to reflect these changes.

Since this amendment is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., November 10, 1966, as hereinafter set forth.

In § 71.181 (31 F.R. 2149) the Anniston, Ala., transition area is amended as follows:

That portion which reads " * * * and within 2 miles each side of a 232° bearing from the Anniston RBN extending from the Anniston control zone to 12 miles SW of the airport" is deleted and "within 2 miles each side of the 235° bearing from the Anniston RBN extending from the 8-mile radius area to 12 miles SW of the airport" is substituted therefor.

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

Issued in East Point, Ga., on September 1, 1966.

WILLIAM M. FLNER,
Acting Director, Southern Region.
[F.R. Doc. 66-9959; Filed, Sept. 12, 1966; 8:45 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter II—National Bureau of Standards, Department of Commerce

SUBCHAPTER B—STANDARD REFERENCE MATERIALS

PART 230—STANDARD REFERENCE MATERIALS

Subpart C—Standards of Certified Chemical Composition

STEELS (CHIP FORM)

Under the provisions of 15 U.S.C. 275a and 277, the following amendment relating to standard reference materials issued by the National Bureau of Standards is effective upon publication in the FEDERAL REGISTER. The amendment adds standard reference material 337.

The following amends Title 15 CFR Part 230:

Section 230.7-1 *Steels (chip form)* is amended to add standard 337 as follows:

§ 230.7-1 Steels (chip form).

(b) * * *

CARBON ONLY

Sample No.	Kind	Carbon	Price
337	Basic open hearth, 1.1C (carbon only).	1.09	\$5.00

(Sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277. Interprets or applies sec. 7, 70 Stat. 959; 15 U.S.C. 275a)

Dated: August 29, 1966.

A. V. ASTIN,
Director.

[F.R. Doc. 66-9957; Filed, Sept. 12, 1966; 8:45 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 66-191]

PART 14—APPRAISEMENT

Antidumping; Steel Jacks From Canada

SEPTEMBER 1, 1966.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to such authority the Secretary of the Treasury has determined that steel jacks from Canada, manufactured by J. C. Hallman Manufacturing Co., Ltd., Kitchener (formerly Waterloo), Ontario, Canada, are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the U.S. Tariff Commission responsibility for determination of injury or

likelihood of injury. The U.S. Tariff Commission has determined, and on August 19, 1966, it notified the Secretary of the Treasury, that an industry in the United States is likely to be injured by reason of the importation of steel jacks from J. C. Hallman Manufacturing Co., Ltd., Kitchener, Ontario, Canada, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to steel jacks from Canada, manufactured by J. C. Hallman Manufacturing Co., Ltd., Kitchener, Ontario, Canada.

Section 14.13(b) of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Steel jacks.....	Canada.....	66-191

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

[SEAL] JAMES POMEROY HENDRICK,
Acting Assistant Secretary
of the Treasury.

[F.R. Doc. 66-9331; Filed, Sept. 12, 1966; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. 6895]

MISCELLANEOUS AMENDMENTS TO CHAPTER

In order to incorporate the requirements of Subpart B of 26 CFR Part 170, relating to authorizations to execute bonds and consents on behalf of corporate sureties, in the appropriate regulations, 26 CFR Parts 170, 197, 198, 201, 211, 213, 240, 245, and 252 are amended as follows:

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

PARAGRAPH A. 26 CFR Part 170 is amended as follows:

1. Subpart B is deleted.

2. Section 170.42 is amended to delete the parenthetical reference to § 201.194 and the last sentence, which relates to powers of attorney. As amended, § 170.42 reads as follows:

§ 170.42 Other regulations applicable.

All provisions of Part 201 of this chapter not inconsistent with the provisions of this subpart shall remain in full force and effect, and all such provisions applicable to returns, remittances, bonds, and consents of surety, operations by alternate proprietors, and inventories and records, shall be applicable to re-

turns, remittances, bonds, and consents of surety, operations by alternate proprietors, and inventories and records under this subpart.

3. Section 170.95 is amended to make reference to Treasury Department Circular 570 instead of to Form 356 and to delete the last sentence, which relates to powers of attorney. As amended, § 170.95 reads as follows:

§ 170.95 Corporate surety.

Surety bonds required by this subpart may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by the Secretary of the Treasury as set forth in the current revision of Treasury Department Circular 570.

4. New sections, §§ 170.95a and 170.95b, relating to powers of attorney, are inserted immediately following § 170.95, to read as follows:

§ 170.95a Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The assistant regional commissioner who is authorized to approve the bond, may, when he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent.

(61 Stat. 648; 6 U.S.C. 6, 7)

§ 170.95b Execution of powers of attorney.

The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(61 Stat. 648; 6 U.S.C. 6, 7)

PART 197—DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

PAR. B. 26 CFR Part 197 is amended as follows:

1. Section 197.67, relating to powers of attorney, is revised to read as follows:

§ 197.67 Filing of powers of attorney.

(a) *Corporate sureties.* Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The assistant regional commissioner who is authorized to approve the bond, may, when he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent. The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be

accompanied by certification of its validity.

(b) *Principal.* The principal shall execute and file with the assistant regional commissioner a Form 1534, Power of Attorney, in accordance with the instructions on the form, for every person authorized to execute bonds, sign, or act on behalf of the principal.

(61 Stat. 648; 6 U.S.C. 6, 7)

2. Section 197.69, relating to consents of surety, is revised to read as follows:

§ 197.69 Consents of surety.

Consents of surety to changes in the terms of bonds shall be executed on Form 1533 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

PART 198—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

PAR. C. 26 CFR Part 198 is amended as follows:

1. Section 198.82 is amended to delete the last sentence, which relates to powers of attorney. As amended, § 198.82 reads as follows:

§ 198.82 Corporate surety.

Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary of the Treasury as set forth in the current revision of Treasury Department Circular 570.

(61 Stat. 648; 6 U.S.C. 6, 7)

2. New sections, §§ 198.82a and 198.82b, relating to powers of attorney, are inserted immediately following § 198.82, to read as follows:

§ 198.82a Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The assistant regional commissioner who is authorized to approve the bond, may, when he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent.

(61 Stat. 648; 6 U.S.C. 6, 7)

§ 198.82b Execution of powers of attorney.

The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(61 Stat. 648; 6 U.S.C. 6, 7)

PART 201—DISTILLED SPIRITS PLANTS

PAR. D. 26 CFR Part 201 is amended as follows:

1. Section 201.194 is amended to delete the last sentence, which relates to powers

of attorney. As amended, § 201.194 reads as follows:

§ 201.194 Corporate surety.

Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in the current revision of Treasury Department Circular 570.

(61 Stat. 648; 6 U.S.C. 6, 7)

2. New sections, §§ 201.194a and 201.194b, relating to powers of attorney, are inserted, immediately following § 201.194, to read as follows:

§ 201.194a Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The assistant regional commissioner who is authorized to approve the bond, may, when he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent.

(61 Stat. 648; 6 U.S.C. 6, 7)

§ 201.194b Execution of powers of attorney.

The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(61 Stat. 648; 6 U.S.C. 6, 7)

PART 211—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

PAR. E. 26 CFR Part 211 is amended as follows:

1. Section 211.73 is amended to delete the last sentence, which relates to powers of attorney. As amended, § 211.73 reads as follows:

§ 211.73 Corporate surety.

Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in the current revision of Treasury Department Circular 570.

(61 Stat. 648; 6 U.S.C. 6, 7)

2. New sections, §§ 211.73a and 211.73b, relating to powers of attorney, are inserted, immediately following § 211.73, to read as follows:

§ 211.73a Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The assistant regional commissioner who is authorized to approve the bond, may, when he deems

it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent.

(61 Stat. 648; 6 U.S.C. 6, 7)

§ 211.73b Execution of powers of attorney.

The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(61 Stat. 648; 6 U.S.C. 6, 7)

PART 213—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

PAR. F. 26 CFR Part 213 is amended as follows:

1. Section 213.72 is amended to delete the last sentence, which relates to powers of attorney. As amended, § 213.72 reads as follows:

§ 213.72 Corporate surety.

Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in the current revision of Treasury Department Circular 570.

(61 Stat. 648; 6 U.S.C. 6, 7)

2. New sections, §§ 213.72a and 213.72b, relating to powers of attorney, are inserted, immediately following § 213.72 to read as follows:

§ 213.72a Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The assistant regional commissioner who is authorized to approve the bond, may, when he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent.

(61 Stat. 648; 6 U.S.C. 6, 7)

§ 213.72b Execution of powers of attorney.

The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(61 Stat. 648; 6 U.S.C. 6, 7)

PART 240—WINE

PAR. G. 26 CFR Part 240 is amended as follows:

1. Section 240.226, relating to corporate sureties, is revised to read as follows:

§ 240.226 Corporate surety.

Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from,

and subject to the limitations prescribed by the Secretary of the Treasury as set forth in the current revision of Treasury Department Circular 570.

(61 Stat. 648; 6 U.S.C. 6, 7)

2. Section 240.227 is amended to make reference to Treasury Department Circular 570 instead of to Form 356. As amended, § 240.227 reads as follows:

§ 240.227 Two or more corporate sureties.

A bond executed by two or more corporate sureties shall be the joint and several liability of the principal and the sureties: *Provided*, That each corporate surety may limit its liability in terms upon the face of the bond in a definite, specific amount, which amount shall not exceed the limitations prescribed for such corporate surety by the Secretary, as set forth in the current revision of Treasury Department Circular 570. When the sureties so limit their liability, the aggregate of such limited liabilities must equal the required penal sum of the bond.

(72 Stat. 1379, 1380; 26 U.S.C. 5354, 5362)

3. Section 240.228, relating to powers of attorney, is revised to read as follows:

§ 240.228 Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The assistant regional commissioner who is authorized to approve the bond, may, when he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent. The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(61 Stat. 648; 6 U.S.C. 6, 7)

4. Section 240.229 is amended to delete the reference to Department Circular 154. As amended, § 240.229 reads as follows:

§ 240.229 Collateral security.

Bonds required by this part may be secured by collateral in the form of bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, in place of corporate surety, in accordance with the provisions of 31 CFR Part 225. Bonds and notes of the United States, which are nontransferable or the hypothecation of which will not be recognized by the Treasury Department, may not be pledged and deposited as security in lieu of corporate sureties.

(61 Stat. 650; 6 U.S.C. 15)

§ 240.230 [Deleted]

5. Section 240.230, relating to deposit of collateral, is deleted.

6. Section 240.231, relating to consents of surety, is revised to read as follows:

§ 240.231 Consents of surety.

Consents of surety to changes in the terms of bonds shall be executed on Form 1533 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

7. Section 240.252 is amended to delete the third sentence, which relates to powers of attorney. As amended, § 240.252 reads as follows:

§ 240.252 Application by surety.

A surety on any bond required by this part may at any time, in writing, notify the principal and the assistant regional commissioner in whose office the bond is on file, that he desires after a date named, which shall be at least 60 days, except at least 10 days in the case of tax deferral bond on Form 2053, after the date of notification, to be relieved of liability under the bond. The notice shall be executed in triplicate by the surety, who shall deliver one copy to the principal, and two copies to the assistant regional commissioner. The surety must also file with the assistant regional commissioner an acknowledgment, or other proof of service, of such notice on the principal.

(72 Stat. 1379, 1380; 26 U.S.C. 5354, 5362)

PART 245—BEER

PAR. H. 26 CFR Part 245 is amended as follows:

1. Section 245.54, relating to powers of attorney, is revised to read as follows:

§ 245.54 Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The assistant regional commissioner who is authorized to approve the bond, may, when he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent. The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(61 Stat. 648; 6 U.S.C. 6, 7)

2. Section 245.59 is amended to delete the third sentence, which relates to execution of notice. As amended, § 245.59 reads as follows:

§ 245.59 Notice by surety for relief from liability under bond.

A surety may at any time, in writing, notify the principal and the assistant regional commissioner with whom the bond is filed, that he desires after a date named (which shall be at least 60 days after the date of service of such notice on the principal) to be relieved of any liability

under the bond which is incurred by the principal after the date named in the notice. The copy of the notice filed by the surety with the assistant regional commissioner must be accompanied by proof of service of the notice on the principal. Unless withdrawn, in writing, before such date, the notice shall become effective on the date named therein. The surety on the bond shall remain liable under the bond in respect to any liability incurred by the principal while the bond is in force and effect.

PART 252—EXPORTATION OF LIQUORS

PAR. I. 26 CFR Part 252 is amended as follows:

1. Section 252.52 is amended to refer to the current revision of Circular 570 and to delete the last sentence, which relates to powers of attorney. As amended, § 252.52 reads as follows:

§ 252.52 Corporate surety.

Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in the current revision of Treasury Department Circular 570.

(61 Stat. 648; 6 U.S.C. 6, 7)

2. New sections, §§ 252.52a and 252.52b, relating to powers of attorney, are inserted, immediately following § 252.52, to read as follows:

§ 252.52a Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The assistant regional commissioner who is authorized to approve the bond, may, when he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent.

(61 Stat. 648; 6 U.S.C. 6, 7)

§ 252.52b Execution of powers of attorney.

The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(61 Stat. 648; 6 U.S.C. 6, 7)

3. Section 252.72 is amended to delete the third sentence, which relates to powers of attorney. As amended, § 252.72 reads as follows:

§ 252.72 Application of surety for relief from bond.

A surety on any bond given on Forms 2735, 2737, or 2738, may at any time in writing notify the principal and the assistant regional commissioner in whose office the bond is on file that he desires, after a date named, to be relieved of

liability under said bond. Such date shall be not less than 90 days after the date the notice is received by the assistant regional commissioner. The surety shall also file with the assistant regional commissioner an acknowledgment or other proof of service on the principal. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved from liability to the extent set forth in § 252.73 (b).

(68A Stat. 749, 72 Stat. 1336, 1354, 1362, 1393; 26 U.S.C. 6065, 5062, 5175, 5214, 5522)

Because this Treasury decision merely conforms the provisions of these regulations to similar provisions now contained in Subpart B of 26 CFR Part 170, deletes that subpart, and deletes an internal management instruction from 26 CFR Part 240, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946. This Treasury decision shall become effective on the first day of the first month which begins not later than 30 days after the date of its publication in the FEDERAL REGISTER.

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

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

Approved: September 7, 1966.

STANLEY S. SURREY,
Assistant Secretary of
the Treasury.

[F.R. Doc. 66-9975; Filed, Sept. 12, 1966;
8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 16681, RM-912; FCC 66-805]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, Television Broadcast Stations; Dickinson, N. Dak.

Report and order. 1. The Commission has before it for consideration the proposal to assign Channel 7 to Dickinson, N. Dak., for the purpose of allowing Translator Station K07GV to increase power to 100 watts under § 74.702(g) of the Commission's rules and regulations. See notice of proposed rule making, adopted June 2, 1966 (FCC 66-505).

2. Dickinson Radio Association, licensee of Station KDIX-TV, Channel 2, Dickinson, N. Dak., opposes the rule mak-

ing. Briefly, Station KDIX-TV contends: That it will be economically injured, that the proposal derogates from the mileage separation requirements of § 73.611(a)(4) as concerns Channel 7 assignments at Sheridan, Wyo., and Jamestown, N. Dak., and that the proposal is inconsistent with the objectives and principles of Docket No. 15858 which promulgated the high-power translator rules.

3. Meyer Broadcasting Co., Bismarck, the petitioner in this case, filed reply comments taking issue with the principal objections raised by KDIX-TV. With respect to the economic injury argument, Meyer questions whether this was not raised because of concern for the CATV system which KDIX is now constructing rather than the television station. With respect to cochannel separations, Meyer submits an engineering statement showing that all mileages meet the minimum specifications required by the Commission rules. Meyer also challenges the interpretation that KDIX-TV places on the interpretation of the new high-power translator rules.

4. We treat first the basic question of the interpretation of Docket No. 15858, in which we promulgated the high-power translator rules. Dickinson Radio Association reads Docket No. 15858 to mean that only VHF channels in the Television Table of Assignments which had remained unused for a number of years could be utilized for high-power translator use. Such an interpretation was not intended. There is no reason why a VHF channel cannot be added to a community for use as a high-powered translator, if such an assignment is technically feasible, i.e., in compliance with the mileage separations. The benefits intended by Docket No. 15858 not only are equally achieved in such circumstances, but the bringing of the additional service to a community in this manner may stimulate interest in a regular station.

5. KDIX-TV's allegations that the allocation of Channel 7 to Dickinson would seriously restrict the location of transmitter sites for use of VHF Channel 7 at Jamestown, N. Dak., and Sheridan, Wyo., is erroneous since it is sufficient that the site proposed meets all minimum requirements to the reference points in these cities.

6. We now turn to the economic injury argument. KDIX-TV argues "that the extension of coverage of petitioner's station KFVR-TV by means of the proposed translator on Channel 7 would create an inequitable advantage resulting from its American Research Bureau (ARB) circulation figures, with satellite stations in Minot and Williston, N. Dak.; its established network rates; and its competition for regional, national spot, and network advertising". KDIX-TV thus avers that the competition offered would cause its Station to lose its NBC-ABC network

program services. Meyer states that Station KDIX-TV is part of the "KX Network" which has a common sales representative and sales manager for advertising over Station KXJB-TV, Valley City, N. Dak., KXMB-TV, Bismarck, N. Dak., KXAB-TV, Aberdeen, S. Dak., KXMC-TV, Minot, N. Dak. and KDIX. These stations are sold as a group for network and national sales, with a combined rate for all five television stations, and with a resulting combined ARB circulation figure which is over twice that of petitioner's television facilities.

7. In our view, the arguments and showings made by KDIX-TV in this connection are without substantial merit. It is well established that economic injury to an existing station is grounds for withholding action only where such economic injury would affect the public interest, as opposed to the private interests of the complaining station. *FCC v. Sanders Brothers Radio Station*, 309 U.S. 470 (1940); *Carroll Broadcasting Co. v. FCC*, 258 F. 2d 440 (C.A.D.C. 1958). As the Court of Appeals remarked in the latter case, the burden of a party making this claim is a heavy one, and we do not find that an adequate basis for refusal has been shown. We should always be slow to act in a manner which would prevent the development of competition, and there is presented here no substantial reason why we should do so. KDIX's assertions are speculative, and we note its position as part of a combined sales arrangement, mentioned above.

8. It appears that the public interest, convenience, and necessity will be served by assigning Channel 7 to Dickinson. Authority for the amendment adopted herein is contained in sections 4 (i) and (j), 303, and 307(b) of the Communications Act of 1934, as amended.

9. In view of the foregoing: *It is ordered*, That, effective October 17, 1966, the Television Table of Assignments (§ 73.606(b) of the Commission's rules and regulations) is amended, insofar as the city listed below is concerned, to read as follows:

City	Channel No.
Dickinson, N. Dak.	2+, *4, 7

10. *It is further ordered*, That this proceeding is terminated.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 303, 307, 48 Stat. 1082, 1083; 47 U.S.C. 303, 307)

Adopted: September 7, 1966.

Released: September 8, 1966.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-9986; Filed, Sept. 12, 1966;
8:48 a.m.]

¹ Commissioners Bartley, Wadsworth, and Johnson absent.

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Distributions by Foreign Trusts

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) under sections 641, 643, 665, 666, 668, and 669, of the Internal Revenue Code of 1954 to section 7 of the Revenue Act of 1962 (76 Stat. 985), such regulations are amended as follows:

PARAGRAPH 1. Section 1.641(a)-0 is amended by revising paragraph (a) to read as follows:

§ 1.641(a)-0 Scope of Subchapter J.

(a) *In general.* Subchapter J (sections 641 and following), Chapter 1 of the Code, deals with the taxation of income of estates and trusts and their beneficiaries, and of income in respect of decedents. Part I of Subchapter J contains general rules for taxation of estates and trusts (Subpart A), specific rules relating to trusts which distribute current income only (Subpart B), estates and trusts which may accumulate income or which distribute corpus (Subpart C), treatment of excess distributions by trusts (Subpart D), grantors and other persons treated as substantial owners (Subpart E), and miscellaneous provisions relating to limitations on charitable

deductions, income of an estate or trust in case of divorce, and taxable years to which the provisions of Subchapter J are applicable (Subpart F). Part I has no application to any organization which is not to be classified for tax purposes as a trust under the classification rules of §§ 301.7701-2, 301.7701-3, and 301.7701-4 of this chapter (Regulations on Procedure and Administration). Part II of Subchapter J relates to the treatment of income in respect of decedents. However, the provisions of Subchapter J do not apply to employee trusts subject to Subchapters D and F, Chapter 1 of the Code, and common trust funds subject to Subchapter H, Chapter 1 of the Code.

PAR. 2. Section 1.643(a) is amended by revising section 643(a)(6) and by adding a historical note. These amended and added provisions read as follows:

§ 1.643(a) Statutory provisions; estates and trusts; definition of distributable net income.

SEC. 643. *Definitions applicable to Subparts A, B, C, and D—*(a) *Distributable net income.* For purposes of this part, the term "distributable net income" means, with respect to any taxable year, the taxable income of the estate or trust computed with the following modifications—

(6) *Income of foreign trust.* In the case of a foreign trust—

(A) There shall be included the amounts of gross income from sources without the United States, reduced by any amounts which would be deductible in respect of disbursements allocable to such income but for the provisions of section 265(1) (relating to disallowance of certain deductions).

(B) Gross income from sources within the United States shall be determined without regard to section 894 (relating to income exempt under treaty).

(C) Paragraph (3) shall not apply to a foreign trust created by a U.S. person. In the case of such a trust, (i) there shall be included gains from the sale or exchange of capital assets, reduced by losses from such sales or exchanges to the extent such losses do not exceed gains from such sales or exchanges, and (ii) the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account.

[Sec. 643(a) as amended by sec. 7(a), Rev. Act 1962 (76 Stat. 985)]

PAR. 3. Section 1.643(a)-3 is amended by revising so much of paragraph (a) as precedes subparagraph (1) to read as follows:

§ 1.643(a)-3 Capital gains and losses.

(a) Except as provided in § 1.643(a)-6, gains from the sale or exchange of capital assets are ordinarily excluded from distributable net income, and are not ordinarily considered as paid, credited, or required to be distributed to any beneficiary unless they are:

PAR. 4. Section 1.643(a)-6 is amended to read as follows:

§ 1.643(a)-6 Income of foreign trust.

(a) Distributable net income of a foreign trust: In the case of a foreign trust (see section 7701(a)(31)), the determination of distributable net income is subject to the following rules:

(1) There is included in distributable net income the amounts of gross income from sources without the United States, reduced by disbursements allocable to such foreign income which would have been deductible but for the provisions of section 265 (relating to disallowance of deductions allocable to tax exempt income). See paragraph (b) of § 1.643(a)-5 for rules applicable when an estate or trust is allowed a charitable contributions deduction under section 642(c).

(2) In the case of a distribution made by a trust before January 1, 1963, for purposes of determining the distributable net income of the trust for the taxable year in which the distribution is made, or for any prior taxable year:

(i) Gross income from sources within the United States is determined by taking into account the provisions of section 894 (relating to income exempt under treaty); and

(ii) Distributable net income is determined by taking into account the provisions of section 643(a)(3) (relating to exclusion of certain gains from the sale or exchange of capital assets).

(3) In the case of a distribution made by a trust after December 31, 1962, for purposes of determining the distributable net income of the trust for any taxable year, whether ending before January 1, 1963, or after December 31, 1962:

(i) Gross income (for the entire foreign trust) from sources within the United States is determined without regard to the provisions of section 894 (relating to income exempt under treaty);

(ii) In respect of a foreign trust created by a U.S. person (whether such trust constitutes the whole or only a portion of the entire foreign trust) (see section 643(d) and § 1.643(d)-1), there shall be included in gross income gains from the sale or exchange of capital assets reduced by losses from such sales or exchanges to the extent such losses do not exceed gains from such sales or exchanges, and the deduction under section 1202 (relating to deduction for capital gains) shall not be taken into account; and

(iii) In respect of a foreign trust created by a person other than a U.S. person (whether such trust constitutes the whole or only a portion of the entire foreign trust) (see section 643(d) and § 1.643(d)-1), distributable net income is determined by taking into account all of the provisions of section 643 except section 643(a)(6)(C) (relating to gains

from the sale or exchange of capital assets by a foreign trust created by a U.S. person).

(b) The application of this section, showing the computation of distributable net income for one of the taxable years for which such a computation must be made, may be illustrated by the following examples:

Example (1). (1) A trust is created in 1952 under the laws of Country X by the transfer to a trustee in Country X of money and property by a U.S. person. The entire trust constitutes a foreign trust created by a U.S. person. The income from the trust corpus is to be accumulated until the beneficiary, a resident citizen of the United States who was born in 1944, reaches the age of 21 years, and upon his reaching that age, the corpus and accumulated income are to be distributed to him. The trust instrument provides that capital gains are to be allocated to corpus and are not to be paid, credited, or required to be distributed to any beneficiary during the taxable year or paid, permanently set aside, or to be used for the purposes specified in section 642(c). Under the terms of a tax convention between the United States and Country X, interest income received by the trust from U.S. sources is exempt from U.S. taxation. In 1965 the corpus and accumulated income are distributed to the beneficiary. During the taxable year 1964, the trust has the following items of income, loss, and expense:

Interest on bonds of a U.S. corporation	\$10,000
Net long-term capital gain from U.S. sources	30,000
Gross income from investments in Country X	40,000
Net short-term capital loss from U.S. sources	5,000
Expenses allocable to gross income from investments in Country X	5,000

(2) The distributable net income for the taxable year 1964 of the foreign trust created by a U.S. person, determined under section 643(a), is \$70,000, computed as follows:

Interest on bonds of a U.S. corporation	\$10,000
Gross income from investments in Country X	40,000
Net long-term capital gain from U.S. sources	\$30,000
Less: Net short-term capital loss from U.S. sources	5,000

Excess of net long-term capital gain over net short-term capital loss

25,000

Total

75,000

Less: Expenses allocable to income from investments in Country X

5,000

Distributable net income

70,000

(3) In determining the distributable net income of \$70,000, the taxable income of the trust is computed with the following modifications: No deduction is allowed for the personal exemption of the trust (section 643(a)(2)); the interest received on bonds of a U.S. corporation is included in the trust gross income despite the fact that such interest is exempt from U.S. tax under the provisions of the tax treaty between Country X and the United States (section 643(a)(6)(B)); the excess of net long-term capital gain over net short-term capital loss allocable to corpus is included in distributable net income, but such excess is not subject to the deduction under section 1202 (section 643(a)(6)(C)); and the amount representing gross income from investments in Country X is included, but such amount is reduced by the amount of the disbursements al-

locable to such income (section 643(a)(6)(A)).

Example (2). (1) The facts are the same as in example (1) except that money or property has also been transferred to the trust by a person other than a U.S. person and, pursuant to the provisions of § 1.643(d)-1, during 1964 only 60 percent of the entire trust constitutes a foreign trust created by a U.S. person.

(2) The distributable net income for the taxable year 1964 of the foreign trust created by a U.S. person, determined under section 643(a), is \$42,000 computed as follows:

Interest on bonds of a U.S. corporation (60 percent of \$10,000)	\$6,000
Gross income from investments in Country X (60 percent of \$40,000)	24,000
Net long-term capital gain from U.S. sources (60 percent of \$30,000)	\$18,000
Less: Net short-term capital loss from U.S. sources (60 percent of \$5,000)	3,000
	15,000
Total	45,000
Less: Expenses allocable to income from investments in Country X (60 percent of \$5,000)	3,000

Distributable net income

42,000

(3) The distributable net income for the taxable year 1964 of the portion of the entire foreign trust which does not constitute a foreign trust created by a U.S. person, determined under section 643(a), is \$18,000, computed as follows:

Interest on bonds of a U.S. corporation (40 percent of \$10,000)	\$4,000
Gross income from investments in Country X (40 percent of \$40,000)	16,000
Total	20,000
Less: Expenses allocable to income from investments in Country X (40 percent of \$5,000)	2,000

Distributable net income

18,000

(4) The distributable net income of the entire foreign trust for the taxable year 1964 is \$60,000, computed as follows:

Distributable net income of the foreign trust created by a U.S. person	\$42,000
Distributable net income of that portion of the entire foreign trust which does not constitute a foreign trust created by a U.S. person	18,000

Distributable net income of the entire foreign trust

60,000

It should be noted that the difference between the \$70,000 distributable net income of the foreign trust in example (1) and the \$60,000 distributable net income of the entire foreign trust in this example is due to the \$10,000 (40 percent of \$25,000) net capital gain which under section 643(a)(3) is excluded from the distributable net income of that portion of the foreign trust in example (2) which does not constitute a foreign trust created by a U.S. person.

PAR. 5. Section 1.643(c)-2 is redesignated § 1.643(d)-2, and §§ 1.643(d) and 1.643(d)-1 are added immediately after § 1.643(c)-1. These added and redesignated sections read as follows:

§ 1.643(d) Statutory provisions; estates and trusts; definition of foreign trusts created by United States persons.

Sec. 643. Definitions applicable to subparts A, B, C, and D. * * *

(d) Foreign trusts created by U.S. persons. For purposes of this part, the term "foreign trust created by a U.S. person" means that portion of a foreign trust (as defined in section 7701(a)(31)) attributable to money or property transferred directly or indirectly by a U.S. person (as defined in section 7701(a)(30)), or under the will of a decedent who at the date of his death was a U.S. citizen or resident.

[Sec. 643(d) as added by sec. 7(a), Rev. Act 1962 (76 Stat. 985)]

§ 1.643(d)-1 Definition of "foreign trust created by a U.S. person".

(a) In general: For the purposes of Part I, Subchapter J, Chapter 1 of the Internal Revenue Code, the term "foreign trust created by a U.S. person" means that portion of a foreign trust (as defined in section 7701(a)(31)) and the regulations thereunder attributable to money or property (including all accumulated earnings, profits, or gains attributable to such money or property) transferred directly or indirectly to the foreign trust by a U.S. person (as defined in section 7701(a)(30)), or under the will of a decedent who at the date of his death was a U.S. citizen or resident. A foreign trust created by a person who is not a U.S. person, to which a U.S. person transfers money or property, is a foreign trust created by a U.S. person to the extent that the fair market value of the entire foreign trust is attributable to money or property transferred to it by the U.S. person. The transfer of money or property to the foreign trust may be made either directly or indirectly by a U.S. person. Transfers of money or property to a foreign trust do not include transfers of money or property pursuant to a sale or exchange which is made for a full and adequate consideration. Transfers to which section 643(d) and this section apply are transfers of money or property which establish or increase the corpus of a foreign trust. The rules set forth in this section with respect to transfers by a U.S. person to a foreign trust also are applicable with respect to transfers under the will of a decedent who at the date of his death was a U.S. citizen or resident. For provisions relating to the information returns which are required to be filed with respect to the creation of or transfers to foreign trusts, see section 6048 and § 16.3-1 of this chapter (Temporary Regulations under the Revenue Act of 1962).

(b) Determination of a foreign trust created by a U.S. person:

(1) Transfers of money or property only by a U.S. person. If all the items of money or property constituting the corpus of a foreign trust were transferred to the trust by a U.S. person, the entire foreign trust is a foreign trust created by a U.S. person.

(2) Transfers of money or property by both a U.S. person and a person other than a U.S. person; transfers required to be treated as separate funds. Where there are transfers of money or property by both a U.S. person and a person other than a U.S. person to a foreign trust, and it is necessary, either by reason of the provisions of the governing instrument of the trust or by reason of some other

[Sec. 643(d) as added by sec. 7(a), Rev. Act 1962 (76 Stat. 985)]

§ 1.643(d)-1 Definition of "foreign trust created by a U.S. person".

(a) In general: For the purposes of Part I, Subchapter J, Chapter 1 of the Internal Revenue Code, the term "foreign trust created by a U.S. person" means that portion of a foreign trust (as defined in section 7701(a)(31)) and the regulations thereunder attributable to money or property (including all accumulated earnings, profits, or gains attributable to such money or property) transferred directly or indirectly to the foreign trust by a U.S. person (as defined in section 7701(a)(30)), or under the will of a decedent who at the date of his death was a U.S. citizen or resident. A foreign trust created by a person who is not a U.S. person, to which a U.S. person transfers money or property, is a foreign trust created by a U.S. person to the extent that the fair market value of the entire foreign trust is attributable to money or property transferred to it by the U.S. person. The transfer of money or property to the foreign trust may be made either directly or indirectly by a U.S. person. Transfers of money or property to a foreign trust do not include transfers of money or property pursuant to a sale or exchange which is made for a full and adequate consideration. Transfers to which section 643(d) and this section apply are transfers of money or property which establish or increase the corpus of a foreign trust. The rules set forth in this section with respect to transfers by a U.S. person to a foreign trust also are applicable with respect to transfers under the will of a decedent who at the date of his death was a U.S. citizen or resident. For provisions relating to the information returns which are required to be filed with respect to the creation of or transfers to foreign trusts, see section 6048 and § 16.3-1 of this chapter (Temporary Regulations under the Revenue Act of 1962).

(b) Determination of a foreign trust created by a U.S. person:

(1) Transfers of money or property only by a U.S. person. If all the items of money or property constituting the corpus of a foreign trust were transferred to the trust by a U.S. person, the entire foreign trust is a foreign trust created by a U.S. person.

(2) Transfers of money or property by both a U.S. person and a person other than a U.S. person; transfers required to be treated as separate funds. Where there are transfers of money or property by both a U.S. person and a person other than a U.S. person to a foreign trust, and it is necessary, either by reason of the provisions of the governing instrument of the trust or by reason of some other

requirement, that the trustee treat the entire foreign trust as composed of two separate funds, one consisting of the money or property transferred by the U.S. person and the other consisting of the money or property transferred by the person other than the U.S. person, the foreign trust created by a U.S. person shall be the fund consisting of the money or property transferred by the U.S. person. See example (1) in paragraph (c) of this section.

(3) *Transfers of money or property by both a U.S. person and a person other than a U.S. person; transfers not required to be treated as separate funds.* Where the corpus of a foreign trust consists of money or property transferred to the trust (simultaneously or at different times) by a U.S. person and by a person who is not a U.S. person, the foreign trust created by a U.S. person within the meaning of section 643(d) is that portion of the entire foreign trust which, immediately after any transfer of money or property to the trust, the fair market value of money or property transferred to the foreign trust by the U.S. person bears to the fair market value of the corpus of the entire foreign trust.

(c) The provisions of paragraph (b) of this section may be illustrated by the following examples. Example (1) illustrates the application of paragraph (b) (2) of this section. Example (2) illustrates the application of paragraph (b) (3) of this section in a case where there is no provision in the governing instrument of the trust or elsewhere which

$$\frac{\$60,000 \text{ (Value of property transferred by U.S. person)}}{\$100,000 \text{ (Value of entire property transferred to trust)}} = 60 \text{ percent}$$

The undistributed net income for the calendar years 1964 and 1965 is \$20,000 which increases the value of the entire foreign trust to \$120,000 (\$100,000 plus \$20,000). Accordingly, as of December 31, 1965, the portion of the foreign trust created by the U.S. person is \$72,000 (60 percent of \$120,000). On January 1, 1966, the U.S. person transfers property having a fair market value of

$$\frac{\$112,000 \text{ (Value of property transferred by U.S. person)}}{\$160,000 \text{ (Value of entire property transferred to the trust)}} = 70 \text{ percent}$$

PAR. 6. Section 1.665(a)-0 is amended to read as follows:

§ 1.665(a)-0 *Excess distributions by trusts; scope of subpart D.*

Subpart D (section 665 and following), Part I, Subchapter J, Chapter 1 of the Internal Revenue Code, in the case of trusts other than foreign trusts created by U.S. persons, is designed generally to prevent a shift of tax burden to a trust from a beneficiary or beneficiaries. In the case of a foreign trust created by a U.S. person, Subpart D is designed to prevent certain other tax avoidance possibilities. To accomplish these ends, Subpart D provides special rules for treatment of amounts paid, credited, or required to be distributed by a complex trust (subject to Subpart C (section 661 and following) of such Part I) in any year in excess of distributable net income for that year. Such an excess distribution is defined as an accumulation distribution, subject to the limitations in section 665 (b) or (c). An ac-

would require the trustee to treat the corpus of the trust as composed of more than one fund.

Example (1). On January 1, 1964, the date of the creation of a foreign trust, a U.S. person transfers to it stock of a U.S. corporation with a fair market value of \$50,000. On the same day, a person other than a U.S. person transfers to the trust Country X bonds with a fair market value of \$25,000. The governing instrument of the trust provides that the income from the stock of the U.S. corporation is to be accumulated until A, a U.S. beneficiary, reaches the age of 21 years, and upon his reaching that age, the stock and income accumulated thereon are to be distributed to him. The governing instrument of the trust further provides that the income from the Country X bonds is to be accumulated until B, a U.S. beneficiary, reaches the age of 21 years, and upon his reaching that age, the bonds and income accumulated thereon are to be distributed to him. To comply with the provisions of the governing instrument of the trust that the income from the stock of the U.S. corporation be accumulated and distributed to A and that the income from the Country X bonds be accumulated and distributed to B, it is necessary that the trustee treat the transfers as two separate funds. The fund consisting of the stock of the U.S. corporation is a foreign trust created by a U.S. person.

Example (2). On January 1, 1964, the date of the creation of a foreign trust, a U.S. person transfers to it property having a fair market value of \$60,000 and a person other than a U.S. person transfers to it property having a fair market value of \$40,000. Immediately after these transfers, the foreign trust created by a U.S. person is 60 percent of the entire foreign trust, determined as follows:

\$40,000 increasing the value of the entire foreign trust to \$160,000 (\$120,000 plus \$40,000) and increasing the value of the portion of the foreign trust created by the U.S. person to \$112,000 (\$72,000 plus \$40,000). Immediately after this transfer, the foreign trust created by the U.S. person is 70 percent of the entire foreign trust, determined as follows:

accumulation distribution, in the case of a trust other than a foreign trust created by a U.S. person, is "thrown back" to each of the 5 preceding years in inverse order. In the case of a foreign trust created by a U.S. person such an accumulation distribution is "thrown back," in inverse order, to each of the preceding years to which the Internal Revenue Code of 1954 applies. That is, an accumulation distribution will be taxed to the beneficiaries of the trust in the year the distribution is made or required, but, in general, only to the extent of the distributable net income of those years which was not in fact distributed. However, with respect to a distribution by a trust other than a foreign trust created by a U.S. person, the resulting tax will not be greater than the aggregate of the taxes that would have been attributable to the amount thrown back to previous years had they been included in gross income of the beneficiaries in those years. In the case of a foreign trust created by a U.S. person, the resulting tax is com-

puted under the provisions of section 669. To prevent double taxation, both in the case of a foreign trust created by a U.S. person, and a trust other than a foreign trust created by a U.S. person, the beneficiaries receive a credit for any taxes previously paid by the trust which are attributable to the excess thrown back and which are creditable under the provisions of Chapter 1 of the Internal Revenue Code. Subpart D does not apply to any estate.

PAR. 7. Section 1.665(a)-1 is amended by revising so much of paragraph (a) as precedes subparagraph (1) thereof, by redesignating paragraph (b) as paragraph (c), and by adding a new paragraph (b). These revised, redesignated, and added paragraphs read as follows:

§ 1.665(a)-1 *Undistributed net income.*

(a) The term "undistributed net income", except in the case of a foreign trust created by a U.S. person, means for any taxable year the distributable net income of the trust for that year as determined under section 643(a), less:

(b) The undistributed net income of a foreign trust created by a U.S. person for any taxable year is the distributable net income of such trust (see § 1.643(a)-6 and the examples set forth in paragraph (b) thereof), less:

(1) The amount of income required to be distributed currently and any other amounts properly paid or credited or required to be distributed to beneficiaries in the taxable year as specified in paragraphs (1) and (2) of section 661(a), and

(2) The amount of taxes imposed on such trust by Chapter 1 of the Internal Revenue Code.

Which are attributable to items of income which are required to be included in such distributable net income. For purposes of subparagraph (2) of this paragraph, the amount of taxes imposed on the trust (for any taxable year), by Chapter 1 of the Internal Revenue Code is the amount of taxes imposed pursuant to the provisions of section 871 which is properly allocable to the undistributed portion of the distributable net income. The amount of taxes imposed pursuant to the provisions of section 871 is the difference between the total tax imposed pursuant to the provisions of that section on the foreign trust created by a U.S. person for the year and the amount which would have been imposed on such trust had all the distributable net income, as determined under section 643(a), been distributed. The application of the rule in this paragraph may be illustrated by the following examples:

Example (1). A trust was created in 1952 under the laws of Country X by the transfer to a trustee in Country X of money or property by a U.S. person. The entire trust constitutes a foreign trust created by a U.S. person. The governing instrument of the trust provides that \$7,000 of income is required to be distributed currently to a U.S. beneficiary and gives the trustee discretion to make additional distributions to the beneficiary. During the taxable year 1963 the trust had income of \$10,000 from dividends of a U.S. corporation (on which Federal in-

come taxes of \$3,000 were withheld under section 1441 resulting in the receipt by the trust of cash in the amount of \$7,000 and \$30,000 from dividends of a Country X corporation, none of the gross income of which was derived from sources within the United States. The trustee did not file a U.S. income tax return for the taxable year 1963. The distributable net income of the trust before distributions to the beneficiary for 1963 is \$40,000 (\$37,000 of which is cash). During 1963 the trustee made distributions to the U.S. beneficiary equaling one-half of the trust's distributable net income. Thus, the U.S. beneficiary is treated as having had distributed to him \$5,000 (composed of \$3,500 as a cash distribution and \$1,500 as the tax imposed pursuant to the provisions of section 871), representing one-half of the income from U.S. sources, and \$15,000 in cash, representing one-half of the income from Country X sources or a total of \$20,000. The undistributed net income of the trust at the close of taxable year 1963 is \$20,000 computed as follows:

Distributable net income.....	\$40,000
Less: Income currently distributed to the beneficiary.....	\$7,000
Other amounts distributed to the beneficiary.....	11,500
Taxes under sec. 871 deemed distributed to the beneficiary.....	1,500
	20,000

Undistributed net income.... \$20,000

Example (2). The facts are the same as in example (1) except that property has been transferred to the trust by a person other than a U.S. person, and during 1963 the foreign trust created by a U.S. person was 60 percent of the entire foreign trust. The trustee paid no income taxes to Country X in 1963.

(1) The undistributed net income of the foreign trust created by a U.S. person for 1963 is \$12,000, computed as follows:

Distributable net income (60 percent of each item of gross income of entire trust)	
60 percent of \$10,000 U.S. dividends.....	\$6,000
60 percent of \$30,000 Country X dividends.....	18,000
Total.....	24,000
Less: Income currently distributable to the beneficiary (60 percent of \$7,000).....	\$4,200
Other amounts distributed to the beneficiary (60 percent of \$11,500).....	6,900
Taxes under sec. 871 deemed distributed to the beneficiary (60 percent of \$1,500).....	900
Total.....	12,000
Undistributed net income.....	12,000

(2) The undistributed net income of the portion of the entire trust which is not a foreign trust created by a U.S. person for 1963 is \$8,000, computed as follows:

Distributable net income (40 percent of each item of gross income of entire trust)	
40 percent of \$10,000 U.S. dividends.....	\$4,000
40 percent of \$30,000 Country X dividends.....	12,000
Total.....	16,000

Less:

Income currently distributable to the beneficiary (40 percent of \$7,000).....	\$2,800
Other amounts distributed to the beneficiary (40 percent of \$11,500).....	4,600
Taxes under sec. 871 deemed distributed to the beneficiary (40 percent of \$1,500).....	600
Total.....	8,000
Undistributed net income....	8,000

(c) However, the undistributed net income for any year to which an accumulation distribution for a later year may be thrown back may be reduced by accumulation distributions in intervening years and also by any taxes imposed on the trust which are deemed to be distributed under section 666 by reason of the accumulation distributions. On the other hand, undistributed net income for any year will not be reduced by any distributions in an intervening year which are excluded from the definition of an accumulation distribution under section 665(b), or which are excluded under section 663(a)(1), relating to gifts, bequests, etc. See paragraph (f)(5) of § 1.668(b)-2 for an illustration of the reduction of undistributed net income for any year by a subsequent accumulation distribution.

PAR. 8. Section 1.665(b) is amended by revising so much of section 665(b) as precedes paragraph (1) and by adding a historical note. These revised and added provisions read as follows:

§ 1.665(b) Statutory provisions; accumulation distributions of trusts other than certain foreign trusts.

SEC. 665. Definitions applicable to subpart D. . . .

(b) **Accumulation distributions of trusts other than certain foreign trusts.** For purposes of this subpart, in the case of a trust (other than a foreign trust created by a U.S. person), the term "accumulation distribution" for any taxable year of the trust means the amount (if in excess of \$2,000) by which the amounts specified in paragraph (2) of section 661(a) for such taxable year exceed distributable net income reduced by the amounts specified in paragraph (1) of section 661(a). For purposes of this subsection, the amount specified in paragraph (2) of section 661(a) shall be determined without regard to section 666 and shall not include—

[Sec. 665(b) as amended by sec. 7(b), Rev. Act 1962 (76 Stat. 985)]

PAR. 9. Section 1.665(b)-1 is amended by revising the title and paragraphs (a) and (b). These amended provisions read as follows:

§ 1.665(b)-1 Accumulation distributions of trusts other than certain foreign trusts; in general.

(a) Subject to the limitations set forth in § 1.665(b)-2, in the case of a trust other than a foreign trust created by a U.S. person, the term "accumulation distribution" for any taxable year means an amount (if in excess of \$2,000) by which

the amounts properly paid, credited, or required to be distributed within the meaning of section 661(a)(2) for that year exceed the distributable net income (determined under section 643(a)) of the trust, reduced (but not below zero) by the amount of income required to be distributed currently. (In computing the amount of an accumulation distribution pursuant to the preceding sentence, there is taken into account amounts applied or distributed for the support of a dependent under the circumstances specified in section 677(b) or section 678(c) out of corpus or out of other than income for the taxable year and amounts used to discharge or satisfy any person's legal obligation as that term is used in § 1.662(a)-4.) If the distribution as so computed is \$2,000 or less, it is not an accumulation distribution within the meaning of Subpart D (section 665 and following), Part I, Subchapter J, Chapter 1 of the Code. If the distribution exceeds \$2,000, then the full amount is an accumulation distribution for the purposes of Subpart D.

(b) Although amounts properly paid, credited, or required to be distributed under section 661(a)(2) do not exceed the income of the trust during the taxable year, an accumulation distribution may result if such amounts exceed distributable net income reduced (but not below zero) by the amount required to be distributed currently. This may result from the fact that expenses allocable to corpus are taken into account in determining taxable income and hence distributable net income. However, in the case of a trust other than a foreign trust created by a U.S. person, the provisions of Subpart D will not apply unless there is undistributed net income in at least one of the five preceding taxable years. See section 666 and the regulations thereunder.

PAR. 10. Section 1.665(b)-2 is amended by revising the title and paragraph (a). These amended provisions read as follows:

§ 1.665(b)-2 Exclusions from accumulation distributions in the case of trusts (other than a foreign trust created by a U.S. person).

(a) In the case of a trust other than a foreign trust created by a U.S. person, certain amounts paid, credited, or required to be distributed to a beneficiary are excluded under section 665(b) in determining whether there is an accumulation distribution for the purposes of Subpart D (section 665 and following), Part I, Subchapter J, Chapter 1 of the Code. These exclusions are solely for the purpose of determining the amount allocable to preceding years under section 666 and in no way affect the determination under Subpart C (section 661 and following) of such Part I of the beneficiary's tax liability for the year of distribution. Further, amounts excluded from accumulation distributions do not reduce the amount of undistributed net income

for the 5 years preceding the year of distribution.

PAR. 11. Sections 1.665(c), 1.665(c)-1, 1.665(d), 1.665(d)-1, and 1.665(d)-2 are redesignated §§ 1.665(d), 1.665(d)-1, 1.665(e), 1.665(e)-1, and 1.665(e)-2, respectively. In redesignated § 1.665(d), section 665(c) is redesignated section 665(d) and a historical note is added. In redesignated § 1.665(e), section 665(d) is redesignated section 665(e) and a historical note is added. Redesignated § 1.665(e)-1 is amended by revising paragraph (b) thereof. Immediately after § 1.665(b)-3, there are added new §§ 1.665(c), 1.665(c)-1, and 1.665(c)-2. These new, redesignated, and amended provisions read as follows:

§ 1.665(c) Statutory provisions; accumulation distribution of certain foreign trusts.

SEC. 665. Definitions applicable to Subpart D. * * *

(c) *Accumulation distribution of certain foreign trusts.* For purposes of this subpart, in the case of a foreign trust created by a U.S. person, the term "accumulation distribution" for any taxable year of the trust means the amount by which the amounts specified in paragraph (2) of section 661(a) for such taxable year exceed distributable net income, reduced by the amounts specified in paragraph (1) of section 661(a). For purposes of this subsection, the amount specified in paragraph (2) of section 661(a) shall be determined without regard to section 666. Any amount paid to a U.S. person which is from a payor who is not a U.S. person and which is derived directly or indirectly from a foreign trust created by a U.S. person shall be deemed in the year of payment to have been directly paid by the foreign trust.

[Sec. 665(c) as added by sec. 7(b), Rev. Act 1962 (76 Stat. 985)]

§ 1.665(c)-1 Accumulation distributions of certain foreign trusts; in general.

(a) In the case of a foreign trust created by a U.S. person, the term "accumulation distribution" for any taxable year means an amount by which the amounts properly paid, credited, or required to be distributed within the meaning of section 661(a)(2) for that year exceed the distributable net income (determined under section 643(a)) of the trust, reduced (but not below zero) by the amount of income required to be distributed currently. (In computing the amount of an accumulation distribution pursuant to the preceding sentence, there is taken into account amounts applied or distributed for the support of a dependent under circumstances specified in section 677(b) and section 678(c) out of corpus or out of other than income for the taxable year and amounts used to discharge or satisfy any person's legal obligation as that term is used in § 1.662(a)-4.)

(b) Although amounts properly paid, credited, or required to be distributed under section 661(a)(2) do not exceed the income of the trust during the taxable year, an accumulation distribution may result if such amounts exceed distributable net income reduced (but not

below zero) by the amount required to be distributed currently. This may result from the fact that expenses allocable to corpus are taken into account in determining taxable income and hence distributable net income. However, the provisions of Subpart D will not apply unless there is undistributed net income in at least one of the preceding taxable years which began after December 31, 1953, and ended after August 16, 1954. See section 666 and the regulations thereunder.

(c) The provisions of paragraphs (a) and (b) of this section may be illustrated by the examples provided in paragraph (c) of § 1.665(b)-1.

§ 1.665(c)-2 Indirect payments to the beneficiary.

(a) *In general.* Except as provided in paragraph (b) of this section, for purposes of section 665 any amount paid to a U.S. person which is from a payor who is not a U.S. person and which is derived directly or indirectly from a foreign trust created by a U.S. person shall be deemed to have been directly paid to the U.S. person by the trust. For example, if a nonresident alien receives a distribution from a foreign trust created by a U.S. person and then pays the amount of the distribution over to a U.S. person, the payment of such amount to the U.S. person represents an accumulation distribution to the U.S. person from the trust to the extent that the amount received would have been an accumulation distribution had the trust paid the amount directly to the U.S. person in the year in which the payment was received by the U.S. person. This section also applies in a case where a nonresident alien receives indirectly an accumulation distribution from a foreign trust created by a U.S. person and then pays it over to a U.S. person. An example of such a transaction is one where the foreign trust created by a U.S. person makes the distribution to an intervening foreign trust created by either a U.S. person or a person other than a U.S. person and the intervening trust distributes the amount received to a nonresident alien who in turn pays it over to a U.S. person. Under these circumstances, it is deemed that the payment received by the U.S. person was received directly from a foreign trust created by a U.S. person.

(b) *Limitation.* In the case of a distribution to a beneficiary who is a U.S. person, paragraph (a) of this section does not apply if the distribution is received by such beneficiary under circumstances indicating lack of intent on the part of the parties to circumvent the purposes for which section 7 of the Revenue Act of 1962 (76 Stat. 985) was enacted.

§ 1.665(d) Statutory provisions; excess distributions by trusts; definition of taxes imposed on the trust.

SEC. 665. Definitions applicable to Subpart D. * * *

(d) *Taxes imposed on the trust.* * * *

[Sec. 665(d) as redesignated by sec. 7(b), Rev. Act 1962 (76 Stat. 985)]

§ 1.665(d)-1 Taxes imposed on the trust.

§ 1.665(e) Statutory provisions; excess distributions by trusts; definition of preceding taxable year.

SEC. 665. Definitions applicable to Subpart D. * * *

(e) *Preceding taxable year.* * * *

[Sec. 665(e) as redesignated by sec. 7(b), Rev. Act 1962 (76 Stat. 985)]

§ 1.665(e)-1 Preceding taxable year.

(b) *Simple trusts subject to Subpart D.* An accumulation distribution may be properly allocated to a preceding taxable year in which the trust qualified as a simple trust (that is, qualified for treatment under Subpart B (section 651 and following) of such Part I). In such event, the trust is treated for such preceding taxable year in all respects as if it were a trust to which Subpart C (section 661 and following) of such Part I applies. An example of such a circumstance would be in the case of a trust (required under the trust instrument to distribute all of its income currently) which received in the preceding taxable year extraordinary dividends or taxable stock dividends which the trustee in good faith allocated to corpus, but which are subsequently determined to be currently distributable to the beneficiary. See section 643(a)(4) and § 1.643(a)-4. The trust would qualify for treatment under such Subpart C for the year of distribution of the extraordinary dividends or taxable stock dividends, because the distribution is not out of income of the current taxable year and would be treated as other amounts properly paid or credited or required to be distributed for such taxable year within the meaning of section 661(a)(2). Also, in the case of a trust other than a foreign trust created by a U.S. person, the distribution would qualify as an accumulation distribution for the purposes of such Subpart D if in excess of \$2,000 and not excepted under section 665(b) and the regulations thereunder. In the case of a foreign trust created by a U.S. person, the distribution, regardless of the amount, would qualify as an accumulation distribution for the purposes of Subpart D. For the purposes only of such Subpart D, the trust would be treated as subject to the provisions of such Subpart C for the preceding taxable year in which the extraordinary or taxable stock dividends were received and in computing undistributed net income for such preceding year, the extraordinary or taxable stock dividends would be included in distributable net income under section 643(a). The rule stated in the preceding sentence would also apply if the distribution in the later year were made out of corpus without regard to a determination that the extraordinary dividends or taxable stock dividends in question were currently distributable to the beneficiary.

§ 1.665(e)-2 Application of separate share rule.

PAR. 12. Section 1.666(a) is amended by revising section 666(a) and by adding a historical note. These amended and added provisions read as follows:

§ 1.666(a) Statutory provisions; excess distributions by trusts; allocation of accumulation distribution.

SEC. 666. *Accumulation distribution allocated to 5 preceding years*—(a) *Amount allocated.* In the case of a trust (other than a foreign trust created by a U.S. person) which for a taxable year beginning after December 31, 1953, is subject to Subpart C, the amount of the accumulation distribution of such trust for such taxable year shall be deemed to be an amount within the meaning of paragraph (2) of section 661(a) distributed on the last day of each of the 5 preceding taxable years to the extent that such amount exceeds the total of any undistributed net incomes for any taxable years intervening between the taxable year with respect to which the accumulation distribution is determined and such preceding taxable year. The amount deemed to be distributed in any such preceding taxable year under the preceding sentence shall not exceed the undistributed net income of such preceding taxable year. For purposes of this subsection, undistributed net income for each of such 5 preceding taxable years shall be computed without regard to such accumulation distribution and without regard to any accumulation distribution determined for any succeeding taxable year. In the case of a foreign trust created by a U.S. person, this subsection shall apply to the preceding taxable years of the trust without regard to any provision of the preceding sentences which would (but for this sentence) limit its application to the 5 preceding taxable years.

[Sec. 666(a) as amended by sec. 7(c), Rev. Act 1962 (76 Stat. 986)]

PAR. 13. Section 1.666(a)-1 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1.666(a)-1 Amount allocated.

(a) (1) If a trust other than a foreign trust created by a U.S. person makes an accumulation distribution in any taxable year, the distribution is included in the beneficiary's gross income for that year to the extent of the undistributed net income of the trust for the preceding 5 years. It is therefore necessary to determine the extent to which there is undistributed net income for the preceding 5 years. For this purpose, an accumulation distribution made in any taxable year is allocated to each of the 5 preceding taxable years in turn, beginning with the most recent year, to the extent of the undistributed net income of each of those years. Thus, an accumulation distribution is deemed to have been made from the most recently accumulated income of the trust.

(2) If a foreign trust created by a U.S. person makes an accumulation distribution in any year after December 31, 1962, the distribution is included in the beneficiary's gross income for that year to the extent of the undistributed net

income of the trust for the trust's preceding taxable years which began after December 31, 1953, and ended after August 16, 1954. It is therefore necessary to determine the extent to which there is undistributed net income for such preceding taxable years. For this purpose, an accumulation distribution made in any taxable year is first allocated to each of such preceding taxable years in turn, beginning with the most recent year, to the extent of the undistributed net income of each of those years. Thus, an accumulation distribution is deemed to have been made from the most recently accumulated income of the trust.

(3) If a trust that is in part a foreign trust created by a U.S. person and in part a foreign trust created by a person other than a U.S. person makes an accumulation distribution in any year after December 31, 1962, the distribution is deemed made from the undistributed net income of the foreign trust created by a U.S. person in the proportion that the total undistributed net income for all preceding years of the foreign trust created by the U.S. person bears to the total undistributed net income for all years of the entire foreign trust. In addition, such distribution is deemed made from the undistributed net income of the foreign trust created by a person other than a U.S. person in the proportion that the total undistributed net income for all preceding years of the foreign trust created by a person other than a U.S. person bears to the total undistributed net income for all years of the entire foreign trust.

(c) Paragraphs (a) and (b) of this section may be illustrated by the following examples:

Example (1). In 1964, a domestic trust, reporting on the calendar year basis, makes an accumulation distribution of \$25,000. In 1963, the trust had \$7,000 of undistributed net income; in 1962, none; in 1961, \$12,000; in 1960, \$4,000; in 1959, \$4,000. The accumulation distribution is deemed distributed \$7,000 in 1963, none in 1962, \$12,000 in 1961, \$4,000 in 1960, and \$2,000 in 1959.

Example (2). In 1964, a foreign trust created by a U.S. person, reporting on the calendar year basis, makes an accumulation distribution of \$50,000. In 1963, the trust had \$12,000 of undistributed net income; in 1962, none; in 1961, \$10,000; in 1960, \$8,000; in 1959, \$5,000; in 1958, \$14,000; in 1957, none; in 1956, \$3,000; in 1955, \$2,000; and in 1954, \$1,000. The accumulation distribution is deemed distributed \$12,000 in 1963, none in 1962, \$10,000 in 1961, \$8,000 in 1960, \$5,000 in 1959, \$14,000 in 1958, none in 1957, \$1,000 in 1956.

Example (3). A trust is created in 1952 under the laws of Country X by the transfer to a trustee in Country X of money and property by both a U.S. person and a person other than a U.S. person. During 1964, the trust makes an accumulation distribution of \$150,000 to a U.S. beneficiary. For the taxable years 1952 through 1963, the portion of the trust which is a foreign trust created by a U.S. person and the portion of the trust which is a foreign trust created by a person other than a U.S. person had the following amounts of undistributed net income:

Year	Undistributed net income—portion of the trust created by a U.S. person	Undistributed net income—portion of the trust created by a person other than a U.S. person
1963	\$20,000	\$10,000
1962	25,000	12,000
1961	None	None
1960	16,000	9,000
1959	17,000	8,000
1958	4,000	2,000
1957	None	None
1956	8,000	3,000
1955	11,000	5,000
1954	None	None
1953	12,000	7,000
1952	7,000	4,000
Totals	120,000	60,000

The accumulation distribution in the amount of \$150,000 is deemed to have been distributed in the amount of \$100,000 (120,000/180,000 x \$150,000) from the portion of the trust which is a foreign trust created by a U.S. person, and in the amount of \$50,000 (60,000/180,000 x \$150,000) from the portion of the trust which is a foreign trust created by a person other than a U.S. person computed as follows:

Year	Throw back to preceding years of foreign trust created by U.S. person	Throwback to preceding years of portion of the entire foreign trust which is not a foreign trust created by a U.S. person
1963	\$20,000	\$10,000
1962	25,000	12,000
1961	None	None
1960	16,000	9,000
1959	17,000	8,000
1958	4,000	2,000
1957	None	None
1956	8,000	3,000
1955	10,000	5,000
1954	None	None
1953	None	1,000
1952	None	None
Totals	100,000	50,000

However, pursuant to paragraph (a)(1) of this section the accumulation distribution in the amount of \$50,000 from the portion of the trust which is a foreign trust created by a person other than a U.S. person is included in the beneficiary's gross income for 1964 to the extent of the undistributed net income of the trust for the preceding 5 years. Accordingly, only the undistributed net income for the years 1959 through 1963 which totals \$39,000 is includible in the beneficiary's gross income.

PAR. 14. Section 1.668(a) is amended by revising section 668(a) and by adding a historical note. These amended and added provisions read as follows:

§ 1.668(a) Statutory provisions; excess distributions by trusts; treatment of amounts deemed distributed in preceding taxable years; amounts treated as received in prior taxable years.

SEC. 668. *Treatment of amounts deemed distributed in preceding years*—(a) *Amounts treated as received in prior taxable years.* The total of the amounts which are treated under section 666 as having been distributed by the trust in a preceding taxable year shall be included in the income of a beneficiary or beneficiaries of the trust when paid, credited, or required to be distributed to the extent that such total would have been included

In the income of such beneficiary or beneficiaries under section 662(a)(2) and (b) if such total had been paid to such beneficiary or beneficiaries on the last day of such preceding taxable year. The portion of such total included under the preceding sentence in the income of any beneficiary shall be based upon the same ratio as determined under the second sentence of section 662(a)(2) for the taxable year in respect of which the accumulation distribution is determined, except that proper adjustment of such ratio shall be made, in accordance with regulations prescribed by the Secretary or his delegate, for amounts which fall within paragraphs (1) through (4) of section 665(b). The tax of the beneficiaries attributable to the amounts treated as having been received on the last day of such preceding taxable year of the trust shall not be greater than the aggregate of the taxes attributable to those amounts had they been included in the gross income of the beneficiaries on such day in accordance with section 662(a)(2) and (b). Except as provided in section 669, in the case of a foreign trust created by a U.S. person the preceding sentence shall not apply to any beneficiary who is a U.S. person.

[Sec. 668(a) as amended by sec. 7(d), Rev. Act 1962 (76 Stat. 986)]

PAR. 15. Section 1.668(a)-4 is amended by revising so much of paragraph (a) as precedes subparagraph (1) thereof to read as follows:

§ 1.668(a)-4 Tax attributable to throw-back.

(a) The tax attributable to amounts deemed distributed under section 666 is imposed on the beneficiary for the taxable year of the beneficiary in which the accumulation distribution is made unless the taxable year of the beneficiary is different from that of the trust (see section 662(c) and the regulations thereunder). In the case of a trust (other than a foreign trust created by a U.S. person), the tax cannot be greater than the aggregate of the taxes attributable to those amounts had they been included, in accordance with the provisions of section 662(a)(2) and (b), in the gross income of the beneficiary for the preceding taxable year or years in which they were deemed distributed. In the case of a foreign trust created by a U.S. person, the tax on the beneficiary shall be computed in accordance with the provisions of section 669 and the regulations thereunder. The tax liability of the beneficiary of a trust (other than a foreign trust created by a U.S. person), including the portion of an entire foreign trust which does not constitute a foreign trust created by a U.S. person (see § 1.643(d)-1), for the taxable year is computed in the following manner:

PAR. 16. Section 1.668(b)-2 is amended by revising so much thereof as precedes the example to read as follows:

§ 1.668(b)-2 Illustration of the provisions of Subpart D.

The provisions of Subpart D (section 665 and following), Part I, Subchapter J, Chapter 1 of the Code, other than provisions relating to a foreign trust created by a U.S. person, may be illustrated by the following example:

PAR. 17. Immediately after § 1.668(b)-2, there are added the following new sections:

§ 1.669(a) Statutory provisions; special rules applicable to certain foreign trusts; limitation on tax.

SEC. 669. *Special rules applicable to certain foreign trusts—(a) Limitation on tax—(1) General rule.* At the election of a beneficiary who is a U.S. person (as defined in section 7701(a)(30)) and who satisfies the requirements of subsection (b), the tax attributable to the amounts treated under section 668(a) as having been received by him from a foreign trust created by a U.S. person on the last day of a preceding taxable year of the trust shall not be greater than—

(A) The tax determined under the next to the last sentence of section 668(a), or

(B) The tax determined by multiplying by the number of preceding taxable years of the trust, on the last day of each of which an amount is deemed under section 666(a) to have been distributed, the average of the increase in tax attributable to recomputing the beneficiary's gross income for the taxable year and each of his 2 taxable years immediately preceding the year of the accumulation distribution by adding to the income of each of such years an amount determined by dividing the amount required to be included in income under section 668(a) by such number of preceding taxable years of the trust. The recomputation for the taxable year shall be made without regard to the inclusion in income required by section 668(a) of any amount other than pursuant to this paragraph.

(2) *Exceptions.* (A) When an accumulation distribution is deemed under section 666(a) to have been distributed on the last day of less than 3 taxable years of the trust, the taxable years of the beneficiary for which a recomputation is made under subsection (a)(1)(B) shall equal the number of years to which section 666(a) applies, commencing with the most recent taxable year of the beneficiary.

(B) If a beneficiary was not alive on the last day of each preceding taxable year of the trust with respect to which a distribution is deemed made under section 666(a), paragraph (1)(A) of this subsection shall not apply. In applying paragraph (1)(B) of this subsection, no recomputation shall be made for a beneficiary for a taxable year for which he was not alive; if he has no preceding taxable year, the recomputation shall be made on the basis of his taxable year without regard to the inclusion in income required by section 668(a) of any amount other than pursuant to paragraph (1)(B).

(3) *Effect of prior election.* In computing the limitation on tax under paragraph (1) of this subsection for any beneficiary—

(A) *Subsequent election under paragraph (1)(A).* If an election has been made under paragraph (1)(B) of this subsection, for purposes of a subsequent election under paragraph (1)(A) the income of any year with respect to which an amount is deemed distributed to a beneficiary under section 666(a) shall include amounts previously deemed distributed to such beneficiary for such year as a result of an accumulation distribution with respect to which an election under paragraph (1)(B) was made.

(B) *Subsequent election under paragraph (1)(B).* If with respect to an accumulation distribution an election has been made under either paragraph (1)(A) or paragraph (1)(B) of this subsection, or the next to the last sentence of section 668(a) has applied, for purposes of a subsequent election under paragraph (1)(B) the number of preceding taxable years of the trust with respect to

which an amount is deemed distributed to a beneficiary under section 666(a) shall be determined without regard to any such year with respect to which an amount was previously deemed distributed to such beneficiary.

[Sec. 669(a) as added by sec. 7(e), Rev. Act 1962 (76 Stat. 986)]

§ 1.669(a)-1 Limitation on tax.

(a) *In general.* Section 669 provides that, at the election of a beneficiary who is a U.S. person (as defined in section 7701(a)(30)) and who satisfies the requirements of section 669(b) (that certain information with respect to the operation and accounts of the trust be supplied), the tax attributable to the amounts treated under section 668(a) as having been received by him, from a foreign trust created by a U.S. person, on the last day of a preceding taxable year of the trust shall not be greater than the tax computed under section 669(a)(1). (A) (the computation under this provision will hereinafter be referred to as the "exact throwback" method) or under section 669(a)(1)(B) (the computation under this provision will hereinafter be referred to as the "short-cut throwback" method). This election of the beneficiary with respect to the taxable year of the beneficiary in which the distribution is made shall be made with the district director before the expiration of the period of limitations for assessment provided in section 6501 for such taxable year.

(b) *Where no election is made.* If the beneficiary does not make the election provided in section 669(a) in the manner required in section 669(b) and § 1.669(b)-2, or furnish the information with respect to the operation and accounts of the foreign trust created by a U.S. person required by section 669(b) and § 1.669(b)-1, the tax on an accumulation distribution treated under section 668(a) as having been received by him from such foreign trust on the last day of a preceding taxable year of the trust shall be computed without reference to section 668 or 669. In such case, the entire accumulation distribution will be included in the gross income of the beneficiary in the year in which it is paid, credited, or required to be distributed, and tax for such year will be computed on the basis of the beneficiary's total taxable income for the year after taking into account such inclusion in gross income.

(c) *Year for which tax is payable.* The tax, regardless of the manner in which computed, of the beneficiary which is attributable to an accumulation distribution is imposed on the beneficiary for the taxable year of the beneficiary in which the accumulation distribution is made to him unless the taxable year of the beneficiary is different from that of the trust. See section 662(c) and § 1.662(c)-1.

§ 1.669(a)-2 Rules applicable to section 669 computations.

(a) *In general.* (1) Section 668(a) provides that the total of the amounts treated under section 666 as having been distributed by the foreign trust created by a U.S. person on the last day of a preceding taxable year of such trust shall be

included in the gross income of the beneficiary or the beneficiaries who are U.S. persons receiving them. The total of such amounts is includible in the gross income of each beneficiary to the extent the amount would have been included in his gross income under section 662 (a) (2) and (b) if the total had actually been paid by the trust on the last day of such preceding taxable year. The total is included in the gross income of the beneficiary for the taxable year of the beneficiary in which such amounts are in fact paid, credited, or required to be distributed unless the taxable year of the beneficiary differs from the taxable year of the trust (see section 662(c) and § 1.662(c)-1). The rules set forth in section 662(b) and §§ 1.662(b)-1 and 1.662(b)-2 shall be applied in determining the character in the hands of the beneficiary of the amount, including taxes included in the distribution or deemed distributed, treated as received by a beneficiary in prior taxable years.

(2) The total of the amounts treated under section 666 as having been distributed by the trust on the last day of a preceding taxable year of the trust are included as prescribed in subparagraph (1) of this paragraph in the gross income of the beneficiary even though as of that day the beneficiary would not have been entitled to receive them had they actually been distributed on that day.

(3) Any deduction allowed to the trust in computing distributable net income for a preceding taxable year (such as depreciation, depletion, etc.) is not deemed allocable to a beneficiary because of the amounts included in a beneficiary's gross income under this section since the deduction has already been utilized in reducing the amount included in the beneficiary's income.

(b) *Allocation among beneficiaries of a foreign trust.* Where there is more than one beneficiary the portion of the total amount includible in gross income under paragraph (a) of this section which is includible in the gross income of a beneficiary who is a U.S. person is based upon the ratio determined under the second sentence of section 662(a) (2) for the taxable year in which distributed (and not for the preceding taxable year). This paragraph may be illustrated by the example in § 1.668(a)-2.

(c) *Credit for Federal income taxes paid by the trust.* (1) *Current distributions.* The Federal income taxes imposed by the provisions of section 871 on the income of a foreign trust created by a U.S. person shall be included in the gross income of the beneficiary, who is a U.S. person, for the taxable year in which such income is paid, credited, or required to be distributed to the beneficiary.

(2) *Accumulation distribution.* (i) If an accumulation distribution is deemed under § 1.666(a)-1 to be distributed on the last day of a preceding taxable year and the amount is not less than the undistributed net income for such preceding taxable year, then an additional amount equal to the taxes imposed on the trust pursuant to the provisions of section 871

for such preceding taxable year is likewise deemed distributed under section 661(a) (2).

(ii) If an accumulation distribution is deemed under § 1.666(a)-1 to be distributed on the last day of a preceding taxable year and the amount is less than the undistributed net income for such preceding taxable year, then an additional amount (representing taxes) is likewise deemed distributed under section 661(a) (2). The additional amount is equal to the taxes imposed on the trust pursuant to the provisions of section 871 for such preceding taxable year, multiplied by the fraction the numerator of which is the amount of the accumulation distribution attributable to such preceding taxable year and the denominator of which is the undistributed net income for such preceding taxable year.

(3) *Credit under section 32.* Credit under section 32 is allowable to the beneficiary for Federal income taxes withheld at source under Subchapters A and B of Chapter 3 and which are deemed distributed to him. The credit shall be allowed against the tax of the beneficiary for the taxable year of the beneficiary in which the income is paid, credited, or required to be distributed to him, or in which the accumulation distribution to which such taxes relate is made to him.

(d) *Credit for foreign income taxes paid by the trust.* To the extent provided in section 901, credit under section 33 is allowable to the beneficiary for the foreign taxes paid or accrued by the trust to a foreign country.

§ 1.669(a)-3 Tax computed by the exact throwback method.

(a) *Tax attributable to amounts treated as received in preceding taxable years.* If a taxpayer elects to compute the tax, on amounts deemed distributed under section 666, by the exact throwback method provided in section 669(a) (1) (A), the tax liability of the beneficiary for the taxable year in which the accumulation distribution is paid, credited, or required to be distributed is computed as provided in paragraph (b) of this section. The beneficiary may not elect to use the exact throwback method of computing his tax on an accumulation distribution as provided in section 669(a) (1) (A) if he were not alive on the last day of each preceding taxable year of the foreign trust created by a U.S. person with respect to which a distribution is deemed made under section 666(a). Thus, if a portion of an amount received as an accumulation distribution was accumulated by the trust during years before the beneficiary was born, the beneficiary is not permitted to elect the exact throwback method provided in section 669(a) (1) (A). See § 1.669(a)-4 for the computation of the tax on an accumulation distribution by the short-cut throwback method provided in section 669(a) (1) (B) under these circumstances.

(b) *Computation of tax.* The tax referred to in paragraph (a) of this section is computed as follows:

(1) First, compute the tax attributable to the section 666 amounts for each of the preceding taxable years. To deter-

mine the section 666 amounts attributable to each of the preceding taxable years, see § 1.666(a)-1. The tax attributable to such amounts in each such preceding taxable year is the difference between the tax for such preceding taxable year computed with the inclusion of the section 666 amounts in gross income, and the tax for such year computed without including them in gross income. Tax computations for each preceding year shall reflect the taxpayer's marital and dependency status for that year.

(2) Second, add—

(i) The sum of the taxes for the preceding taxable years attributable to the section 666 amounts (computed in accordance with subparagraph (1) of this paragraph), and

(ii) The tax for the taxable year of the beneficiary in which the accumulation distribution is paid, credited, or required to be distributed to him, computed without including the section 666 amounts in gross income.

The total of these amounts is the beneficiary's tax, computed under section 669(a) (1) (A) for the taxable year in which the accumulation distribution is paid, credited, or required to be distributed to him.

(c) *Effect of prior election.* In computing the tax attributable to an accumulation distribution for the taxable year in which such accumulation distribution is paid, credited, or required to be distributed to him, the beneficiary in computing the tax attributable to section 666 amounts for each of the preceding taxable years, must include in his gross income for each such year the section 666 amounts deemed distributed to him in such year resulting from prior accumulation distributions made to him in taxable years prior to the current taxable year. These section 666 amounts resulting from such prior accumulation distributions must be included in the gross income for such preceding taxable year even though the tax on the accumulation distribution of such prior taxable year was computed by the short-cut throwback method provided in section 669(a) (1) (B) and § 1.669(a)-4.

§ 1.669(a)-4 Tax attributable to short-cut throwback method.

(a) *Manner of computing tax.* If a beneficiary has elected under section 669(a) to compute the tax on the amounts deemed distributed under section 666 by the short-cut throwback method provided in section 669(a) (1) (B), the tax liability of the beneficiary for the taxable year is computed in the following manner:

(1) First, determine the number of preceding taxable years of the trust, on the last day of which an amount is deemed under section 666(a) to have been distributed. In any case where there has been a prior accumulation distribution with respect to which the beneficiary has elected to compute his tax either by the exact throwback method or by the short-cut throwback method, or to which the next to the last sentence of

section 668(a) has applied, for purposes of an election to use the short-cut throwback method with respect to a subsequent accumulation distribution, in determining the number of preceding taxable years of the trust with respect to which an amount of the subsequent accumulation distribution is deemed distributed to a beneficiary under section 666(a), there shall be excluded any preceding taxable year during which any part of the prior accumulation distribution was deemed distributed to the beneficiary. For example, assume that an accumulation distribution of \$90,000 made to a beneficiary in 1963 is deemed distributed in the amounts of \$25,000 in each of the years 1962, 1961, and 1960, and in the amount of \$15,000 in 1959, and a subsequent accumulation distribution of \$85,000 made to the same beneficiary in 1964 is deemed distributed in the amount of \$10,000 during 1959, and \$25,000 during each of the years 1958, 1957, and 1956. The accumulation distribution made in 1963 is deemed distributed in 4 preceding taxable years of the trust (1962, 1961, 1960, and 1959). Inasmuch as the year 1959 was a year during which part of the 1963 accumulation distribution was deemed distributed, for purposes of determining the number of preceding taxable years in which the accumulation distribution of \$85,000 made in 1964 is deemed distributed, the year 1959 is excluded and the \$85,000 accumulation distribution is deemed distributed in three preceding taxable years (1958, 1957, and 1956).

(2) Second, divide the number of preceding taxable years of the trust, on the last day of which an amount is deemed under section 666(a) to have been distributed (determined as provided in subparagraph (1) of this paragraph) into the amount (representing an accumulation distribution made by a foreign trust created by a U.S. person) required to be included under section 668(a) in the gross income of the beneficiary for the taxable year.

(3) Third, compute the tax of the beneficiary for the current taxable year (the year in which the accumulation distribution is paid, credited, or required to be distributed to him) and for each of the 2 taxable years immediately preceding such year.

(i) With the inclusion in gross income of the beneficiary for each of such 3 years of the amount determined under subparagraph (2) of this paragraph, and

(ii) Without such inclusion.

The difference between the amount of tax computed under subdivision (i) of this subparagraph for each year and the amount computed under subdivision (ii) of this subparagraph for that year is the additional tax resulting from the inclusion in gross income for that year of the amount determined under subparagraph (2) of this paragraph. If the number of preceding taxable years of the trust, on the last day of which an amount is deemed under section 666(a) to have been distributed, is less than three, the taxable years of the beneficiary for which this recomputation is made shall equal

the number of years in which an amount is deemed under section 666(a) to have been distributed, commencing with the taxable year of the beneficiary in which the accumulation distribution is paid, credited, or required to be distributed to him. If the beneficiary was not alive during one of the two taxable years immediately preceding the taxable year, the tax resulting from the inclusion of the amount determined in subparagraph (2) of this paragraph in the gross income of the beneficiary will be computed only for the taxable year in which the accumulation distribution was paid, credited, or required to be distributed to him and the preceding year during which the beneficiary was alive. In the event the beneficiary was not alive during either of the 2 years immediately preceding the taxable year in which the accumulation distribution was paid, credited, or required to be distributed, the tax shall be computed on the basis of the beneficiary's taxable year without regard to the inclusion in income required by section 668(a) of any amount other than pursuant to section 669(a)(1)(B). For example, assume that a foreign trust created by a U.S. person accumulates \$3,000 of income in 1964 and \$7,000 in 1963 and then distributes the accumulated income on January 1, 1965, to a beneficiary who is a U.S. person. The limitation on tax is determined by recomputing the beneficiary's gross income for 1964 and 1965 by adding \$5,000 to his gross income for each year. If the same distribution were made to an infant who was born in 1965, the limitation on tax would be computed by adding \$5,000 to his gross income for such year. In the case of the infant, the resulting increase in tax would be multiplied by two to arrive at the limitation on the increase in his tax for 1965 attributable to such distribution.

(4) Fourth, add the additional taxes resulting from the application of subparagraph (3) of this paragraph for the taxable year and the 2 taxable years (or the 1 taxable year, where applicable) immediately preceding the year in which the accumulation distribution is paid, credited, or required to be distributed and then divide this amount by three (or two, where applicable). The resulting amount is then multiplied by the number of preceding taxable years of the trust, on the last day of which an amount is deemed under section 666(a) to have been distributed (previously determined under subparagraph (1) of this paragraph). The resulting amount is the tax, under the short-cut throwback method provided in section 669(a)(1)(B), which is attributable to the amounts treated under section 668(a) as having been received by the beneficiary from a foreign trust created by a U.S. person on the last day of a preceding taxable year.

(5) Fifth, add the amount determined under subparagraph (4) of this paragraph to the beneficiary's tax for the taxable year in which the accumulation distribution was paid, credited, or required to be distributed to him, computed without inclusion of the accumulation

distribution in gross income for that year. The total is the beneficiary's income tax for such year.

(b) *Credit for tax paid by trust.* The income taxes distributed, or deemed distributed, to a beneficiary in the manner described in paragraphs (c) and (d) of § 1.669(a)-2 are included in the beneficiary's gross income for purposes of the computations required by this section. To the extent provided in § 1.669(a)-2, credits for such taxes are allowable to the beneficiary. In the computations under the short-cut throwback method provided in section 669(a)(1)(B), the rules set forth in section 662(b) and § 1.662(b)-1 shall be applied in determining the character, in the hands of the beneficiary, of the amounts, including taxes includible in the distribution or deemed distributed, treated as received by a beneficiary in prior taxable years. For example, if one-fifth of such amounts represents tax-free income, then one-fifth of the amount determined under paragraph (a)(2) of this section shall be treated as tax-free income.

§ 1.669(b) Statutory provisions; special rules applicable to certain foreign trusts; information requirements.

Sec. 669. *Special rules applicable to certain foreign trusts* * * *

(b) *Information requirement.* The election of a beneficiary to apply the limitations on tax provided in subsection (a) of this section shall not be effective unless the beneficiary at the time of making the election supplies such information with respect to the operation and accounts of the trust, for each taxable year on the last day of which an amount is deemed distributed under section 666(a), as the Secretary or his delegate may by regulations prescribe.

(Sec. 669(b) as added by sec. 7(e), Rev. Act 1962 (76 Stat. 986))

§ 1.669(b)-1 Information requirements.

The election of a beneficiary who is a U.S. person to apply the limitations on tax provided in section 669(a) shall not be effective unless the beneficiary, at or before the time the election is made, supplies, in a letter addressed to the district director for the internal revenue district in which the taxpayer files his return (or the Director of International Operations where appropriate), or in a statement attached to his return, the following information with respect to the operation and accounts of the foreign trust created by a U.S. person for each of the preceding taxable years, on the last day of which an amount is deemed distributed under section 666(a):

(a) The gross income of the trust. The gross income should be separated to show the amount of each type of income received by the trust and to identify its source. For example, the beneficiary should list separately, by type (dividends, rents, capital gains, taxable interest, exempt interest, etc.) and source (name and country of payor), each item of income included in the gross income of the trust. For this purpose, the gross income of the trust includes gross income from U.S. sources which is exempt from taxation under section 894.

(b) The amount of tax withheld under section 1441 by the United States on income from sources within the United States.

(c) The amount of the tax paid to each foreign country by the trust.

(d) The expenses of the trust attributable to each type of income disclosed in paragraph (b) of this section, and the general expenses of the trust.

(e) The distributions, if any, made by the trust to the beneficiaries (including those who are not U.S. persons). These distributions should be separated into amounts of income required to be distributed currently within the meaning of section 661(a)(1), and any other amounts properly paid, credited, or required to be distributed within the meaning of section 661(a)(2).

(f) Any other information which is necessary for the computation of tax on the accumulation distribution as provided in section 669(a).

(g) If the foreign trust created by a U.S. person is less than the entire foreign trust, the information listed in paragraphs (a) through (f) of this section shall also be furnished with respect to that portion of the entire foreign trust which is not a foreign trust created by a U.S. person.

§ 1.669(b)-2 Manner of exercising election.

(a) *By whom election is to be made.* Except as otherwise provided in this paragraph, a taxpayer whose tax liability is affected by the election shall make the election provided in section 669(a). In the case of a partnership, or a corporation electing under the provisions of Subchapter S, Chapter 1 of the Code, the election shall be exercised by the partnership or such corporation.

(b) *Time and manner of making election.* The election under section 669(a) may be made, or revoked, at any time before the expiration of the period provided in section 6501 for assessment of the tax. If an election is revoked, a new election may be made at any time before the expiration of such period. The election (or a revocation of an election) may be made in a letter addressed to the district director of internal revenue for the district in which the taxpayer files his tax return (or the Director of International Operations where appropriate) or may be made in a statement attached to the return. In any case where all the information described in § 1.669(b)-1 is not furnished at or before the time the beneficiary signifies his intention of making an election and by reason thereof an election has not been made, and subsequent thereto, but before the expiration

of the period provided in section 6501 for the assessment of the tax, there is furnished the required information not previously furnished, the election will be considered as made at the time such additional information is furnished.

[F.R. Doc. 66-9978; Filed, Sept. 12, 1966; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Parts 32, 33]

HUNTING AND FISHING

Flint Hills National Wildlife Refuge, Kans.

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222, 16 U.S.C. 715), the Migratory Bird Hunting Stamp Act of 1934, as amended (48 Stat. 451, 16 U.S.C. 718d), and the Fish and Wildlife Coordination Act, as amended (48 Stat. 401, 16 U.S.C. 661), it is proposed to amend 50 CFR 32.31 and 33.4 by the addition of Flint Hills National Wildlife Refuge, Kans., to the list of areas open to sport fishing and to the hunting of big game, as legislatively permitted.

It has been determined that sport fishing and the regulated hunting of big game may be permitted as designated on Flint Hills National Wildlife Refuge without detriment to the objectives for which the area was established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule-making process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to this proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

1. Section 32.31 is amended by the addition of the following area as one where hunting of big game is authorized:

§ 32.31 List of open areas; big game.

* * * * *

KANSAS

FLINT HILLS NATIONAL WILDLIFE REFUGE

* * * * *

2. Section 33.4 is amended by the addition of the following area as one where sport fishing is authorized:

§ 33.4 List of open areas; sport fishing.

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KANSAS

FLINT HILLS NATIONAL WILDLIFE REFUGE

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ABRAM V. TUNISON,
Acting Director.

SEPTEMBER 7, 1966.

[F.R. Doc. 66-9960; Filed, Sept. 12, 1966; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 993]

HANDLING OF DRIED PRUNES PRODUCED IN CALIFORNIA

Notice of Additional Time for Filing of Written Data, Views, or Arguments

Pursuant to the provisions of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), a notice of proposed rule making was published in the August 18, 1966, issue of the FEDERAL REGISTER (31 F.R. 10964), regarding proposed expenses of the Prune Administrative Committee for the 1966-67 crop year and rate of assessment for that crop year. The notice afforded interested persons an 8-day period to submit written data, views, or arguments with respect thereto. Request for additional time for filing comments has been made on behalf of the Prune Administrative Committee by Harold Brogger, Assistant Manager. It is necessary that this request be granted so as to afford interested persons an opportunity to further consider the proposal and to file written comment thereon.

Notice is hereby given that additional time is granted to file written data, views, or arguments on the proposal with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, such time to expire midnight, September 30, 1966.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: September 7, 1966.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 66-9966; Filed, Sept. 12, 1966; 8:46 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Office of the Secretary
**PUEBLO OF COCHITI RESERVATION,
 N. MEX.**

Ordinance Legalizing the Introduction, Sale or Possession of Intoxicants

Pursuant to the Act of August 15, 1953 (Public Law 277, 83d Congress, 1st Session; 67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor laws on the Pueblo of Cochiti Reservation was duly enacted by the Pueblo of Cochiti Council which has jurisdiction over the area of Indian country included in the ordinance:

This ordinance duly enacted this 22d day of May, 1966, by the Council of the Pueblo of Cochiti, the duly authorized and recognized governing body of the Pueblo de Cochiti, an Indian Tribe having accepted the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. Sec. 478).

Whereas, the Act of August 15, 1953 (67 Stat. 586) empowers Indian Tribes having appropriate jurisdiction to enact an ordinance legalizing the introduction, sale and possession of intoxicating beverages within any area of Indian Country coming within the jurisdiction of such tribe; and

Whereas, the Council of the Pueblo de Cochiti has decided that the enactment of an ordinance pursuant to said Act of Congress is in the best interests of the Pueblo de Cochiti;

Now, therefore, be it ordained and enacted as follows:

SECTION 1. The introduction, sale and possession of intoxicating beverages shall be lawful within the Indian Country under the jurisdiction of the Pueblo de Cochiti: *Provided*, That such introduction, sale and possession is in conformity with the laws of the State of New Mexico; and further provided that the sale of intoxicating beverages within such Indian Country by any person other than the Pueblo de Cochiti shall be pursuant to license issued by the Pueblo de Cochiti Council; and further provided that the introduction, sale and possession of intoxicating beverages by or to Indians within such Indian Country may be prohibited or limited from time to time by the Pueblo de Cochiti Council.

SEC. 2. Any laws, resolutions or ordinances of Pueblo de Cochiti in conflict with the provisions of this ordinance are hereby repealed.

SEC. 3. The ordinance shall be effective upon its certification by the Secretary of the Interior and its publication in the FEDERAL REGISTER.

Duly ordained, enacted and adopted this 22d day of May 1966.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

SEPTEMBER 7, 1966.

[F.R. Doc. 66-9961; Filed, Sept. 12, 1966; 8:45 a.m.]

THEODORE W. NELSON

Report of Appointment and Statement of Financial Interests

JULY 13, 1966.

Pursuant to section 302(a) of Executive Order 10647, the following information on a WOC appointee in the Department of the Interior is furnished for publication in the FEDERAL REGISTER:

Name of appointee: Theodore W. Nelson.
 Name of employing agency: Office of Oil and Gas.

The title of the appointee's position: Alternate Deputy National Administrator, Emergency Petroleum and Gas Administration.

The name of the appointee's private employer or employers: Socony Mobil Oil Co.

The statement of "financial interests" for the above appointee is enclosed.

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

Statement of Financial Interests

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER.

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on August 29, 1966, as Deputy National Administrator, Emergency Petroleum and Gas Administration, an officer or director:

Mobil Oil Corp.—Senior Vice President (since 1962).

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

Mobil Oil Corp.
 General Telephone & Electronics.
 Tennessee Gas Transmission.
 Winn Dixie.
 Printing Corp. of America.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment:

None.

(4) Names of any other businesses

which I own, or owned within 60 days preceding my appointment.

None.

THEODORE W. NELSON.

AUGUST 29, 1966.

[F.R. Doc. 66-9962; Filed, Sept. 12, 1966; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 66-192]

SCHLUMBERGER TECHNOLOGY CORP.

Notice of Qualification as a Citizen

SEPTEMBER 7, 1966.

This is to give notice that pursuant to § 3.21, Customs Regulations (19 CFR 3.21), issued under the provisions of section 27A of the Merchant Marine Act, 1920, as amended by the Act of September 2, 1958 (46 U.S.C. 883-1), the Schlumberger Technology Corp., Houston, Tex., incorporated under the laws of the State of Texas, did on August 8, 1966, file with the Commissioner of Customs, in duplicate, an oath for qualification of a corporation as a citizen of the United States following the form of oath prescribed in customs Form 1260.

The oath shows that:

(a) A majority of the officers and directors of the Corporation are citizens of the United States (list of names, home addresses, and citizenship attached to the oath);

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States, or in a territory, district, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States, its Territories or possessions not less than 75 percent of the raw minerals used or sold in its operations.

The Commissioner of Customs having found this oath to be in compliance with the law and regulations, on September 7, 1966, issued to the Schlumberger Technology Corp., a certificate of compliance on customs Form 1262 as provided in § 3.21(i) of the regulations. The certificate and any authorization granted thereunder will expire 3 years from the date thereof unless there first occurs a change in the corporate status requiring

a report under § 3.21(h) of the regulations.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[F.R. Doc. 66-9974; Filed, Sept. 12, 1966;
8:46 a.m.]

Office of the Secretary

[Order 167-71; Rev. 1]

COMMANDANT, U.S. COAST GUARD

Delegation of Functions

By virtue of the authority vested in the Secretary of the Treasury by Reorganization Plan No. 26 of 1950 and 14 U.S.C. 631, and pursuant to the authority delegated to me by Treasury Department Order No. 190 (Rev. 4), there are transferred to the Commandant, U.S. Coast Guard, all functions of the Secretary of the Treasury under Title 37, United States Code.

This order supersedes Treasury Department Orders No. 167-12, dated September 27, 1954; No. 167-34, dated September 24, 1958; and No. 167-69, dated October 20, 1965. Treasury Department Orders No. 167-3, dated May 6, 1953; No. 167-17, dated June 29, 1955; No. 167-18 (Rev. 1), dated July 11, 1958, and No. 167-19, dated January 6, 1956, are also superseded insofar as they relate to Title 37, United States Code, but all other provisions of these orders remain valid.

Dated: September 7, 1966.

[SEAL] TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 66-9977; Filed, Sept. 12, 1966;
8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

INDIANA AND NORTH CAROLINA

Designation and Extension 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 Indiana and North Carolina natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

INDIANA

Carroll.	Knox.
Crawford.	Kosciusko.
Davies.	Marion.
Delaware.	Morgan.
Dubois.	Perry.
Elkhart.	Pike.
Floyd.	Spencer.
Fountain.	Sullivan.
Hamilton.	Switzerland.
Harrison.	Vermillion.
Hendricks.	Vigo.
Jefferson.	Warren.

NORTH CAROLINA

Cabarrus.	Stanly.
Caldwell.	Wilkes.
Mecklenburg.	

It has also been determined that in the hereinafter-named county in the State of North Carolina the above-mentioned natural disasters have caused a continuing need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

North Carolina	Original
Franklin	designation
	31 F.R. 4473

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1967, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 7th day of September 1966.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 66-9967; Filed, Sept. 12, 1966;
8:46 a.m.]

MISSOURI, OHIO, AND TEXAS

Designation and Extension 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 Missouri, Ohio, and Texas, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

MISSOURI

Barry.	Madison.
Barton.	Monroe.
Bollinger.	Oregon.
Chariton.	Ozark.
Dallas.	Polk.
Douglas.	Stone.
Howell.	Taney.
Jasper.	Wayne.
Livingston.	

OHIO

Paulding.

TEXAS

Camp.	Hudspeth.
Cherokee.	Johnson.
Collin.	King.
Colorado.	McCulloch.
Cottle.	San Saba.
Culberson.	Shelby.
El Paso.	Titus.
Fayette.	Upshur.
Franklin.	Williamson.
Gaines.	Wood.

It has also been determined that in the hereinafter-named county in the State of Missouri the above-mentioned natural disasters have caused a continuing need for agricultural credit not readily available from commercial banks, cooperative

lending agencies, or other responsible sources.

Missouri	Original
Carroll	designation
	30 F.R. 653

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1967, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 7th day of September 1966.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 66-9968; Filed, Sept. 12, 1966;
8:46 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

FIRST NATIONAL CITY BANK

Notice of Approval of Applicant as Trustee

Notice is hereby given that the First National City Bank, a national banking association, with offices at 55 Wall Street, New York, N.Y., has been approved as a trustee pursuant to Public Law 89-346 and 46 CFR 221.21-221.30.

Dated: September 9, 1966.

R. G. KRINER,
Deputy Chief,
Office of Ship Operations.

[F.R. Doc. 66-10040; Filed, Sept. 12, 1966;
8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

REPORTS OF INFORMATION FOR NEW DRUG EFFECTIVENESS

Extension of Time for Submitting Regarding Veterinary

A notice was published in the FEDERAL REGISTER of July 9, 1966 (31 F.R. 9426), announcing that holders of new-drug applications approved between 1938 and October 10, 1962, shall submit certain information on drug effectiveness to the Food and Drug Administration by September 7, 1966.

The Commissioner of Food and Drugs has received requests for an extension of time for submitting this information with respect to veterinary new drugs. Good reason therefor appearing, the time for submitting such information is extended to November 6, 1966, with respect to veterinary new drugs.

This action is taken pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(j), 52 Stat. 1052,

as amended 76 Stat. 782; 21 U.S.C. 355 (j)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008).

Dated: September 6, 1966.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 66-9981; Filed, Sept. 12, 1966;
8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 27-43]

ATCOR, INC.

Notice of Issuance of Byproduct, Source, and Special Nuclear Material License

Please take notice that no request for a hearing or petition for leave to intervene has been filed following publication of the notice of proposed issuance of Byproduct, Source, and Special Nuclear Material License. The Atomic Energy Commission has this date issued License No. 31-11640-1. The license is in the form set forth in the notice of proposed issuance published in the FEDERAL REGISTER on August 19, 1966, 31 F.R. 11051.

Dated at Bethesda, Md., September 6, 1966.

For the Atomic Energy Commission.

J. A. McBRIDE,
Director,

Division of Materials Licensing.

[F.R. Doc. 66-9955; Filed, Sept. 12, 1966;
8:45 a.m.]

DR. MURRAY W. ROSENTHAL

Certification

Pursuant to the proviso contained in section 207 of Title 18 U.S.C. (P.L. 87-849, 76 Stat. 1124), having found that Dr. Murray W. Rosenthal, formerly Technical Assistant to the Assistant General Manager for Reactors, Atomic Energy Commission, and presently an employee of the Union Carbide Corp. at the Oak Ridge National Laboratory (a Government-owned laboratory operated for the Atomic Energy Commission by Union Carbide Corp.), possesses outstanding scientific qualifications, I certify that the national interest would be served by the said Dr. Rosenthal acting as agent for or appearing personally before the Atomic Energy Commission on behalf of the Union Carbide Corp. in connection with the operation of the Oak Ridge National Laboratory by the Corporation under its contract with the Atomic Energy Commission, on matters relating to reactor programs of the Laboratory in which he participated personally and substantially

as an employee of the Atomic Energy Commission or which were under his official responsibility as an Atomic Energy Commission employee.

This certification is directed to be published in the FEDERAL REGISTER.

Dated: September 1, 1966.

R. E. HOLLINGSWORTH,
General Manager.

[F.R. Doc. 66-9956; Filed, Sept. 12, 1966;
8:45 a.m.]

[Docket No. 50-266]

WISCONSIN MICHIGAN POWER CO.

Notice of Receipt of Application for Construction Permit and Facility License

The Wisconsin Michigan Power Co., 231 West Michigan Street, Milwaukee, Wis. 53201, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, has filed an application, dated August 19, 1966, for authorization to construct and operate a pressurized water nuclear reactor on its Point Beach Nuclear Plant site located on the west shore of Lake Michigan in the town of Two Creeks, approximately 90 miles north northeast of Milwaukee, in Manitowoc County, Wis.

The proposed nuclear reactor, designated by the applicant as the Point Beach Unit No. 1, is designed for initial operation at 1396 thermal megawatts with a net electrical output of 454 megawatts.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 7th day of September 1966.

For the Atomic Energy Commission.

R. L. DOAN,
Director,

Division of Reactor Licensing.

[F.R. Doc. 66-9969; Filed, Sept. 12, 1966;
8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 17672]

CATHAY PACIFIC AIRWAYS, LTD.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on

September 14, 1966, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Ross I. Newmann.

Dated at Washington, D.C., September 7, 1966.

[SEAL]

THOMAS L. WRENN,
Associate Chief Examiner.

[F.R. Doc. 66-9971; Filed, Sept. 12, 1966;
8:46 a.m.]

[Docket No. 16987]

WESTERN MONTANA SERVICE INVESTIGATION

Notice of Hearing

Notice is given herewith, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that public hearing in the above-entitled proceeding will be held before the undersigned Examiner on October 11, 1966, at 10 a.m. (local time), in the District Court, Third Floor, 311 West Main Street, Bozeman, Mont. Upon conclusion of the Bozeman session the hearing will reconvene on October 13, 1966, at 10 a.m. (local time), in the Governor's Room, Hotel Florence, 111 North Higgins Avenue, Missoula, Mont.

For information concerning the issues and other details in this proceeding, interested persons are referred to the Prehearing Conference Report served on July 15, 1966, and other documents which are on file in this proceeding in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 8, 1966.

[SEAL]

RICHARD A. WALSH,
Hearing Examiner.

[F.R. Doc. 66-9973; Filed, Sept. 12, 1966;
8:46 a.m.]

CIVIL SERVICE COMMISSION

NURSES, STATEN ISLAND, N.Y.

Notice of Adjustment of Minimum Rates and Rate Ranges

1. Under authority of section 504 of the Federal Salary Reform Act of 1962, as amended, and Executive Order 11073, the Civil Service Commission has increased the minimum salary rates and rate ranges for positions of Nurse, GS-610-4 and -5, and Clinical Nurse, GS-610-6. The revised rate ranges for these occupational levels are:

PER ANNUM RATES

Grade	1	2	3	4	5	6	7	8	9	10
GS-4	\$5,736	\$5,896	\$6,056	\$6,216	\$6,376	\$6,536	\$6,696	\$6,856	\$7,016	\$7,176
GS-5	6,035	6,211	6,387	6,563	6,739	6,915	7,091	7,267	7,443	7,619
GS-6	6,263	6,461	6,659	6,857	7,055	7,253	7,451	7,649	7,847	8,045

2. Geographic coverage is Staten Island, New York, N.Y.

3. The effective date will be the first day of the first pay period beginning on or after September 8, 1966.

4. All new employees in the specified occupational levels will be hired at the new minimum rates.

5. As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the rates of the statutory rate range, shall receive compensation at the corresponding numbered rate authorized by this notice on and after such date.

UNITED STATES CIVIL SERVICE COMMISSION,

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

[F.R. Doc. 66-10010; Filed, Sept. 12, 1966;
8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 16769; FCC 66M-1175]

ALLEN C. BIGHAM, JR.

Order After Prehearing Conference

In re application of Allen C. Bigham, Jr.; Docket No. 16769, File No. BR-4292; for renewal of license of station KCTY, Salinas, Calif.

The Hearing Examiner having under consideration today's prehearing conference in the above-entitled proceeding; the petition by the applicant for an indefinite continuance, dated August 29, 1966; and the applicant's further petition, filed August 31, 1966, for waiver of certain of the requirements of the Commission's rules on publication of the notice of hearing;

It appearing, That the parties have agreed during the prehearing conference to a continuance of the hearing until Tuesday, January 17, 1967, in order, primarily, to afford the Commission the opportunity to rule upon pending petitions on file or to be filed and that the applicant will take prompt steps to eliminate a significant omission from its publication of the notice of hearing and will thereupon file a supplement to its waiver petition;

It is ordered, This 6th day of September 1966, that applicant's petition for an indefinite continuance of the hearing is hereby granted to the extent only that the hearing is postponed and will be convened on Tuesday, January 17, 1967, at Salinas, Calif.; and that ruling on the petition for waiver is hereby withheld pending submission by the applicant of

an appropriate supplement to the petition.¹

Released: September 6, 1966.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-9987; Filed, Sept. 12, 1966;
8:48 a.m.]

[Docket Nos. 16756, 16757; FCC 66M-1183]

KFIZ BROADCASTING CO. AND FOND
DU LAC COUNTY BROADCASTING
CO.

Order Continuing Hearing

In re applications of KFIZ Broadcasting Co., Fond du Lac, Wis.; Docket No. 16756, File No. BPH-5194; Samuel G. Costas, trading as Fond du Lac County Broadcasting Co., Fond du Lac, Wis.; Docket No. 16757, File No. BPH-5274; for construction permits.

To formalize the agreements and rulings made on the record at a prehearing conference held on September 7, 1966, in the above-entitled matter concerning the future conduct of this proceeding;

It is ordered, This 7th day of September 1966 that:

Exchange of direct written case is scheduled for October 21, 1966;

Notification of witnesses is scheduled for November 7, 1966; and

Hearing presently scheduled for September 28, 1966, is continued to November 15, 1966.

Released: September 8, 1966.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-9988; Filed, Sept. 12, 1966;
8:48 a.m.]

[Docket Nos. 16676, 16677; FCC 66M-1186]

ROYAL BROADCASTING CO., INC.
(KHAI) AND ROYAL KHAI, INC.

Order Canceling Hearing

In re applications of Royal Broadcasting Co., Inc. (KHAI), Honolulu, Hawaii; Docket No. 16676, File No. BR-4120; for renewal of license; Radio KHAI, Inc., Honolulu, Hawaii; Docket No. 16677, File No. BP-16294; for construction permit.

The Broadcast Bureau petitioned on August 26 to continue the hearing in this matter. Good cause is sufficiently pleaded; the request is unopposed. Accordingly, it is ordered, This 7th day of September, 1966, that the Bureau's petition is granted to the extent that the

¹ It is understood that a further prehearing conference to determine the procedural ground rules governing the hearing will be scheduled after the Commission's ruling on pending matters is announced.

September 13 date now scheduled for the beginning of the hearing is hereby canceled. A new date for the start of the hearing will be fixed later.

Released: September 8, 1966.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-9989; Filed, Sept. 12, 1966;
8:48 a.m.]

[Docket No. 16712, 16713; FCC 66R-339]

TREND RADIO, INC. AND JAMES
BROADCASTING CO., INC.

Memorandum Opinion and Order Enlarging Issues

In re applications of Trend Radio, Inc., Jamestown, N.Y.; Docket No. 16712, File No. BPCT-3665; James Broadcasting Co., Inc., Jamestown, N.Y.; Docket No. 16713, File No. BPCT-3694; for construction permits for new television broadcast station.

1. The applications of Trend Radio, Inc., and James Broadcasting Co., Inc., who are competing for a UHF television authorization in Jamestown, N.Y., were designated for hearing June 15, 1966 (FCC 66-536). Except for an air hazard issue as to James, both were found fully qualified.¹ James has now petitioned for addition of the following issues against Trend:²

(a) To determine the basis of Trend Radio, Inc.'s (1) proposal for the availability and source of funds with which to construct the proposed UHF television station (2) estimated construction costs (3) estimated operating expenses for the construction period and the first year of operation and (4) to determine amount of funds necessary and available for long-term debt repayment for the period encompassing this hearing, construction and the first year of station operation.

(b) In the event Trend Radio, Inc., will depend upon operating revenues deriving the first year of operation to meet fixed costs and operating expenses, to determine the basis of its estimated revenues for the first year of operation; and

(c) To determine, in light of the evidence adduced, whether Trend Radio, Inc., is overall financially qualified to construct and operate its proposed station.

(d) To determine whether the staffing proposal of Trend Radio, Inc., is adequate to meet the overall operational needs of

¹ Commissioner Bartley concurred with this action except that he would have added an issue to determine whether Trend "meets the financial qualification standards of Ultravision," 5 RR 2d 343.

² The pleadings before the Board are: Petition to Enlarge Issues filed by James, July 11, 1966; Opposition to Petition to Enlarge Issues filed by Trend, July 25, 1966; Reply to Opposition to Petition to Enlarge Issues filed by James, Aug. 1, 1966.

a UHF television station utilizing the applicant's weekly broadcast proposal.

FINANCIAL ISSUE

2. James bases its request for financial issues against Trend on the latter's financial showing at the time the applications were designated for hearing. After the petition to enlarge was filed, Trend petitioned the Hearing Examiner for leave to amend its application, and this petition was granted on August 3, 1966 (FCC 66M-1063). The amendment dealt mainly with those aspects of Trend's financial proposal attacked by James. The amendment having been granted, it is in terms of the showing made therein that James' request for financial issues must be tested.

3. Trend relies for its financing upon existing capital (\$5,846), loans from the Bank of Jamestown (\$560,000),² profits from existing operations (\$21,067), and deferred equipment payments (\$221,064) for a total of \$807,977. The terms of payment and security for the bank loan are specified, the security being the pledge of Eastman Kodak common stock having a market value of at least \$540,000. The mortgage loan is to be secured by a mortgage on the new building and on the building now housing Trend's radio stations. With these sums available, Trend would have an excess of \$101,867 over the increased expenses provided for in the amendment, without reliance on estimate revenues.

4. James contends that provision had not been made for cash downpayments to General Electric for equipment. Trend points out that these are included in the construction and installation costs. Petitioner's assertions that the bank loan agreements were deficient because silent as to terms of repayment, interest rate, and security are satisfied by the new agreements in which these conditions are detailed. The amendment also makes clear that the bank's commitment would not be affected by existence of other loans previously granted by the bank to Trend in connection with its AM and FM stations. Any questions which may have existed as to security for the loans have also been answered as has been indicated in the previous paragraph. James argues in its reply pleading that the absence of a balance sheet and other financial documents evidencing the ability of the president's mother to secure the loan leaves the financial showing as deficient as before. However, here the bank has expressly stated that it has satisfied itself of her financial ability to meet her pledge of securities and she has stated her agreement to make available for hypothecation shares of Eastman Kodak common stock having a market value of \$450,000. The showing is sufficient. Questions concerning payment for the building to house the station have also been satisfied by the bank mortgage agreement and the security arrange-

ments stated therein. Trend now plans to charge all the cost of this building to the television station, so that ambiguities as to the true cost of the building have been eliminated. In the amendment, substantial increases in the sums set aside for hearing expenses and other contingencies have been made, and the showing amply answers the questions raised by James concerning these costs.

5. Prior to amendment, Trend specified first year operating costs of \$190,000,³ a figure which remains unchanged in the amendment. James contends this estimate is too low because it does not take into account Trend's amendment to delete network programming, increase live programming to almost one half of total air time and extend the broadcast week by over 9 hours. Petitioner asserts that costs must increase substantially because it is clear that the cost to the station of live television programming is substantially higher than the cost it would incur in the telecast of network programs. Trend answers that James' assertions concerning program costs are unsupported and unverified and denies that the cost of broadcasting independent programming will be greater than the cost for network programming. Further, it asserts that savings on wire charges of more than \$24,000 a year will enable Trend to operate within the \$190,000 figure for the first year, considering that a substantial part of the talent for the live programming proposed will be without cost. James does not address itself further to this point in its reply. The Bureau points out that the change in Trend's financial proposal providing a sum in excess of \$100,000 over estimated requirements will be sufficient for any added programming costs. The Bureau also states that the question of Trend's operating costs were before the Commission, that the Commission raised no questions, and that no new facts have been offered to warrant a different treatment now.

6. To the Board it appears likely that Trend will have greater costs than it projects for nonnetwork operation with substantial live programming. Even so, the cushion between available funds and stated expenses is, as the Bureau says, sufficient, with anticipated savings in wireline charges, to provide for these larger costs without endangering Trend's financial position for the first year.

STAFFING ISSUE

7. As noted, Trend originally proposed a network operation. About 73 percent of its programming was to come from network sources. Before designation for hearing, the network proposal was eliminated and live programming was increased from about 24 percent to about 42 percent. At this time, broadcast hours were

also slightly increased. However, no changes in staffing were proposed. Thus, Trend still plans to operate with 16 full-time employees including 5 supervisors who also devote time to operation of the AM and FM stations and 3 part-time employees. As before, the applicant states that as needs indicate additional employees will be hired.

8. James attacks the staffing proposal, arguing that at the best (giving credit to supervisors who also must devote time to the AM and FM operations) Trend would have only 5.2 individuals for each shift, which is inadequate to operate a television station, particularly since no changes were made to handle the expanded schedule following deletion of network programming. In opposition, Trend argues that the staff is adequate because existing employees of the radio stations, other than the supervisors already mentioned, will be used for the television operation when required. It points out that funds are available to hire additional employees if needed. Trend also argues that its staffing proposal is virtually the same as James'. The Bureau comments that since Trend says it will add to its staff as necessary and since funds are available, the issue should not be added, especially since the same facts were before the Commission at time of designation.

9. Trend's proposal is now nonnetwork while James' proposes a network affiliation. Thus, the conclusion Trend tries to draw from the similarity of the staffing proposals is not justified. Examination of Trend's staffing plan shows that in both its original network proposal and its present nonnetwork plan only three full-time employees are assigned to the programming department and that five full-time and two part-time are assigned to the technical department. If this number was sufficient under the original proposal, its adequacy where approximately 51 hours each week of live programming are proposed is not apparent. Trend, rather vaguely, proposes to augment from its radio staff and hire additional employees if necessary. This showing is inadequate, and a staffing issue will be added. Cf., Spanish International Television, Inc., 64R-239, 2 RR 2d 853.

10. In view of the foregoing: *It is ordered*, This 6th day of September 1966, that the Petition to Enlarge Issues filed July 11, 1966, by James Broadcasting Co., Inc., is granted to the extent of adding the issue hereinafter specified and denied in all other respects.

To determine whether the staff proposed by Trend Radio, Inc., is adequate to effectuate its television broadcast proposal.

Released: September 7, 1966.

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

[F.R. Doc. 66-9990; Filed, Sept. 12, 1966;
8:48 a.m.]

² A bank loan of \$470,000 for construction and initial operation of the station and a mortgage loan of \$90,000 for construction of a building.

³ Over \$50,000 of which \$25,000 is set aside for legal, engineering, and contingency expenses.

⁴ This does not include first year equipment payments, interest on bank loan, and building mortgage, etc., for which separate provision was made.

[Docket Nos. 16712, 16713; FCC 66M-1185]

TREND RADIO, INC. AND JAMES BROADCASTING CO., INC.**Order Scheduling Further Prehearing Conference**

In re applications of Trend Radio, Inc., Jamestown, N.Y.; Docket No. 16712, File No. BPCT-3665; James Broadcasting Co., Inc., Jamestown, N.Y.; Docket No. 16713, File No. BPCT-3694; for construction permits for new television broadcast station.

Upon the informal request of James Broadcasting Co., Inc., all other parties having consented;

It is ordered, This 7th day of September 1966, that a further prehearing conference herein shall convene at 9 a.m., on September 19, 1966, in the offices of the Commission at Washington, D.C.

Released: September 8, 1966.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-9991; Filed, Sept. 12, 1966; 8:48 a.m.]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Reg.: Temp. Reg. No. D-2]

CHAIRMAN, ATOMIC ENERGY COMMISSION**Delegation of Authority**

1. *Purpose.* This regulation delegates authority to the Chairman, U.S. Atomic Energy Commission, to lease space in Idaho Falls, Idaho.

2. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, authority is delegated to the Chairman, U.S. Atomic Energy Commission, to perform all functions in connection with the leasing of office and related storage and special purpose space in or near Idaho Falls, Idaho, as he may deem necessary for use of the Idaho Operations Office of the said Atomic Energy Commission.

b. This authority shall include authority to contract by lease and authority thereafter to modify and amend said lease, assign and reassign the space demised, including the operation, maintenance, control, and protection thereof. This authorization shall extend to leasing space under authority contained in section 210(h) (1) of the above-cited Act for a firm term of 10 years with two renewal terms of 5 years each.

c. The Chairman, Atomic Energy Commission, may redelegate this authority to any officer, official, or employee of the Atomic Energy Commission.

d. This authority shall be exercised in accordance with the limitations and re-

quirements of the above-cited Act, section 322 of the Act of June 30, 1932, as amended (40 U.S.C. 278a), and other applicable statutes and regulations.

3. *Effect on other issuances.* This regulation supersedes Delegation of Authority No. 117, Revised, dated March 23, 1964.

4. *Effective date.* This regulation is effective immediately.

Dated: September 7, 1966.

LAWSON B. KNOTT, Jr.,
Administrator of General Services.

[F.R. Doc. 66-9976; Filed, Sept. 12, 1966; 8:47 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN REPUBLIC OF CHINA

Entry and Withdrawal From Warehouse

SEPTEMBER 8, 1966.

By an exchange of notes dated April 22, 1966, the Governments of the United States and the Republic of China further amended the bilateral cotton textile agreement between them of October 19, 1963, as amended. As contemplated in paragraphs 14 and 15 of the agreement as amended, the two governments have completed arrangements for shifting the control of the trade to an export control basis exercised by the Government of the Republic of China. The Government of the Republic of China commenced to control this trade on June 1, 1966. Therefore, this shift is effective with respect to goods exported from the Republic of China on or after June 1, 1966. In accordance with these arrangements, goods exported on or after June 1 are no longer subject to import controls exercised by the U.S. Government under the bilateral agreement. Goods exported prior to June 1, 1966, shall remain subject to import control until further notice.

There is published below a letter of August 26, 1966, from the Chairman, President's Cabinet Textile Advisory Committee to the Commissioner of Customs replacing all previous directives concerning cotton textiles and cotton textile products produced or manufactured in the Republic of China and directing that entries of such goods in certain categories exported from the Republic of China prior to June 1, 1966, be limited to designated levels.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee,
and Deputy Assistant Secretary for Resources.

THE SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

WASHINGTON, D.C. 20230

August 26, 1966.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive replaces all previous directives issued to you concerning entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products produced or manufactured in the Republic of China.

Under the terms of the Long-Term Arrangements Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective as soon as possible and for the period beginning June 1, 1966, and extending until such time as may be specified in a further directive to you, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 5, 6, 9, 15, 18/19, 22/23, 24/25, 26, 28, 30, 32, 34, 35, 41/42, 44, 45, 46, 47, 50, 51, 52, 53, 54, 57, 59, 60, 62, 63, and 64 produced or manufactured in the Republic of China and exported from the Republic of China prior to June 1, 1966, in excess of the following designated adjusted levels:

Category	Unit	Adjusted levels of restraint ¹
5	Syd	100,270
6	Syd	0
9	Syd	0
15	Syd	0
18/19	Syd	0
22/23	Syd	5,780
24/25	Syd	0
26	Syd	249,731
28	No.	0
30	No.	210,000
32	Doz	3,376
34	No.	0
35	No.	72,000
41/42	Doz	29,518
44	Doz	2,226
45	Doz	0
46	Doz	8,124
47	Doz	172
50	Doz	1,885
51	Doz	0
52	Doz	557
53	Doz	1,656
54	Doz	4,624
57	Doz	0
59	Doz	27,563
60	Doz	0
62	Lb	3,329
62 (T.S.U.S.A. Nos. 380-0309, 380.0645, 382.0312, and 382.0665 only)	Lb	92,470
63	Lb	0
64	Lb	45

¹ These levels have been adjusted to reflect entries made prior to July 22, 1966; they have not been adjusted to reflect entries made on or after July 22, 1966.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on July 7, 1966 (31 F.R. 9310).

In carrying out this directive, entries of cotton textiles and cotton textile products in Categories 5, 6, 9, 15, 18/19, 22/23, 25, 26, 28, 30, 41/42, 44, 45, 46, 47, 50, 51, 52, 53, 54, 57, 59, 60, 62, and 63, produced or manufactured in the Republic of China, which have been exported to the United States from the Republic of China prior to October 1, 1965, shall, to the extent of any unfilled

balances, be charged against the levels of restraint established for such goods during the period October 1, 1964, through September 30, 1965. In the event that the level of restraint established for the period October 1, 1964, through September 30, 1965, has been exhausted by previous entries, such goods shall be subject to the directives set forth in this letter. Cotton textiles and cotton textile products in Categories 24, 32, 34, 35, and 64, produced or manufactured in the Republic of China, which have been exported to the United States from the Republic of China prior to October 1, 1965, shall not be subject to this directive.

In carrying out this directive, you shall charge entries of goods in Category 62, T.S.U.S.A. Nos. 380.0309, 380.0645, 382.0312, and 382.0665, against the special amount provided therefor before charging such entries against the remaining level for the category.

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of China and with respect to imports of cotton textiles and cotton textile products from the Republic of China have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of section 4 of the Administrative Procedure Act. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

JOHN T. CONNOR,
Secretary of Commerce, and Chairman,
President's Cabinet Textile
Advisory Committee.

[F.R. Doc. 66-9970; Filed, Sept. 12, 1966;
8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-4411]

NEW ENGLAND POWER CO.

Notice of Proposed Amendment of Bylaws To Increase Authorized Shares of Preferred Stock and Order Authorizing Solicitation of Proxies in Connection Therewith

SEPTEMBER 7, 1966.

Notice is hereby given that New England Power Co. ("NEPCO"), 441 Stuart Street, Boston, Mass. 02116, an electric utility subsidiary company of New England Electric System ("NEES"), a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a)(2), 7(e), and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

NEPCO proposes to submit to its stockholders at a special meeting to be held

October 14, 1966, a proposal to amend its bylaws to increase from 300,000 to 600,000 the aggregate number of authorized shares of Dividend Series Preferred Stock, par value of \$100 per share. Such amendment will require the affirmative vote of at least two-thirds of (a) the outstanding shares of Dividend Series Preferred Stock, voting as one class, and (b) the outstanding shares of 6 percent Cumulative Preferred Stock and Common Stock of NEPCO voting together as one class. NEPCO intends to solicit proxies from the holders of the Dividend Series Preferred Stock, but not from the 6 percent Cumulative Preferred stockholders, of which there are 80,140 shares outstanding. NEES, as owner of all the 3,307,039 shares of NEPCO's outstanding common stock, intends to vote in favor of the proposed amendment.

To obtain the requisite approval of the proposed amendment, NEPCO proposes to solicit proxies which are to be mailed at least 3 days prior to the time of any oral or personal solicitation. In the event that insufficient proxies are received within a reasonable time to assure the necessary two-thirds vote, NEPCO proposes to make telephonic, telegraphic, or personal solicitation through its officers and regular employees or those of New England Power Service Co., an associate company. NEPCO does not propose to engage the services of professional proxy solicitors.

NEPCO also proposes to submit to its stockholders a proposal to authorize the issuance of \$10,000,000 principal amount of First Mortgage Bonds the proceeds of which will be used to pay short-term notes previously issued to finance construction. An affirmative vote of a majority of the Dividend Series Preferred Stock, the 6 percent Cumulative Preferred Stock, and the Common Stock, voting together as one class, is necessary to authorize issuance of the new bonds. There are in the aggregate 360,280 shares outstanding of all classes of NEPCO Preferred Stock. Since NEES, the owner of all of NEPCO's outstanding common stock, intends to vote in favor of the bond issue, no proxies are being solicited in respect of this proposal.

There are no fees or commissions to be paid in connection with the proposed transactions. The estimated expenses to be incurred by NEPCO are \$3,000, including services at actual cost of \$1,500 to be performed by the New England Power Service Co. The declaration, as amended, states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed amendment to the bylaws. NEPCO has filed its proxy solicitation material and requests that the effectiveness of its declaration with respect to the solicitation be accelerated as provided in Rule 62.

Notice is further given that any interested person may, not later than September 29, 1966, request in writing that a hearing be held with respect to the proposed amendment of the company's bylaws, stating the nature of his

interest, the reasons for such request, and the issues of fact or law raised by said declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant an exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

It appearing to the Commission that NEPCO's declaration, as amended, regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62 and that jurisdiction should be reserved with respect to the expenses thereof:

It is ordered, That the declaration, as amended, regarding the proposed solicitation of proxies be, and hereby is, permitted to become effective forthwith pursuant to Rule 62, and that jurisdiction be, and it hereby is, reserved with respect to the expenses thereof.

For the Commission (pursuant to delegated authority).

[SEAL]

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 66-9963; Filed, Sept. 12, 1966;
8:45 a.m.]

[File No. 1-4371]

WESTEC CORP.

Order Suspending Trading

SEPTEMBER 7, 1966.

The common stock, 10 cents par value, of Westec Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Westec Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange 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 and otherwise than on a national securities exchange be summarily suspended, this order to be effective for

the period September 8, 1966, through September 17, 1966, both dates inclusive.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 66-9964; Filed, Sept. 12, 1966;
8:46 a.m.]

INTERSTATE COMMERCE COMMISSION FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 8, 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. 40700—*Fresh meats and packinghouse products to points in southern territory.* Filed by Western Trunk Line Committee, agent (No. A-2471), for interested rail carriers. Rates on fresh meats and packinghouse products, in carloads, from points in Illinois Freight Association and western trunk-line territories, to points in southern territory.

Grounds for relief—Motortruck competition.

Tariffs—Supplement 40 to Western Trunk Line Committee, agent, tariff I.C.C. A-4518 and Illinois Freight Association, agent, tariff I.C.C. 1112.

By the Commission.

[SEAL]

H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-9979; Filed, Sept. 12, 1966;
8:47 a.m.]

[Notice 1410]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 8, 1966.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-68962. By order of August 31, 1966, the Transfer Board approved the transfer to Able Express, Inc., Louis-

ville, Ky., of the operating rights described in the supplemental order of the Commission Operating Rights Board No. 2 entered March 24, 1966, in No. MC-97992 (Sub-No. 1) authorizing issuance of a certificate of registration to Mildred Mattingly, Kirk, Ky., covering certain operations in Kentucky. Rudy Yessin, Box 457, McClure Building, Frankfort, Ky. 40601, attorney for applicants.

No. MC-FC-69007. By order of August 31, 1966, the Transfer Board approved the transfer to Robert Emanuel, doing business as Emanuel's Express, Philadelphia, Pa., of certificate No. MC-40252, issued February 12, 1962, to John M. Walker, Philadelphia, Pa., authorizing the transportation of: Household goods, and billiard tables, between Philadelphia, Pa., on the one hand, and, on the other, points in New York, New Jersey, Delaware, Maryland, and the District of Columbia. Byron R. LaVan, 327 South 17th Street, Philadelphia, Pa. 19103 attorney for applicants.

No. MC-FC-69009. By order of August 31, 1966, the Transfer Board approved the transfer to Oilfield Express, Inc., Odessa, Tex., of certificate in No. MC-115908, issued February 10, 1965, to Slim LaGrone, Inc., Odessa, Tex., authorizing the transportation of: Oilfield tools and oilfield equipment used in connection with the discovery, development, production, refining, manufacture, processing, and storage of natural gas and petroleum and their products and by-products, restricted to shipments not to exceed 1,500 pounds, between points in specified counties in New Mexico, on the one hand, and, on the other, points in specified Texas counties. George Fowler, 520 North Lee, Odessa, Tex., attorney for applicants.

No. MC-FC-69017. By order of August 31, 1966, the Transfer Board approved the transfer to John Wagner, Pottsville, Pa., of the operating rights in certificate No. MC-42605, issued January 25, 1963, to Carl H. Betz, Orefield, Pa., authorizing transportation, over irregular routes, of coal, between points in Schuylkill County, Pa., on the one hand, and, on the other, points in Morris, Somerset, Essex, and Middlesex Counties, N.J. Paul B. Kemmerer, 1620 North 19th Street, Allentown, Pa. 18104, representative for applicants.

No. MC-FC-69018. By order of August 31, 1966, the Transfer Board approved the transfer to Carl H. Betz, Orefield, Pa., of a portion of the operating rights in certificate No. MC-21720, issued February 7, 1950, to William M. Stegmeier, doing business as Panther Valley Carriers, Tamaqua, Pa., and transferred to James H. DeLong, Inc., Orefield, Pa., March 30, 1965, pursuant to No. MC-FC-67698, authorizing the transportation, over irregular routes, of fertilizer, from Carteret, N.J., and Baltimore, Md., to points in Lehigh and Northampton Counties, Pa. Paul B. Kemmerer, 1620 North 19th Street, Allentown, Pa. 18104, representative for applicants.

No. MC-FC-69024. By order of August 31, 1966, the Transfer Board approved the transfer to Cantwell Motor Service, Inc., a Delaware corporation, East St. Louis, Ill., of the operating rights in certificate No. MC-123361, issued by the Commission February 6, 1961, to Cantwell Motor Service, Inc., an Illinois corporation, East St. Louis, Ill., authorizing the transportation of: Meats, and packinghouse products, from St. Louis, Mo., to specified points in Illinois. Delmar O. Koebel, 107 West St. Louis Street, Lebanon, Ill., attorney for applicants.

No. MC-FC-69032. By order of August 31, 1966, the Transfer Board approved the transfer to Edward Komar, doing business as Komar's Trucking, Piscataway, N.J., of the operating rights of Andrew Komar, doing business as Komar's Trucking, Bound Brook, N.J., in permit No. MC-117080 (Sub-No. 1), issued June 13, 1958, authorizing the transportation, over irregular routes, of uncrated machinery, used in the manufacture of corrugated boxes, from Linden, N.J., to points in Illinois, Indiana, Kentucky, Michigan, New York, Ohio, and Pennsylvania, and used or damaged shipments of the uncrated machinery, used in the manufacture of corrugated boxes, from points in Illinois, Indiana, Kentucky, Michigan, New York, Ohio, and Pennsylvania to Linden, N.J. Herman B. J. Weckstein, 1060 Broad Street, Newark, N.J. 07102, attorney for applicants.

No. MC-FC-69033. By order of August 31, 1966, the Transfer Board approved the transfer to Ward Freight Line, Inc., Greenville, Ala., of the operating rights of John A. Ward, doing business as Ward Freight Line, Greenville, Ala., in certificate of registration, No. MC-104399 (Sub-No. 4) issued December 9, 1964, authorizing the transportation of general commodities, between Montgomery and Greenville, Ala., general commodities, except high explosives and commodities injurious to other lading, between Greenville and Mobile, Ala., roofing, canned goods, flour, and vinegar, between Greenville and Mobile, Ala., stoves, strawberries, cement, tile, pipe, and steel tanks, between Birmingham and Greenville, Ala., cotton, baled, between Tallahassee, Opelika, Wetumpka, Clanton, Mobile, Camden, Montgomery, Fort Deposit, Goshen, Opp, Alexander City, Luverne, Selma, Bon Air, Siluria, Cooper, Phenix City, Atmore, Geneva, and Greenville, all in Alabama, livestock, fertilizer, cotton seed, meal and hulls, cotton seed, peanuts, peanut meal, feed and plant cuttings, between all points in Alabama which lie south of U.S. Highway No. 80 and east of U.S. Highway No. 43, and household goods, between all points in Alabama which lie south of U.S. Highway No. 78. Elisha C. Poole, Post Office Box 308, Greenville, Ala. 36037, attorney for applicants.

[SEAL]

H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-9980; Filed, Sept. 12, 1966;
8:47 a.m.]

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